

INTERDISTRICT ATTENDANCE TRANSFERS

Procedural Guidelines

PARTNERSHIP IN BUILDING THE FUTURE

School Districts

Students/Parents

County Office

MARY JANE BURKE

Marin County Superintendent of Schools



**INTERDISTRICT ATTENDANCE TRANSFERS
APPEAL PROCEDURES
AND
RELATED ISSUES**

***Guidelines for Marin County School Districts
and the
Marin County Office of Education***

2010-2011

Last Updated 11/1/10

**MARY JANE BURKE
Marin County Superintendent of Schools**



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FORWARD

Choosing Your Child's School

California law requires all school boards to inform each student's parents/guardians at the beginning of the school year of the various ways in which they may choose schools for their children to attend other than the ones assigned by school districts. This document provides an overview to districts and parents/guardians of the various provisions, general requirements and limitations regarding intra and interdistrict transfers. Further clarification and emphasis can be found within the various Education Code sections cited. [Education Code Section 48980 (h)]

**MARIN COUNTY SCHOOL DISTRICT
REPRESENTATIVES
for
INTERDISTRICT TRANSFERS**

| DISTRICT | REPRESENTATIVE | TELEPHONE | EMAIL |
|-----------------------|-----------------------|--------------------|--|
| Bolinas-Stinson | John Carroll | 415-868-1603 | jcarroll@bolinas-stinson.org |
| Dixie | Tom Lohwasser | 415-492-3700 | tlohwass@dixieschooldistrict.org |
| Kentfield | Maureen Moulton | 415-458-5130 x151 | mmoulton@kentfieldschools.org |
| Laguna Joint | Luke McCann | 415-499-5803 | lmccann@marinschools.org |
| Lagunitas | Donna Henderson | 415-488-4118 x201 | dhenderson@lagunitas.org |
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| Ross | Michael McDowell | 415-457-2705 x212 | mpmcdowell@rossbears.org |
| Ross Valley | Marci Trahan | 415-451-4064 | mtrahan@rossvalleyschools.org |
| San Rafael Elementary | Amy Baer | 415-492-3220 | abaer@srcs.org |
| San Rafael High | Amy Baer | 415-492-3220 | abaer@srcs.org |
| Sausalito Marin City | Vida Moattar | 415-332-3190 x1 | vmoattar@smcsd.org |
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| Tamalpais Union High | Mary O'Leary | 415-945-1020 | moleary@tamdistrict.org |
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In the event of a change of contact or policy, please notify the Marin County Office of Education at (415) 499-5801.

Updated 8/2015

SECTION ONE

CALIFORNIA RESIDENCY LAW

SECTION ONE

CALIFORNIA RESIDENCY LAW

The General Rule

Students must attend “the school district in which the residency of either the parent or legal guardian is located”. Education Code Section 48200; Attorney General’s Opinion #84-702, November 2, 1984.

Definition of Residency

1. Government Code Section 243 provides as follows:

Every person has, in law, a residence.

2. Government Code Section 244 provides as follows:

In determining the place of residence the following rules shall be observed.

- (a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- (b) There can be only one residence.
- (c) A residence cannot be lost until another is gained.
- (d) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child.
- (e) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act.
- (f) The residence can be changed only by the union of act and intent.
- (g) A married person shall have the right to retain his or her legal residence in the state of California notwithstanding the legal residence or domicile of his or her spouse.

SECTION TWO

**ESTABLISHING RESIDENCY UNDER
EXCEPTION TO THE GENERAL RULE**

AND

**GUIDELINES FOR VERIFICATION OF
RESIDENCY**

SECTION TWO

ESTABLISHING RESIDENCY UNDER EXCEPTIONS

To the

GENERAL RULE

Education Code Section 48204

A. Licensed Children's Institution

A pupil placed within the boundaries of a school district in a regularly established licensed children's institution, or a licensed foster home or a family home pursuant to law is deemed to have complied with the residency requirements for school attendance in that district. [Education Code Section 48204(a)(1)]

B. Interdistrict Attendance

A pupil for whom interdistrict attendance has been approved under Education Code Section 46600. [Education Code Section 48204(a)(2)]

C. Emancipation

A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control and authority through emancipation. [Education Code Section 48204(a)(3)]

D. Caregiving Adult

Residency is established by a "pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the caregiver's home, unless the school district determines from actual facts that the pupil is not living in the caregiver's home". [Education Code Section 48204(a)(4)]

School and Colleges Legal Service memo No. 16-94 provides further clarification and a sample caregiver's authorization affidavit.

E. State Hospital

A pupil residing in a state hospital located within the boundaries of that school district is deemed to have complied with the residency requirements for school attendance. [Education Code Section 48204(a)(5)]

F. Employment

Notwithstanding Education Code Section 48200, a school district may deem a pupil to have complied with the residency requirement for school attendance in the school district, provided:

One or both of the parents, or legal guardians, is employed within the boundaries of that school district. [Education Code 48204(b)]

Grounds for Prohibiting Transfers

- Nothing requires the school district where the pupil's parents or guardians are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subsection on the basis, except as expressly provided, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.
- Either the district of residence or the district of proposed attendance may prohibit the transfer of the pupil under this subsection if the governing board of either district determines that the transfer would negatively impact the district's court-ordered or voluntary desegregation plan.
- The school district of proposed attendance under this subsection may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aide received as a result of the transfer.
- The district of residence may prohibit the transfer if the net transfer of pupils out of the district (calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district) in any fiscal year exceeds the following amounts: (a) 5% of the ADA for districts with ADA of less than 501 for that year; (b) 3% of the ADA, or 25 pupils, whichever is greater, for districts with ADA between 501, and 2500 for that fiscal year; (c) 1% of the ADA or 75 pupils, whichever is greater, for districts with ADA over 2500 for that fiscal year.

General Provisions and Parent's Required Notification

Requests for attendance under the "employment" exception starts with the district of employment first. If approved by the district where employment exists, the district of residence need not approve the transfer but may prohibit the transfer based on Education Code Section 48204(b)(2) or (6).

Unlike interdistrict attendance requests, denial of requests under employment cannot be appealed to the Marin County Board of Education.

Governing Boards prohibiting a transfer pursuant to any reasons listed in “Grounds for Prohibiting Transfers” are encouraged to identify, and communicate in writing to the pupil’s parent or guardian, the specific reasons and are encouraged to accurately record in the minutes of the board meeting that determination and reasons. [Education Code 48204(b)(4)]

Time Period

Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, the pupil shall not have to reapply in the next school year to attend school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses, and if one or both of the pupil’s parents or guardians continue to be employed by an employer situated within the attendance boundaries of the school district, subject to Sub Section 1-6 of Education Code 48204(b). [Education Code 48204(b)(7)]

Verification

District has the right to request verification of employment. Verification could include one or more of the following:

1. Letter/note from employer
2. Payroll Record
3. Location of business, office, or work space with accompanying lease or rental agreement
4. Affidavit of employment
5. Tax documents (W-2 or 1099)
6. Other as determined by district of employment

Districts should define “employment criteria” through their policies. The policy can include verification criteria and “what is employment”. Districts may require that employment be verified each year, or more often if there is a reasonable basis to conclude that employment may have terminated. [See Appendix VII: California State Department of Education Legal Advisory March 3, 1995]

G. Charter Schools

Admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.
[Education Code 47605(d)]

H. Homeless Children

Under the No Child Left Behind Act (NCLB) homeless students may continue to attend school in the district of residence before the child became homeless or in the district in which the homeless student now lives. (Reference: Education for Homeless Children: Non-Regulatory Guidance March 2003, U.S. Department of Education)

SECTION TWO

GUIDELINES FOR VERIFICATION OF RESIDENCY

A. **Verification of Residency**

For purposes of complying with Section 432 of Title 5 of the Code of Regulations, which requires a school district to maintain as a permanent record “an annual verification of the name and address of the parent and the residence of the pupil,” a school district may elect one or more of the following methods of verification of residency:

1. Written Verification:

A written statement signed and dated by a parent or legal guardian with whom the child resides.

2. Further Evidence:

When the district has reason to believe the written verification is not correct, one or more of the following initial methods of verification may be used:

a. Declaration/Affidavit (Forms Attached)

A declaration under penalty of perjury or an affidavit signed by a parent or legal guardian with whom the child resides;

b. Public Records

Public records such as voter registration, property tax bills, and/or DMV records showing name and address.

c. Business Records

Copies of business records such as utility bills, bank, rental, mortgage, or other business records showing the address and name of occupants;

d. Personal Records

1. Copies of personal correspondence received at the address in question over a period of time and addressed to the parent or guardian in question;
2. Copies of complete telephone bills

e. Examples

Examples of business records include:

- (1) A letter from PG&E confirming the date that service

was established at the new address, and verifying the address to which its bills are to be mailed.

- (2) A letter from Pacific Bell confirming the new telephone number, showing the address where bills are to be mailed, and verifying that the new phone number is not being forwarded to any other telephone number.
- (3) Moving bills related to your move from _____ to _____.

Examples of public record include:

Proof that each of you has submitted a change of address to the Department of Motor Vehicles for your driver's licenses.

Examples of personnel records include:

A sworn affidavit, signed by each of you, stating your actions and/or intentions with respect to the property at _____
_____ in _____, with attached
(street address) (city or area)
documents to verify your statements (i.e., a rental/lease agreement or contract for services for the sale of the property).

f. Follow-Up

After an initial verification the District may require proof of continued residency at such intervals (e.g., monthly, quarterly, annually) as may be determined appropriate.

3. Further Circumstances:

In circumstances where no documentary evidence exists or is of questionable authenticity, school officials may assign employees or agents to personally visit the location on one or more occasions to verify residence at that location.

4. Homeless Exception:

These guidelines do not apply to homeless children. For further information on establishing residency for homeless children, see the Legal Advisory (LO:5-88) from the State Department of Education, which is set forth in Section VI (CDE Advisories) of this manual.

AFFIDAVIT

I, _____, declare under the penalty of perjury
(Name)

under the laws of the state of California that:

[set forth facts in support of residency]

This affidavit is made and entered on this ____ day of ____ of 20____
(day) (Month) (Year)

in _____, California.
(Location, City or County)

In making this affidavit I am mindful that it is a felony under Penal Code Sections 115, 132 and 134 to knowingly submit a false document to a public agency.

Signature

State of _____

County of _____

On _____ before me, _____, personally appeared
(Date) (Name and Title of Officer)

_____ ☐ personally known to me – OR – ☐ proved to
(Name(s) of Signature(s))

me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL

Signature of Notary Public

DECLARATION

I, _____, declare under the penalty of perjury
(Name)

under the laws of the state of California that:

[set forth facts in support of residency]

This declaration is made and entered on the ____ day of _____ of 20____
(day) (Month) (Year)

in _____, California.
(Location, City or County)

In making this declaration I am mindful that it is a felony under Penal Code Sections 115, 132 and 134 to knowingly submit a false document to a public agency.

Signature

SECTION THREE

INTERDISTRICT ATTENDANCE **SECTION THREE**

SECTION THREE

INTERDISTRICT ATTENDANCE

Education Code Section 46600

Interdistrict Attendance Agreement by Governing Board:

- (a) The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the districts. The agreement may provide for the admission to a district other than the district of residence of a pupil who requests a permit to attend a school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission.

The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied.

The supervisor of attendance of the district of residence shall issue an individual permit verifying the district's approval, pursuant to policies of the board and terms of the agreement, for the transfer and for the applicable period of time. A permit shall be valid upon concurring endorsement by the designee of the governing board of the district of proposed attendance. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the district of attendance.

- (b) The district of attendance may revoke a permit under terms and conditions established at each district.

BOLINAS-STINSON UNION SCHOOL DISTRICT

BOLINAS-STINSON UNION SCHOOL DISTRICT

BOARD POLICY - ARTICLE V - STUDENT

#5117

Interdistrict Transfers - General Statement

Interdistrict transfers into and out of the district must be for the purpose of accommodating the educational needs and welfare of the students.

Specific requirements:

1. All Interdistrict attendance agreements shall be approved or denied by the Board upon the recommendation of the Superintendent/Principal.
2. The criteria for approval of transfers are based upon the inability of the Bolinas-Stinson Union School District to meet the needs of the children and include the following:
 - A. Specific and demonstrable educational need.
 - B. Verifiable medical or psychological condition.
 - C. Geographical or transportation problem.
 - D. No significant financial burden for the district.
 - E. Change of residence during the last half of the school year.
 - F. Hardship condition.
3. Interdistrict attendance agreements shall be for one year only, renewable upon re-application and evaluation.
4. A request for transfer to take effect at the beginning of a school year must be filed at the District office by August 10. A transfer requested during the school year will not be acted upon unless at least thirty days of attendance have elapsed.
5. The parent requesting an Interdistrict transfer shall be in attendance when the Board considers their request.

Revised 11-03-76
Reviewed 2-06-79
Reviewed 6-19-84
Reviewed 12/17/01
Reviewed 2/5/2004
Reviewed 11/9/2005

DIXIE SCHOOL DISTRICT

DIXIE SCHOOL DISTRICT INTERDISTRICT TRANSFER AGREEMENTS

Policy 5118

Introduction

The Governing Board believes that children should attend elementary schools where they live, and supports the concept of neighborhood schools. In addition, the Governing Board shall consider requests for interdistrict attendance as prescribed by the Education Code of the State of California.

1. RESIDENCY BASED ON PARENT/GUARDIAN EMPLOYMENT

Education Code 48204(f) provides that an elementary grade student who does not reside in the district shall be deemed to be a resident of the district if the student's parent/guardian works within its boundaries. The decision to admit such students is discretionary with the Board and is based primarily on space availability. If the District admits such students, it may not refuse to admit particular students on the basis of race, ethnicity, gender, parental income, scholastic achievement, or any other arbitrary consideration. The district may deny admission if the transfer would adversely affect the District's existing desegregation plan or if the cost of the student's education would exceed any additional state funds that the District would receive.

As space allows, priority will be given to those parents employed full-time in the District. Employment is the relationship of employer and employee; it does not include one who performs services as an independent contractor; but does include persons who are self-employed with a permanent place of business within the District. Written verification by the employer or by the parent or guardian, if self-employed, of the parent's employment of a least twenty (20) hours/week and for a least 30 weeks, during school hours, per year will be required and attached to the original application and each subsequent verification. (Note: Employment-related transfers initially approved by the Board prior to the FY 97-98 school year will be based on a minimum requirement of 12 hours per week and 30 weeks per year until the student completes eighth grade.)

The Superintendent or designee shall notify the district of residence of all children requesting admittance into the district on the basis of parent/guardian place of employment. Unless approved by the student's current district of attendance, no student shall be admitted into the district on the basis of a parent/guardian place of employment in excess of the limits imposed by law. (See Education Code 48204(f)(6).)

Pursuant to Education Code 48204, any decision to deny admission or transfer out of the district and the reasons for denial must be recorded in the minutes of the Board meeting at which the decision was reached and then transmitted in writing to the student's parent/guardian.

2. APPROVAL FOR CONTINUING RESIDENCY BASED PARENT/GUARDIAN EMPLOYMENT

Employment-Related Transfers: EC 48204(f)(7) provides that, once admission has been approved for a student based on the location of his/her parent or guardian's employment, the district governing board shall allow the student to attend school through the eighth grade if the parent or guardian so chooses, subject to the limitations described below. Annual verification of employment is required for continued eligibility as an employment-related transfer.

- A. Limitations on Approval: Transfer requests for continuing students may be denied or revoked if supporting documentation is incomplete, falsified or not submitted on time as requested by the District; if the additional cost of educating the student would exceed the amount of additional state aid received as a result of the transfer; or if the transfer implicates any other provisions in EC 48204(f), paragraphs (1) to (6), inclusive.
- B. Other Interdistrict Transfers: All transfer requests will require approval of the district of residence and/or proof of continuing employment, as applicable and required by law; and will be considered for approval subject to the review by the Superintendent of the impact to District finances, class size, student-teacher ratios, facilities and curriculum. If the Superintendent determines that there is insufficient classroom space to accommodate all continuing transfer students, the Board will consider each request using the following priorities:
 - 1) Educational continuity (i.e., completing K-5 or 6-8, students who move out of the district, number of years in the District, etc.)
 - 2) Special needs due to extraordinary circumstances (reciprocal relationship with other districts).
- C. Priorities: Please see Section 3.B. below.

3. APPROVAL OF NEW INTERDISTRICT TRANSFER REQUESTS

- A. Criteria: Each interdistrict transfer request will be judged on its individual merits. The criteria which shall be used by the Board in acting on a request to transfer to the District from another school district under this policy will include the following:
 - 1) Verification of all factual information and supporting documentation submitted with the transfer request. Any transfer request containing or based upon false information or documentation will be denied or revoked, and the parent or guardian responsible referred to legal authorities as provided by law.
 - 2) Classroom space available will be determined by the Board in accordance with the District's Class Size Policy. In order to comply with class size reduction requirements, new interdistrict attendance agreements will only be approved in:

- Grades K-3, if class size is below a maximum of 18 students per class
- Grades 4-5, if class size is below a maximum of 24 students per class
- Grades 6-8, if class size is below a maximum of 24 students per class

Class size projections will be prepared for each school and updated periodically for the Board, including all students living in the attendance area and all continuing transfer students. New transfer students are approved after consideration of the school's student population and projected class sizes at each grade level. In the event transfers must be disapproved solely for reasons of class size, the students requesting such transfers will be placed on a waiting list for future consideration.

- 3) A determination that the additional cost of educating the pupil would not exceed the amount of additional State aid received as a result of the transfer.
- 4) Parents will sign the school Interdistrict Transfer Student Contract.

B. Priorities: The Board will use the following priority list for approving new Interdistrict Transfers:

- 1) For the 2000-01 school year only, Interdistrict Transfer students from the Los Ranchitos/Golden Hinde petition area, as listed on the School District Organization (SDO) Petition
- 2) Special needs due to extraordinary circumstances (reciprocal relationship with other districts)
- 3) Children of full-time employees of the District
- 4) Employment related transfers
- 5) Other regular Interdistrict Transfer

As space allows, siblings of children already attending school within the District will receive highest priority in each of the above categories.

Except as prescribed by law or specified by the Board, interdistrict transfers will be approved for one year only.

4. APPROVAL OF INTERDISTRICT TRANSFER REQUESTS FOR CONTINUING STUDENTS

In general, the Governing Board shall consider approval of interdistrict transfer requests for continuing students prior to considering new interdistrict transfer requests, subject to the limitations prescribed by applicable law, regulations and District policy.

A. Limitations on Approval: Interdistrict transfer requests for continuing students may be denied or revoked if supporting documentation is incomplete, falsified or not submitted on time as requested by the District; if the additional cost of educating the student would exceed the amount of additional state aid received as a result of the transfer; or if the transfer implicates any other provisions in EC 48204(f), paragraphs (1) to (6), inclusive.

B. Other Interdistrict Transfers: All transfer requests will require approval of the district of residence and/or proof of continuing employment, as applicable and required by law; and will be considered for approval subject to the review by the Superintendent of the impact to District finances, class size, student-teacher ratios, facilities and curriculum. If the Superintendent determines that there is insufficient classroom space to accommodate all continuing transfer students, the Board will consider each request using the following priorities:

- 1) Educational continuity (i.e., completing K-5 or 6-8, students who move out of the district, number of years in the District, etc.)
- 2) Special needs due to extraordinary circumstances (reciprocal relationship with other districts).

5. REVOCATION OF TRANSFERS

Under the authority of EC 46600, the Dixie School District stipulates the following terms and conditions under which an interdistrict transfer may be revoked:

- A. Failure to comply with all academic and behavioral requirements of the Interdistrict Attendance Contract. These terms are specified in the Interdistrict Attendance Contract, which must be reviewed and signed by parent/ guardian and student, and returned to the District Office. Parents/guardians are advised in the contract that their student's interdistrict agreement may be terminated if the terms of the contract are violated during the school year.
- B. Determination by the district that the conditions qualifying the transfer for approval are no longer met;
- C. Determination by the district that the transfer request or supporting documentation contained, or was based upon false information;
- D. Determination by the Principal that the education program does not meet the student's needs.

6. CERTIFICATION OF SUPPORTING DOCUMENTS

The Board requires that all requests for interdistrict attendance and the required supporting documentation be certified by the parent, guardian, child care provider or care giver under penalty of perjury. The Superintendent or designee is responsible for confirming the accuracy of information contained in such requests and documentation; investigating any reported incidents of falsified information; recommending denial or revocation of transfers or transfer requests; reporting violations to the appropriate law enforcement agencies; and reporting such activities to the Board.

Education Code: #46600

First Reading: January 27, 1998

Adopted: February 10, 1998

First Reading (Revised): July 13, 1999

Adopted (Revised): August 10, 1999

Adopted (Revised): March 28, 2000

KENTFIELD SCHOOL DISTRICT

Kentfield School District

Students BP5117(a) INTERDISTRICT ATTENDANCE

Interdistrict Transfer Agreements

The Governing Board believes that children should attend elementary schools where they live and supports the concept of neighborhood schools.

The Board shall consider requests for interdistrict attendance (IDT) as prescribed by the Education Code of the State of California. Except as required by law, it shall be within the sole discretion of the Board whether to grant a request for IDT.

IDT Application

The parent/guardian making the IDT request will submit to the district the completed IDT form, along with a letter describing in detail the reasons for the request and, if deemed necessary by the Superintendent, will meet with the school principal. The school principal shall prepare a written report detailing the parent/guardian meeting (if one occurs) and the student's academic and disciplinary record. The complete IDT packet (IDT form, parent/guardian letter and principal's report) shall be submitted to the district at least four business days prior to a scheduled Board meeting. Incomplete and/or untimely packets may be grounds for denial of the IDT request.

IDT Considerations

The Superintendent, having considered class and school size and the principal's report, may recommend approval of the IDT into the district for the following reasons:

1. Special needs of a student with a letter signed by the Superintendent of the sending district requesting and supporting the transfer;
2. Children of current district classified employees who work at least 20 hrs/week or for certificated employees who work at least half-time or for at least 30 weeks/year of the school year;

The Superintendent will recommend denial of transfers for the completion of the school year if district residency requirements as detailed in Board Policy 5111.1 were not met on the first day of the current school year.

School Attendance Pending IDT Request

If the residency requirements as detailed in Board Policy 5111.1 ("Residency") were met during the current school year, the student for whom the IDT request has been filed may continue to attend the district schools pending a decision by the Board on the request.

If the residency requirements as detailed in Board Policy 5111.1 were not met on the first day of the current school year then the student for whom the IDT request has been filed may NOT attend the district schools pending a decision by the Board on the request.

Timing of IDT Requests

IDT Requests for the next school year will be considered at the May meeting of the Board. IDT requests for the current year shall be filed and considered as soon as district residency

requirements are no longer being met. Parent/guardian making a request for an IDT, renewal or initial, shall obtain all requisite paperwork from the district.

If the IDT is granted, the student shall be disenrolled at the end of the current school year for which it is granted. If the IDT is denied, the student shall be disenrolled no later than ten calendar days after the IDT was denied.

Written notification of the IDT action shall be mailed by the district to the parent/guardian the next business day.

The district office will maintain up-to-date procedures relative to the types, certification, and revocation of transfers; the approval/denial process; and appeal alternatives.

Policy KENTFIELD ELEMENTARY SCHOOL DISTRICT adopted: March 11, 2008
Kentfield, California

LAGUNA JOINT SCHOOL DISTRICT

LAGUNA JOINT SCHOOL DISTRICT

POLICY: INTERDISTRICT ATTENDANCE

California State Law and the rules and regulation of the State Board of Education clearly indicate the principle that students should attend the schools in their district of residency. The Governing Board of the Laguna Joint School District shall consider requests for interdistrict attendance agreements in accordance with this general principle. Interdistrict transfers will not be denied for arbitrary or discriminatory reasons, on the basis of race, ethnicity, sex, parental income, or scholastic achievement, except as expressly set forth herein.

1. The Laguna Board of Trustees will enter into formal interdistrict agreements with other school districts under certain circumstances. It is not feasible to set blanket criteria by which all interdistrict attendance requests may be decided. Each case will be decided according to its own merits. In making its decisions, the Board will take into consideration:
 - a. The effect the agreement would have on those students who attend Laguna School. The effect on class size and pupil loads, and on special programs, will be the utmost importance.
 - b. The net effect upon the student applicant.
 - c. Financial impact.
2. No student may begin school without first having official Board approval.
3. The district of attendance shall be credited with the Average Daily Attendance (ADA) and not charged a tuition (E.C. 46616).
4. The interdistrict agreements will be granted only for one year at a time, and initial acceptance of a student carries no guarantee as to future placement in the school district. Provisional agreements may be granted where behavioral and/or educational issues are involved.
5. Interdistrict attendance requests will be heard in a public meeting of the Board unless one of the following circumstances exists, in which case it will be in an executive session upon approval of a majority of Board members.
 - a. When the case is such that it will require a discussion of confidential, personal, medical and/or psychological information concerning the student for whom the transfer is requested.
 - b. When the case is such that it will require discussion of staff members and/or students in other school districts.
6. A file will be established at the school which will contain specific applications and summaries of decisions made to date pertaining to requests for transfers in and out of the district.

Reference: Chapter 5, Part 26, Division 4 of Title 2, California Education Code.

Board Adopted: October 23, 1996

LAGUNA JOINT SCHOOL DISTRICT

POLICY: RESIDENCY BASED ON PARENTAL EMPLOYMENT

Parents or legal guardians of elementary (K-8) school pupils residing within the Laguna Joint Elementary School District ("District") who desire their children to attend school in another district, or parents or guardians of elementary (K-8) school pupils in other districts who desire their children to attend school in the District, must make annual written applications therefore. **All** requests for transfer into or out of the District must be approved by the governing board of the District. Each application shall be considered in light of individual circumstances.

The District is not required to admit a pupil to its schools based on parental employment in the District. Requests for admittance will not be denied for arbitrary or discriminatory reason, on the basis of race, ethnicity, sex, parental income, or scholastic achievement, except as expressly set forth herein. The District may deny an application for any of the following reasons:

1. The transfer would negatively impact the District's court-ordered or voluntary desegregation plan.
2. The additional cost of educating the pupil would exceed the additional amount of state aid received as a result of the transfer.
3. Other financial hardship to the District.
4. The transfer would negatively impact school programs in the year of transfer or succeeding years (for example, increase in class size beyond mandated limits, increase in teacher-student ratios beyond acceptable limits, loss of ADA support income, etc.).
5. Evidence that the pupil would be a discipline problem.
6. Misinformation contained in and/or falsification of, transfer application.
7. A determination that the parent or guardian is not employed for a significant period of time in the District on a regular basis. "Employment" is defined as the relationship of employer and employee. Employment ordinarily does not include one who performs services as an independent contractor, unless it is demonstrated that the contracting will continue for a significant period of time on a regular basis in the District's boundaries. Except in exceptional circumstances, no employment will be considered significant that is not at least 20 hours per week and for at least 30 weeks during the school year.
8. Any other reasonable objection of the District. Written verification of employment in a form suitable to the District must be presented in all cases. Once admitted to a school in the District pursuant to this policy, a student shall not have to reapply in the next school year to attend a school in the District. However, the District has the right to require any student to verify continuing parental employment meeting the requirements of this policy in the next school year following admittance under this policy, and in all subsequent years, at any time the District has reason to believe the parent or guardian is no longer employed in a manner sufficient to meet the requirements of this policy.

The Board shall have sole responsibility to make all determinations whether or not to permit the transfer of a pupil into or out of the District based on parental employment inside or out of the District. When the Board prohibits a transfer based on any of the reasons enumerated in this policy, it shall identify and communicate in writing to the pupil's parent or guardian the specific reason for that determination. The Board shall also ensure that the determination and the reason therefore are accurately recorded in the minutes of the meeting in which the determination was made. Parents or guardians shall have no right to appeal the denial of a request pursuant to this policy to the governing board.

The District may deny a request to transfer out of the District if the Board determines that the transfer would negatively impact the District's court-ordered or voluntary desegregation plan or, if the proposed transfer were approved, the total transfers currently in effect would exceed five (5) percent of the total average daily attendance for that year. For purposes of invoking the transfer limits of Education Code Section 48204 (f) (6), the Board may count a transferred student each year that such student remains in another district.

In all cases, pupils residing in the District shall have priority over other pupils desiring to attend school in the District. No overloading of classrooms will be allowed to accommodate a student attending pursuant to this policy, nor will the District be responsible for providing transportation or incurring other added costs. The District shall not change or extend its bus runs to accommodate students attending pursuant to parental residence.

The parents of guardians of a student attending school in the District pursuant to parental employment must be accessible for obtaining consent, giving notice, and other contact as may be necessary, appropriate, or required by law, and must be willing to cooperate with District officials to serve the needs of the student and the District as necessary to comply with the law. Failure to do so shall be considered as grounds for evocation of student attendance.

Reference: Education Code Sections 48204 (f); 35160, 35160.1, 35161
Board Adopted: October 23, 1996

LAGUNITAS SCHOOL DISTRICT

LAGUNITAS SCHOOL DISTRICT
San Geronimo, California

BOARD POLICY

Students -S-6

Inter-district Transfer Agreements

It is the policy of the Lagunitas School District to approve incoming and outgoing Interdistrict Attendance Agreements.

Exceptions may be made in the event of a strong recommendation by the Principal or teaching staff that a transfer is not in the best interests of the applicant or the District. Transfers may be revoked for the same reason.

The Governing Board recognizes that many incoming applicants for transfer may be interested only in the event that space is available in a particular program. Incoming applicants will be asked to state such preferences, if any. Whenever granting placement according to stated preferences is possible without violation of the Lagunitas School District Class Size Policy, placement will be granted. When such placement cannot be done without violating Class Size Policy, the applicant shall be notified and given a choice of second choice placement, waiting list, reapplication at a later period, or other options which appear reasonable at that time.

If incoming applications are made prior to the beginning of a school year which greatly exceed space available for any district program, a collaborative decision-making process may be used to determine whether changes can and should be made to accommodate such enrollment. The process shall include input from parent groups, program councils, teachers and administration. Final approval will be made by the Board of Trustees after public discussion of the recommendations arising out of the collaborative decision-making process.

When granting inter-district attendance agreements, the Board of Trustees shall insure that the District administration has followed the Procedures for Implementing Inter-district Transfer Agreements Policy.

4/7/92

Adopted

Date

LAGUNITAS SCHOOL DISTRICT
San Geronimo, California

Procedure for Implementing Inter-district Attendance Agreements

Requests for Transfers into the Lagunitas School District

Parents of children from another district wishing to have their children attend school in the Lagunitas School District must first obtain permission from the district in which they reside. Following that approval the Board of Trustees will approve, upon the recommendation of the Superintendent or his/her designee, an inter-district transfer agreement after considering the following:

1. that granting such a request is not in violation of the Lagunitas School District Class Size Policy,
2. that the person(s) initiating the request has observed in the program of choice and is aware of any requirements in place to insure a child's success in that program,
3. and, that the person to whom the request is being granted understands that the inter-district attendance agreement is valid for only one year, that it may be renewed annually, and that it may be revoked at the discretion of the Board of the Trustees should it become apparent that it is no longer in the best interest of the District and/or the student involved to continue the agreement.

Requests for Transfers out of the Lagunitas School District

Prior to approving a request for an Inter-district Transfer Agreement out of the Lagunitas School District, the Board of Trustees may require that one or more of the following has taken place:

1. that a conference has been held with the principal or his/her designee to discuss the need for a transfer out of the District,
2. that other possible options within the District for the child involved have been presented to the person(s) initiating the request,
3. and, that the transfer would be in the best interest of the child involved.

Adopted

Date

LARKSPUR SCHOOL DISTRICT

INTERDISTRICT TRANSFER

BP5117(a)

Policy Statement

The Superintendent is authorized to grant or deny interdistrict transfers subject to parent/guardian appeal to the Board of Trustees.

1. Students requesting interdistrict transfer to Larkspur School District (including students requesting a transfer based on employment within the district attendance boundaries):

The district will approve interdistrict attendance agreements into the district only under exceptional circumstances unique to the child concerned, when no other suitable school attendance option exists, and when the other criteria specified in this policy have been satisfied.

In deciding whether to approve or deny a request for interdistrict transfer into the district, the following guidelines established by the Marin County Board of Trustees shall be followed:

- a. The changing of schools due to family moves often produces anxiety in children. This is viewed as a normal situation that is a natural part of growing up and that often results in positive social and emotional growth. It is not cause, in and of itself, for the granting of an interdistrict attendance request.
- b. Other frequently stated reasons for requesting out of district attendance include a parent's perception that one school district is better than another, convenience of transportation, continuance of social contacts and the proximity of a parent's work place. None of these should be cause for granting such a request unless it can be clearly demonstrated that there are exceptional circumstances unique to the child concerned that justify disrupting the normal pattern of school attendance.

In addition to a determination that there are exceptional circumstances unique to the child concerned, the following criteria must also be satisfied:

- a. Space is available, as determined in accordance with the administrative regulations for this policy.
- b. The applicant has a satisfactory conduct record, as determined by the district.
- c. The district finds the transfer is in the best interests of the child and the district.
- d. The transfer does not adversely affect an existing desegregation plan of the district or the district of residence.
- e. The applicant has appropriately agreed to and signed an Interdistrict Attendance Contract. (See Exhibit 5117)
- f. The transfer does not negatively affect the District financially.

The district may, the above criteria notwithstanding, permit children of district employees to attend school in the Larkspur School District.

In the case of an interdistrict transfer, it is the responsibility of parents to provide transportation.

The district considers all interdistrict transfers to be based on parent preference. Guidelines that will be considered in reviewing the nature of the parent preference are to be found in the administrative regulation of this policy.

2. Students residing within the district may seek to attend a school outside the district by:
 - a. Requesting permission from the district to attend another district.
 - b. Obtaining permission from the district to which the student wishes to transfer.
3. All interdistrict transfers are approved for one year only, and are subject to renewal or revocation at district discretion. Denials of interdistrict transfer requests may be appealed to the Larkspur Board of Trustees.

INTERDISTRICT TRANSFER

1. Students requesting a transfer out of the Larkspur School District shall file a written application on the form provided by the Larkspur School District. This form must be submitted to the Larkspur School District Office.
2. Students requesting a transfer into the Larkspur School District shall file a written application with their district of residence. Said district of residence will forward the application to the Larkspur School District if approval for release is granted.
3. Requests for transfers out of, or transfers into, the Larkspur School District must include a statement clearly explaining the reason for the request.
4. Parents/guardians will be notified of the Superintendent's decision within 30 days per Education Code 46601. If the transfer request is denied, the parent/guardian shall receive notice regarding the process of appeal to the Larkspur School District Board of Trustees and thereafter, to the Marin County Board of Education.
5. Requests for incoming transfers will be processed in the following manner:

A. Properly completed transfer applications will be considered by the Larkspur School District only after an approved application has been forwarded to the district by the district of residence. The Larkspur School District may approve transfer requests only under the following conditions:

- (1) Continuing students with approved interdistrict transfer agreements as of the end of the academic year:
 - (a) For the next academic school year interdistrict transfers for any such student will be approved if the criteria of Sections 1.B, 1.0, and i.e. of board policy 5117 have been satisfied.
 - (b) For the subsequent academic school year and for each subsequent school year: Interdistrict transfers may be approved if each and every of the criteria of sections 1.B through 1.F of board policy 5117 have been satisfied for students advancing from one grade level to the next at Neil Cummins and for students advancing from one grade level to the next at Hall. Students on interdistrict transfers must reapply annually. Such children will not be required to establish that there are exceptional circumstances unique to such child as a condition to interdistrict transfer.
- (2) Siblings of students with approved interdistrict transfer agreements as of the end of this academic year: Interdistrict transfers may be approved if each and every of the criteria of sections 1.A through 1.F of board policy 5117 have been satisfied. Such children will not be required to establish that there are exceptional circumstances unique to such child as a condition to interdistrict transfer.
- (3) Children of larkspur School District employees: Interdistrict transfers may be approved for children of larkspur School District employees for any school year if the criteria of Sections 1.A through 1.F of board policy 5117 have been satisfied. Interdistrict transfers may be approved if each and every of the criteria of sections 1.A through 1.F of board policy 5117 have been satisfied. Such children will not be required to establish that there are exceptional circumstances unique to such child as a condition to interdistrict transfer.
- (4) All other Children: Interdistrict transfers may be approved for children other than those

described in 5.A.1 through 5.A.3 above only if each and every criteria of Board Policy 5117 are satisfied, including but not limited to the existence of exceptional circumstances unique to such child.

B. To determine space availability, space will be considered available if the enrollment or enrollment projection in the requested grade level is an average of 17 students per class or less in those grade levels affected by class size reduction or an average of 21 students per class or less in all other grade levels. If the average is higher than 17 or 21 respectively, the request will be denied.

Space availability alone does not guarantee approval of an interdistrict transfer request into the district.

C. If it is not clear at the time of a transfer request that classroom space will be available, then applications will be denied within 30 days per Education Code 46601 and held until space availability can be determined, generally not before August 25 nor later than the first day of school. Applicants will be notified that their request has been denied and placed on hold.

Once space availability can be determined, the applications will be reviewed based on the following guidelines for interdistrict transfer considerations in priority order:

- (1) Children of Larkspur School District employees;
- (2) Siblings of those students attending Larkspur schools;
- (3) Parent employment within the district attendance boundaries;
- (4) Childcare needs based on financial needs, not parent convenience; Substantiation will be required for each of the above criteria.

6. Any cost incurred for transporting students attending with an interdistrict transfer agreement will be borne by the parent/guardian.
7. Requests which are approved are for one school year only.

Prior to April 30, the Larkspur School District will send written notification to parents or guardians of students with current interdistrict transfer agreements, stating that the agreement is for the current school year only and that a new agreement needs to be processed. This notice will state that without the approval of a new agreement for the following year, the student must register in his/her district of residence. Failure on the part of the district to give such notice shall not, however, give the student in question the right to an interdistrict transfer agreement nor relieve the parents, guardians, or transfer students from the obligation of applying for or satisfying the requirements for annual approval of interdistrict transfer agreements.

8. The parent/guardian of a student attending the Larkspur School District pursuant to an interdistrict transfer agreement is responsible for notifying the district immediately if the conditions under which the transfer was approved change. If a change occurs, the student may be permitted, at the discretion of the district, to complete the year in the district pending consultation between the sending and receiving districts.
9. Subject to district discretion, students who are Larkspur School District residents and who move out of the district during the school year may be permitted (but are not encouraged) to complete the year in

the district if the criteria described in board policy 5117, section 1, are met. It is the responsibility of the parents or guardians of any student who moves out of the district to notify the district immediately. Applications for interdistrict transfers must be completed within one month of the student's moving date, not one month from the date the school is notified of the move.

10. The parent/guardian may appeal a denied request for an interdistrict transfer to the Larkspur School District Board of Trustees, or when applicable following an appeal to the District Board of Trustees, to the County Board of Education.

LARKSPUR SCHOOL DISTRICT INTERDISTRICT
ATTENDANCE CONTRACT

School

School Year

I, _____, in order that I may attend the Larkspur School District as a student in good standing, agree to do the following:

- 1) Maintain a grade point average (GPA) of at least 2.0 (C) with no failing grades or have an average grade rating of (S or ...J) in the K-5 grades. Note: A student will not have their contract nullified and Interdistrict Transfer (IDT) revoked if a lack of academic progress is a direct result of a pre-diagnosed learning disorder that requires Special Education services.
- 2) Demonstrate positive, productive behavior in classes and school activities while on school grounds, while going to or coming from school, during the lunch period, whether on or off campus, and during or while going to or from a school-sponsored activity, with no more than two office referrals of detentions for inappropriate behavior. I understand that more than two office referrals during this contract period may mean a revocation of the IDT attendance agreement.
- 3) Attend school on a regular and timely basis with no unexcused absences. A doctor's note indicating the nature of the illness may be required for any absences of more than three days. I understand that chronic unexcused tardiness, i.e., tardy to school more than three times per quarter, may cause revocation of this agreement.
- 4) Additional Requirements/Conditions:

- 5) Due Process: Revocation of this contract is at the discretion of the Principal. Parents of students losing IDT status because of revocation of the contract may appeal the Principal's decision to the Superintendent. The decision of the Superintendent shall be final.
Provided that I abide by all of the above conditions explained in this contract, I will be afforded all privileges accorded to students in the larkspur School District for the school year.

I have read the above provisions and agree to abide by them.

Student's Signature

Date

Administrative Signature

Parent/Guardian Signature

Date

LINCOLN SCHOOL DISTRICT

LINCOLN SCHOOL DISTRICT

POLICY: INTERDISTRICT ATTENDANCE

California State Law and the rules and regulation of the State Board of Education clearly indicate the principle that students should attend the schools in their district of residency. The Governing Board of the Lincoln School District shall consider requests for interdistrict attendance agreements in accordance with this general principle. Interdistrict transfers will not be denied for arbitrary or discriminatory reasons, on the basis of race, ethnicity, sex, parental income, or scholastic achievement, except as expressly set forth herein.

1. The Lincoln Board of Trustees will enter into formal interdistrict agreements with other school districts under certain circumstances. It is not feasible to set blanket criteria by which all interdistrict attendance requests may be decided. Each case will be decided according to its own merits. In making its decisions, the Board will take into consideration:
 - a. The effect the agreement would have on those students who attend Lincoln School. The effect on class size and pupil loads, and on special programs, will be the utmost importance.
 - b. The net effect upon the student applicant.
 - c. Financial impact.
2. No student may begin school without first having official Board approval.
3. The district of attendance shall be credited with the Average Daily Attendance (ADA) and not charged a tuition (E.C. 46616).
4. The interdistrict agreements will be granted only for one year at a time, and initial acceptance of a student carries no guarantee as to future placement in the school district. Provisional agreements may be granted where behavioral and/or educational issues are involved.
5. Interdistrict attendance requests will be heard in a public meeting of the Board unless one of the following circumstances exists, in which case it will be in an executive session upon approval of a majority of Board members.
 - a. When the case is such that it will require a discussion of confidential, personal, medical and/or psychological information concerning the student for whom the transfer is requested.
 - b. When the case is such that it will require discussion of staff members and/or students in other school districts.
6. A file will be established at the school which will contain specific applications and summaries of decisions made to date pertaining to requests for transfers in and out of the district.

Reference: Chapter 5, Part 26, Division 4 of Title 2, California Education Code.

Board Adopted: March 14, 1997

LINCOLN SCHOOL DISTRICT

POLICY: RESIDENCY BASED ON PARENTAL EMPLOYMENT

Parents or legal guardians of elementary (K-S) school pupils residing within the Lincoln Elementary School District ("District") who desire their children to attend school in another district, or parents or guardians of elementary (K-S) school pupils in other districts who desire their children to attend school in the District, must make annual written applications therefore. All requests for transfer into or out of the District must be approved by the governing board of the District. Each application shall be considered in light of individual circumstances.

The District is not required to admit a pupil to its schools based on parental employment in the District. Requests for admittance will not be denied for arbitrary or discriminatory reason, on the basis of race, ethnicity, sex, parental income, or scholastic achievement, except as expressly set forth herein. The District may deny an application for any of the following reasons:

1. The transfer would negatively impact the District's court-ordered or voluntary desegregation plan.
2. The additional cost of educating the pupil would exceed the additional amount of state aid received as a result of the transfer.
3. Other financial hardship to the District.
4. The transfer would negatively impact school programs in the year of transfer or succeeding years (for example, increase in class size beyond mandated limits, increase in teacher-student ratios beyond acceptable limits, loss of ADA support income, etc.).
5. Evidence that the pupil would be a discipline problem.
6. Misinformation contained in and/or falsification of, transfer application.
7. A determination that the parent or guardian is not employed for a significant period of time in the District on a regular basis. "Employment" is defined as the relationship of employer and employee. Employment ordinarily does not include one who performs services as an independent contractor, unless it is demonstrated that the contracting will continue for a significant period of time on a regular basis in the District's boundaries. Except in exceptional circumstances, no employment will be considered significant that is not at least 20 hours per week and for at least 30 weeks during the school year.
8. Any other reasonable objection of the District.

Written verification of employment in a form suitable to the District must be presented in all cases. Once admitted to a school in the District pursuant to this policy, a student shall not have to reapply in the next school year to attend a school in the District. However, the District has the right to require any student to verify continuing parental employment meeting the requirements of this policy in the next school year following admittance under this policy, and in all subsequent years, at any time the District has reason to believe the parent or guardian is no longer employed in a manner sufficient to meet the requirements of this policy.

The Board shall have sole responsibility to make all determinations whether or not to permit the transfer of a pupil into or out of the District based on parental employment inside or out of the District. When the Board prohibits a transfer based on any of the reasons enumerated in this policy, it shall identify and communicate in writing to the pupil's parent or guardian the specific reason for that determination. The Board shall also ensure that the determination and the reason therefore are accurately recorded in the minutes of the meeting in which the determination was made. Parents or guardians shall have no right to appeal the denial of a request pursuant to this policy to the governing board.

The District may deny a request to transfer out of the District if the Board determines that the transfer would negatively impact the District's court-ordered or voluntary desegregation plan or, if the proposed transfer were approved, the total transfers currently in effect would exceed five (5) percent of the total average daily attendance for that year. For purposes of invoking the transfer limits of Education Code Section 48204 (f) (6), the Board may count a transferred student each year that such student remains in another district.

In all cases, pupils residing in the District shall have priority over other pupils desiring to attend school in the District. No overloading of classrooms will be allowed to accommodate a student attending pursuant to this policy, nor will the District be responsible for providing transportation or incurring other added costs. The District shall not change or extend its bus runs to accommodate students attending pursuant to parental residence.

The parents of guardians of a student attending school in the District pursuant to parental employment must be accessible for obtaining consent, giving notice, and other contact as may be necessary, appropriate, or required by law, and must be willing to cooperate with District officials to serve the needs of the student and the District as necessary to comply with the law. Failure to do so shall be considered as grounds for evocation of student attendance.

Reference: Education Code Sections 48204 (f); 35160, 35160.1, 35161

Board Adopted: March 14, 1997

MILL VALLEY SCHOOL DISTRICT

INTERDISTRICT ATTENDANCE

Interdistrict Transfers -Into District

No overcrowding of classes, schools, or programs will be permitted in order to accommodate an interdistrict attendance request.

Space Availability

The District may approve incoming interdistrict transfer requests provided that space is available.

1. To determine space availability for grades 4-8, space will be considered available if the enrollment or enrollment projection in the requested grade is less than an average of 20 students per class. If the average is 20 or higher, the request will be denied.
2. To determine space availability for kindergarten, first, second and third grade to meet the state Class Size Reduction requirements for continued funding, space will be considered available if the enrollment or enrollment projection in kindergarten through third grade is less than average 15 students per class. If the class size is 15 or higher or in kindergarten through third grade, the request will be denied.
3. To determine space availability for special education students, space will be considered available if the caseload or projected caseload for resource specialist is less than 6 students per 0.5 PTE and if the enrollment or enrollment projection for their grade level meets the criteria stated above. Special education students enrolled in or requiring special day classes or full-time services outside of the school site are serviced through the county, would be eligible to receive those services through their own district and would not require or be granted an interdistrict transfer into our district.
4. Children of Mill Valley School District employees who work at least 20 hours per week in the District may be granted interdistrict transfers if class size in grades K-3 does not exceed the requirements of the state class size reduction program.

Application, Selection Procedures, and Time Lines

1. A parent or guardian who resides outside District boundaries and desires his or her child to be considered for an interdistrict transfer into the District shall submit a written Interdistrict transfer application form, which is available in the District office. Employment-related requests shall be considered first by the district of desired attendance and then by the district of residence. All other requests shall be considered first by the district of residence.
2. Upon submission of an Interdistrict Transfer request, a 5th or 8th grade student who moves out of the District during the school year may be allowed to conclude the school year at the Superintendent's discretion.
3. All requests for transfer shall be approved or denied by the Superintendent or designee. The Superintendent or designee will deny an application if material information provided on the application form, or provided in support of an application, is discovered to be false or misleading.

Terms and Conditions of Incoming Transfers

1. For a prior-approved employment-related transfer, the student shall not have to reapply to attend school in the District in subsequent school years, provided that the student's parent or guardian continues to be employed within District boundaries. Annual verification of continued employment with District boundaries shall be required.
2. Transfers related to exceptional circumstances shall be approved for a period not to exceed one school year, ending on the last school day of the school year for which they were granted.
3. Transportation will not be provided.
4. Approval of an incoming transfer permit admits a student into the District but not into a particular school. Assignment to a specific school shall be made on a space-available basis by the Superintendent or designee.
5. Students attending District schools on interdistrict attendance permits must complete an Interdistrict Attendance Agreement annually as set forth in Board policy 5117.1.

Terms and Conditions for Maintaining and Renewing Transfer Status

1. Renewal of interdistrict attendance permits is subject to policy, available space, satisfactory academic performance, and satisfactory behavior and attendance as determined by the District.
2. A student's interdistrict attendance permit may be revoked at any time if academic performance, attendance, and/or behavior are unsatisfactory as determined by the District. An interdistrict attendance permit may also be revoked at any time for the student's failure to comply with any additional requirements/conditions set forth in the Interdistrict Attendance Agreement.
3. A student's interdistrict attendance permit may be nonrenewed or revoked by the District at any time if material information provided on the application form, or provided in support of an application, is discovered to be false or misleading.
4. In the case of an employment-related interdistrict transfer, the attendance permit will be revoked if the parent/guardian ceases to be employed full-time by a business within the boundaries of the District.

INTERDISTRICT ATTENDANCE (continued)

Interdistrict Transfers -Outgoing

A. Criteria for Approval or Denial of Application

The District may approve outgoing interdistrict transfer requests.

B. Application Procedures

1. A parent or guardian who resides within District boundaries and desires his or her child to be considered for an interdistrict transfer out of the District shall submit an Interdistrict transfer application form, which is available in the District Office. Employment-related requests shall be approved first by the district of desired attendance and then by the district of residence. All other requests shall be approved first by the district of residence.
2. All requests for transfer shall be approved or denied by the Superintendent or designee. The Superintendent or designee will deny an application if material information provided on the application form, or provided in support of an application, is discovered to be false or misleading.
3. The Superintendent or designee shall notify all applicants of the decision to approve or deny as soon as possible, but no later than August 20 of each year preceding the requested transfer.

C. Terms and Conditions of Outgoing Transfers

1. Transfers may be approved for a period not to exceed one school year, ending on the last school day of the school year for which it was granted.
2. Transportation shall not be provided.

Right of Appeal

A. Applications Related to Exceptional Circumstances

The parent/guardian of a student whose transfer request is denied may appeal to the Governing Board. An appeal to the Board must be in writing and must be received by the Superintendent within thirty (30) calendar days of the date of the notice of denial. The parent/guardian shall receive written notice of the Board's action regarding the appeal. If an appeal is denied, notice of appeal rights to the Marin County Board of Education shall also be provided.

INTERDISTRICT ATTENDANCE (continued)

B. Applications Related to Employment

The Governing Board shall act upon all employment-related applications. If the Board denies an employment-related transfer request, the student's parent/guardian shall be notified in writing of the specific reasons for the denial. The Board's decision, and the specific reasons therefore, shall be recorded in the minutes of the Board meeting at which the determination was made. The Governing Board's decision on an employment-related transfer is final and may not be appealed to the Marin County Board of Education.

Legal Reference:

Education Code

| | |
|-------------|---|
| 35160.5 | <i>Conditions of apportionments</i> |
| 35351 | <i>Assignment of students to particular schools</i> |
| 46600-46611 | <i>Interdistrict attendance agreements</i> |
| 48200 | <i>Compulsory education law</i> |
| 48204 | <i>Residency requirements for school attendance</i> |

Regulation Approved: 1111S/9S; revised: 6/00; 9/00; **MILL VALLEY SCHOOL DISTRICT** 3/01; 4/10/02; S/7/03; 8/13/03; June 16, 2004 Mill Valley, California Students BP 5117

INTERDISTRICT ATTENDANCE

Applications

The Governing Board may approve applications for interdistrict attendance permits. Parents/guardians of students residing in the district who wish their children to attend school in another district, or parents/guardians of students in other districts who wish their children to attend school in the district, must submit an application. All requests for transfer into or out of the district shall be approved or denied by the Superintendent or designee based upon criteria in the administrative regulations pertaining to this policy.

Assignment

If an interdistrict attendance request into the district is approved, the Superintendent or designee shall determine the school to which the student shall be assigned. Interdistrict attendance agreements are subject to nonrenewal or revocation at the discretion of the district.

Appeal of Denial

The parent/guardian of a student whose nonemployment-related transfer request is denied may appeal to the Board. An appeal to the Board must be in writing and must be received by the Superintendent within 30 calendar days of the date of the notice of denial. The parent/guardian shall receive written notice of the Board's action regarding the appeal. If a nonemployment-related appeal is denied, notice of appeal rights to the Marin County Board of Education shall also be provided. The Board's decision on an employment-related transfer is final and may not be appealed to the Marin County Board of Education.

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48209-48209.17 Student attendance alternatives

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

52317 Enrollment of students. inter district attendance

Policy **MILL VALLEY SCHOOL DISTRICT** adopted: 7/24/95; revised 6/05/00; June 16, 2004 Mill Valley, California

NICASIO SCHOOL DISTRICT

Nicasio Board Policy on Interdistrict Agreement

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. The Board desires to communicate with parent/guardians and students regarding the school's policy for accepting interdistrict transfers and educational programs and services that are available.

The Governing Board elects to participate in the state's alternative interdistrict attendance program to maintain ideal class size configurations for the benefit of students pursuant to Education Code 48209-48209.17.

Pursuant to Education Code 48209.1, the Governing Board shall annually determine the number of new interdistrict transfers the district will accept through the alternative attendance program for the following year based on school enrollment and classroom configurations. The Board will also identify the grade levels and programs that will be able to accept these additional students.

The Superintendent or designee shall establish an alternative attendance selection process that ensures that students are admitted to district schools through a random, unbiased procedure which prohibits evaluation of a student's academic or athletic performance.

When the Governing Board determines that openings for the school program exist, the Governing Board will conduct a lottery to determine which students are selected to complete the interdistrict transfer process. For the purposes of the lottery, the following students will be given priority status:

1. The sibling of a student who has already been granted an interdistrict transfer under the Alternative Interdistrict Attendance Program (Education Code 48209.6).

The following students will automatically be included on class lists, and exempted from the lottery:

1. A student whose primary residence is either under construction or in the process of purchase or rental within the district boundaries, with family occupancy expected at a reasonable time to attend district schools.
2. A student who has transferred out of the District, but is entering or 8th grade and wishes to complete elementary school with his/her classmates.

All interdistrict transfers are for one school year only and a request for interdistrict transfer must be resubmitted annually. However, pursuant to Education Code 48209.9, once a student is accepted as an interdistrict transfer, his/her application will be automatically approved as long as the district accepts transfer students. Therefore, a student who has an interdistrict transfer through the state's alternative interdistrict attendance program will automatically be approved on an annual basis until the district determines not to participate in the program.

Since the District admits students in accordance with the state's alternative interdistrict attendance program, the Board shall not accept transfer requests pursuant to an interdistrict attendance agreement except upon request of the district of residence in situations of extreme need.

District resident students who move out of the school district will no longer be considered resident students and, should they wish to continue attending school in the Nicasio School District, they must apply to their new district of residence for an interdistrict transfer to the Nicasio School District. When this request is submitted to the Nicasio School Board, the Governing Board has three options, depending upon school enrollment and impact on class configurations:

- a) Authorize the student to remain in the school district through the end of the school year, but do not accept them as a long-term interdistrict transfer. That student could participate in the annual interdistrict transfer lottery for the following school year, if a position is made available at their grade level.
- b) Accept the student as an interdistrict transfer, which would assure that their status would be automatically renewed on an annual basis unless the district withdraws entirely from the program.
- c) Deny the interdistrict transfer request.

Revocation or Non-Renewal of Transfer

Each interdistrict attendance permit shall be subject to certain terms and conditions of enrollment. The principal may recommend to the Superintendent or designee that a student's permit be revoked or not renewed and the student returned to his/her district of residence because of a student's violation of the specific terms of the permit for improper behavior, failing grades, or when falsification of information is discovered on the Interdistrict application forms. The District may revoke a student's enrollment if he/she is recommended for expulsion pursuant to Education Code 48918. (Education Code 48209.10)

Application Procedures

- 1. All communication shall be in writing using the appropriate forms.
- 2. The student, parent/guardian must first obtain approval for the student's transfer from the student's current district of residence on the appropriate form. The form should be obtained from the student's district of residence.
- 3. The Superintendent or designee may request any information needed to verify the validity of the request from the student, parent/guardian, other district personnel and/or school personnel from the student's school of residence and last school of attendance.
- 4. An application for an interdistrict transfer should be received by the Nicasio School District within 30 days after the student's move out of the district if such a move takes place during the school year, and 30 days prior to a new school year, if the move takes place during the summer months.
- 5. Appropriate paperwork of approved interdistrict transfer students must be completed and submitted to the school for approval within 30 days of the acceptance of the interdistrict transfer by the Nicasio School District.

Legal Reference:

Education Code

46600-46611: Interdistrict attendance agreements

48204: Residency requirements for school attendance

48209-48209.16: Student attendance alternatives

48209.6: Attendance of siblings

48209.10: Expulsion of students with interdistrict transfer agreements Revised: March 23, 1998
Revised: July 12, 1999 Approved: June 10, 2004

NOVATO UNIFIED SCHOOL DISTRICT

STUDENTS

INTERDISTRICT ATTENDANCE BP 5117 (formerly 5117.1)

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.

The Board desires to communicate with parents/guardians and students regarding the educational programs and services that are available in the district.

The Governing Board may approve interdistrict attendance agreements with other districts on a case-by-case basis to meet individual student needs. This authority may be delegated to the Superintendent or designee.

The Superintendent or designee typically shall approve applications for transfer out of the District. However, such applications may be denied under exceptional circumstances.

The Superintendent or designee may deny applications for interdistrict transfers into the District because of overcrowding within district schools or other non-discriminatory reasons. The Superintendent or designee may also revoke an interdistrict transfer permit for non-discriminatory reasons, with ten days' notice to the student's parents/guardians.

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict attendance agreements
48204 Residency requirements for school attendance
48915 Expulsion; particular circumstances
48915.1 Expelled individuals: enrollment in another district
48918 Rules governing expulsion procedures
48980 Notice at beginning of term
52317 ROP, enrollment of students, interdistrict attendance

GOVERNMENT CODE

6250-6270 Public Records Act

ATTORNEY GENERAL OPINIONS

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

COURT DECISIONS

Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275
Adopted June 22, 1999, Revised July 16, 2002; January 14, 2003; April 2004; June 27, 2006; October 16, 2007

Adopted: October 20, 2009 **NOVATO UNIFIED SCHOOL DISTRICT**
Novato, California

Interdistrict Attendance AR 5117 (formerly 5117.1)

GENERAL INFORMATION

Requests for interdistrict attendance permits, both outgoing and incoming, shall be referred to the Novato Unified School District which will review the request and forward it to the Board of Education for approval or denial.

Interdistrict attendance permits or applications shall not be required for students enrolling in a regional occupational center or program. (Education Code 52317)

Every interdistrict attendance permit shall stipulate the terms and conditions under which the permit may be revoked.

The Superintendent or designee shall notify 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 within 30 days of the denial. (cf. 5145.6-Parental Notifications)

Students 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)

All interdistrict transfers, whether into or out of the District, are for one school year only and must be renewed annually. The student and parent/guardian must also sign an Interdistrict Transfer Agreement (Exhibit A) annually.

Transportation will not be provided for students on interdistrict transfers.

REQUESTS FOR INTERDISTRICT ATTENDANCE PERMITS INTO THE DISTRICT

1. The student, parent/guardian, must first obtain approval for the student's transfer from the student's current district of residence on the appropriate form. This form should be obtained from the student's district of residence.
2. The Superintendent or designee will consider all requests for interdistrict attendance permits submitted to the District by April 1 (grades 6-12) and June 15 (grades K-5). The Superintendent or designee shall inform timely applicants by mail by July 15 (grades K-12) as to whether their applications have been approved or denied.

Schools shall not enroll pupils under this section until they have been notified by the District of its approval of the interdistrict attendance permit.

3. The Superintendent or designee may deny requests for interdistrict attendance permits if the District's facilities are overcrowded at the relevant grade level and based on other considerations that are not arbitrary. Regarding special programs at all grade levels, the capacities per class are identified as follows:

Special Day Class – 10

Resource Specialist Program – 20 (caseload per certificated staff member)

Designated Instructional Services – 40 (caseload per certificated staff member)
English as a Second Language - 10

4. If the request for an interdistrict attendance permit is approved by the District, the District retains the authority to determine the specific school to which the pupil will be assigned.
5. All interdistrict students and their parent/guardian must sign an Interdistrict Attendance Agreement (Exhibit A) prior to enrollment in the Novato Unified School District. Interdistrict transfer students must:
 - a. Attend school on a regular basis with no unexcused absences, no more than 3 absences for illness unless each additional absence is verified by a doctor's note, and no more than 3 tardies per school term;
 - b. Maintain a grade point average of 2.0 or higher in any school term (or "at standards" in grades K-5 in any school term) with no failing grades;
 - c. Demonstrate positive, productive behavior in classes and on school grounds with no more than 2 office referrals per school or one school suspension per school term.
6. If a request for transfer is denied, the student's parent/guardian shall be notified in writing of the Board's/Board Designee decision. The notice shall include specific reasons for the denial.

Grounds for Approval

The Superintendent or designee may approve interdistrict attendance permits for the following reasons:

1. To allow a student to complete a school year when his/her parents/guardians have moved out of the District during that year.
2. To permit currently enrolled 11th and 12th grade students to continue attending school in the District through graduation when the student and parent/guardian have moved their primary residence outside of the District boundaries during the student's 11th or 12th grade school year.
3. When the parent/guardian provides proof, acceptable to the District, that the family will be moving to the District in the immediate future and would like the student to start the year in the District.
4. When a student will be living out of the District for a year or less.
5. When recommended by the School Attendance Review Board or by County child welfare, probation or social services agency staff in documented cases or serious home or community problems which make it inadvisable for the student to attend his/her school of residence.
6. To permit attendance in a specialized school or program, provided the requesting student has met the qualifying criteria for the specialized school or program.

Grounds for Revocation

1. Every interdistrict attendance permit shall stipulate the terms and conditions under which the permit may be revoked. (Education Code 46600). Grounds for revocation may include:
 - a. Information on the permit, or information upon which the permit was granted, is determined to be false or fraudulent;
 - b. The terms of the Interdistrict Attendance Agreement are not met;
 - c. The District makes a determination that the continuing presence of the pupil would interfere with the needs of the District, the best interests of the students, or both.
2. The District will give ten school days' notice to parents/guardians prior to the revocation of the permit.

REQUESTS FOR INTERDISTRICT ATTENDANCE AGREEMENTS OUT OF THE DISTRICT

1. The student, parent/guardian must obtain the appropriate interdistrict transfer request form from the Student Services Department.
2. The Superintendent or designee typically will approve a request for transfer under exceptional circumstances.
3. If the request is denied, the Superintendent or designee shall notify the student, parent/guardian of the denial and their appeal rights. (Education Code 46601).

Adopted June 22, 1999, Revised July 16, 2002; Adopted January 14, 2003, April 2005, June 27, 2006; October 16, 2007

Adopted: October 20, 2009

NOVATO UNIFIED SCHOOL DISTRICT

Novato, California

REED UNION SCHOOL DISTRICT

Interdistrict Attendance

The Superintendent is authorized to grant or deny interdistrict transfers. All approved transfers are granted only on a year-to-year basis. Denials are subject to parent/ guardian appeal to the Board of Trustees.

Transfer Requests into District

1. Students requesting transfers into the district shall complete a written application on the form provided by the district which must be submitted to the district office.
 - a. As a basic aid district, the district does not receive additional funds from the state to support students who transfer into the district. As a result, every student who attends the district through an interdistrict attendance agreement reduces the support available to students who reside in the district.
 - b. Therefore, consistent with the statutory provision that a school district may deny requests for interdistrict transfers if the cost of the student's education exceeds the state funds received for the transfer, the district will approve interdistrict attendance agreements into the district only under exceptional circumstances unique to the child concerned, when no other suitable school attendance option exists, and when the criteria specified in this policy have been satisfied.
 - c. In deciding whether to approve or deny a request for interdistrict transfer into the district, the following criteria shall be considered:
 - (1) The changing of schools due to family moves often produces anxiety in children. This is viewed as a normal situation that is a natural part of growing up and that often results in positive social and emotional growth. It is not cause, in and of itself, for the granting of an interdistrict attendance request.
 - (2) Other frequently stated reasons for requesting out of district attendance includes a parent's perception that one school is better than another, convenience of transportation, continuance of social contacts and the proximity of a parent's work place. None of these should be cause for granting such a request unless it can be clearly demonstrated that there are exceptional circumstances unique to the child concerned that justify disrupting the normal pattern of school attendance.
 - (3) Exceptional circumstances regarding the health, safety, emotional development, social development, and/or academic development of the child concerned
 - (4) Exceptional circumstances regarding other family members that are relevant to the child's schools attendance
 - (5) The effect that the granting of the appeal would have upon the districts concerned
 - (6) The ability of the requested district to meet the stated needs of the child concerned
 - (7) The child care needs of the student
 - (8) Space is available, as determined in accordance with the administrative regulations for this policy.
 - (9) The applicant has a satisfactory behavior and academic record.
 - (10) The district finds the transfer is in the best interests of the child and the district.
 - (11) The transfer does not adversely affect an existing desegregation plan of the district or the district of residence.
 - (12) The applicant and district of residence have agreed to and signed an interdistrict attendance contract.
 - d. In the case of an interdistrict transfer, it is the responsibility of parents/guardians to provide transportation. Permission to attend and to remain in the district is at the discretion of the district, subject to revocation and return to the district of the residence at any time.

Transfer Requests Out of District

1. Students residing within the district may seek to attend a school outside the district by:
 - a. Requesting permission from the district to enroll in another district
 - b. Obtaining permission from the district to which the student wishes to transferPermission to attend an out-of-district school may be granted to a student based on compelling reasons.
2. The same criteria for approval that are applied to new transfer requests will be applied to renewal requests.

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict attendance agreements
48204 Residency requirements for school attendance
48300-48315 Student attendance alternatives
48915 Expulsion; particular circumstances
48915.1 Expelled individuals: enrollment in another district
48918 Rules governing expulsion procedures
48980 Notice at beginning of term
52317 ROP, enrollment of students, interdistrict attendance

GOVERNMENT CODE

6250-6270 Public Records Act

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 198 (2001)
87 Ops.Cal.Atty.Gen. 132 (2004)

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>
Policy REED UNION SCHOOL DISTRICT
adopted: February 10, 2004 Tiburon, California
revised: December 16, 2008

Reed Union ESD AR 5117 Students
Interdistrict Attendance

1. Students requesting a transfer out of the district shall file a written application on the form provided by the district which must be submitted to the district office.
2. Students requesting a transfer into the district shall file a written application with their district of residence. Said district of residence will forward the application to the district
3. Students of Cypress Hollow residents requesting transfers into the district shall file a written application on the form provided for interdistrict transfer requests and must be submitted to the district office by June 1 of each year. Parents/guardians will be notified of the Superintendent's decision by August 1. School year 2009-2010 is the final year to apply for enrollment under this provision.
4. Requests for transfers out of or transfers into the district must include a statement clearly explaining the reason for the request.
5. Parents/guardians will be notified of the Superintendent's decision within 30 days of the date of the request if made for and during the current school year. If the request is made for the following school year prior to 30 days before the commencement of that school year, then parents/guardians will be notified of the decision on or before 14 days after school begins. If the transfer request is denied, the parent/guardian shall receive timely notice regarding the process of appeal to the district Board of Trustees and thereafter, to the Marin County Board of Education.
6. Requests for incoming transfers will be processed in the following manner:
 - a. Properly completed transfer applications will be considered by the district only after an approved application has been forwarded to the district by the district of residence and will be approved only under the following conditions:
 - (1) Subject to Section 6b., below, interdistrict transfers will be approved for children only if each and every criterion of Policy 5117 is satisfied, including but not limited to the existence of exceptional circumstances unique to such child and space availability.
 - b. Space Availability
 - (1) To determine space availability for grades 4-8, space will be considered available if the enrollment or enrollment projection in the requested grade is less than an average of 20 students per class. If the average is 20 or higher, the request will be denied.
 - (2) To determine space availability for kindergarten, first, second, and third grade, to meet the state Class Size Reduction requirements for continued funding, space will be considered available if the enrollment or enrollment projection in kindergarten through third grade is less than specified in district policy 5117. If the class size is 15 or higher in kindergarten through third grade, the request will be denied.
 - (3) To determine space availability for special education students, space will be considered available if the caseload or projected caseload for resource specialist is less than 12 students per 1.0 FTE and for Special Day Classes, if enrollment is less than 8 students per 1.0 FTE and if the enrollment or enrollment projection for their grade level meets the criteria stated above. Special education students enrolled in or requiring special day classes or full-time services outside of the school site are serviced through the county, would be eligible to receive those services through their own district and would not require or be granted an interdistrict transfer into our district.

- (4) In the case of students described in Section 6.a.(1) and (2) above, if there are more students eligible for interdistrict transfer than the number of spaces available, then first priority shall be given to these students with siblings in the district. In the case of a tie situation, the district office staff shall determine priority by lot. In such a situation, parents shall be notified of the results of the lottery.
 - c. If it is not clear at the time of a transfer request that classroom space will be available, then applications for students who meet the criteria will be placed on hold until space availability can be determined, generally no earlier than 10 days prior to the start of school and no later than 14 days following the first day of school. At that time, the applications will be approved or denied in the order received. Applicants will be notified that their request has been placed on hold. A student's shall not be permitted to attend a district school while the transfer application is on hold.
 - d. When an interdistrict transfer application is placed on hold, the Superintendent or designee will notify, in writing, the applicant of the reasons for placing the request on hold, and will include a copy of these procedures.
 - e. Likewise, if and when an application is denied, the applicant will be notified in writing along with a copy of these procedures.
7. Any cost incurred for transporting students attending with an interdistrict transfer agreement will be borne by the parent/guardian.
 8. Requests are approved for no more than one school year only.

Prior to May 15, the district will send written notification to parents or guardians of students with current interdistrict transfer agreements, stating that the agreement is for the current school year only and that a new agreement needs to be processed. This notice will state that without the approval of a new agreement the following year, the student must register in his/her district or residence. Failure on the part of the district to give such notice shall not, however, give the student in question the right to an interdistrict transfer agreement nor relieve the parents, guardians, or transfer students from the obligation of applying for or satisfying the requirements for annual approval of interdistrict transfer agreements.
 9. The parent/guardian of a student attending the district pursuant to an interdistrict transfer agreement is responsible for notifying the district if the conditions under which the transfer was approved change. If a change occurs, the student may be permitted, in the discretion of the district, to complete the year in the district pending consultation between the sending and receiving districts.
 10. Students who are district residents and who move out of the district mid-year may be permitted to complete the year in the district if the criteria described in Policy 5117, Section 1, are met. It is the responsibility of the parents or guardians of any student who moves out of the district to notify the district immediately. Applications for interdistrict transfers must be completed within one month of the student's moving date, not one month from the date the school is notified of the move. Students not in good standing as defined in Policy 5117.1 at the time of their move will not be permitted to continue enrollment in the district and will be required to immediately enroll in their district of residence.
 11. The parent/guardian may appeal a denied request for an interdistrict transfer to the Board, or when applicable following an appeal to the Board, to the County Board of Education.

ROSS SCHOOL DISTRICT

Students BP 5117(a) INTERDISTRICT ATTENDANCE

Students residing outside the Ross School District boundaries may only attend the school by obtaining an approved Interdistrict Transfer ("IDT"). The Ross School District believes that the best interests of a student are generally served by attendance at the student's local community school and that Marin County has excellent schools throughout the county. As a Basic Aid District, Ross school does not receive additional state funding sufficient to support the cost of students who transfer into the district. Therefore, IDTs will be granted only under exceptional circumstances.

Categories of IDTs:

1. Employment-related
2. Discretionary
3. Transitional

Criteria for Consideration

The following factors (not in rank order) will be considered in deciding whether to accept or reject an application for any of the above-listed IDT categories:

1. Impact on Class Size
2. The financial impact on the school
3. The student's behavior and attendance record
4. The determination of the school that it would be in the best interests of the student or the school for the IDT to be denied.

Employment-related IDTs are limited to children of Federal, State or Local Governmental employees working full-time within the boundaries of the district.

Discretionary IDTs are limited to:

1. Unusual circumstances when a principal in a neighboring school district requests such transfer for the well-being of a child or
2. Circumstances where special child care needs exist per Education Code 46601.S(b). Annual verification of the location and relationship of the child care provider is required for continued eligibility as a child care related IDT.

Transitional IDTs may be granted only to students who are presently attending the school and:

1. Move out of the district because of a death, divorce, or medically documented disability of a parent/guardian in the family. In order to give families the option to provide continuity for the student's education while the student adjusts to the changes in the student's circumstances, the transition period will allow the student to remain at the school to complete the school year in which the death, divorce, or medically documented disability occurs, plus one additional year at the school, if requested. However, if the student has begun sixth grade prior to the death, divorce, or medically documented disability of a parent/guardian in the family, the IDT may be extended to enable the student to complete middle school.
2. Move out of the district due to sale of a residence, loss of a lease, or some similar event causing a change in the student's residence. The transition period will allow the student to remain at the school to complete the current school year at the school. If the student has begun seventh grade at Ross school, the IDT may be extended to allow the student to complete middle school.

Transitional IDTs will not be renewed after the transitional period has expired. The school year is

defined as the first day of school through the last day of school per the board adopted calendar.

The status of siblings (including but not limited to the fact that one or more siblings are in middle school) shall NOT be considered as a reason for granting or extending an IDT.

An IDT may be revoked at any time at the discretion of the school for either of the following reasons:

1. Student misconduct or unacceptable attendance record.
2. The application for the IDT, including statements made to the school, contains material misinformation or is fraudulent

Initial approval of an IDT for a student carries no guarantee as to any future approval or renewal of an IDT or any additional IDT for the student or any siblings.

Failure to Obtain a Valid IDT

Any out-of-district student who attends the school without a valid IDT, whether intentional, knowingly or not, shall be immediately transferred to the district of the student's residence as soon as such attendance becomes known to the school.

Legal Reference:

EDUCATION CODE

-16600--16611 Interdistrict attendance agreements

-18204 Residency requirements for school attendance

48300-48315 Student attendance alternatives

48915 Expulsion; particular circumstances

48915. 1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

52317 ROP, enrollment of students. interdistrict attendance

GOVERNMENT CODE

6250-6270 Public Records Act

A7~rORNEY GENERAL OPINIONS

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

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

COURT DECISIONS

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

Management Resources:

WEB SITES

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

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

Policy

ROSS SCHOOL DISTRICT adopted: December 10, 2003

Ross, California reviewed: August 8, 2007

ROSS VALLEY SCHOOL DISTRICT

Students

INTERDISTRICT ATTENDANCE

The Ross Valley School District welcomes interdistrict applications from all families interested in having their children attend our school district.

The Superintendent or designee may approve interdistrict agreements for the following reasons:

1. To meet the educational needs of the families interested in having their children educated in our district schools/programs.
2. To meet the childcare needs of the students/families applying for an interdistrict transfer.
3. To allow a student to complete a school year when his/her parents or guardians have moved out of the district during that year.
4. 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.
5. When a currently enrolled student/family will be living out of the district for one year or less.
6. When recommended by the School Attendance Review Board (SARB) 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 their school of residence.

The Superintendent or designee shall determine the capacity of each district school and establish a random, unbiased selection process for considering enrollment applications when the number of applications are in excess of the spaces remaining to reach school capacity. This process shall prohibit an evaluation of whether any pupil should be enrolled based on his/her academic performance (EC 35160.5).

The following principles are exceptions to the random, unbiased selection process:

1. In accordance with law, no student currently residing within a school's attendance area shall be displaced by another student transferring from outside the school's attendance area (EC 35160.5 and BP 5116). AR 5117.1 (b)
2. The Board retains the authority to maintain appropriate racial and ethnic balances among district schools (EC 35160.5).
3. The district may employ entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants (EC 35160.5).
4. If a district school receiving Title I funds is identified for program improvement, corrective actions, or restructuring, all students enrolled in that school shall be provided an option to transfer to another district school or charter school (20 USC 6316).
5. The district retains the right to assign a student to a school for disciplinary reasons or for the protection of the health and safety of that student or other students.
6. If special circumstances indicate that a student faces harmful or dangerous conditions (i.e. threats of bodily harm or emotional instability, if she or he stays within the current attendance area), the Superintendent or designee may make this transfer a priority over other students based on written statements from officials outlined in law or a court order. In addition, if a child attends a school designated by the California Department of Education as *persistently dangerous*, he/she shall be provided an option to transfer to another district school or charter school (EC 35160.5 and 20 USC 7912).
7. Once enrolled, an interdistrict transfer student shall not have to apply for readmission to their school of choice provided continuous enrollment is maintained. Students/families will be required to complete the transfer request paperwork in the school district in which they reside on an annual basis.

8. Siblings of a student who has an approved interdistrict transfer shall have priority over other interdistrict students who apply for the same grade by March 1 as long as the family has maintained continuous enrollment in the Ross Valley School District. Once approved, sibling students/families will be required to complete the transfer request paperwork in the school district in which they reside on an annual basis.

Enrollment Priorities

If the number of students desiring to attend a school exceeds the capacity of the school, enrollment priority shall be in order as follows:

1. The following students are all considered priority one students:
 - Resident Kindergarten students who register at the school within their attendance area (for the following school year) by March 1. AR 5117.1 (c)
 - Currently enrolled 1st -7th grade resident students at the school within their attendance area.
 - Currently enrolled 1st -5th grade overflow students (and subsequent siblings) who wish to stay at their reassigned elementary school.
 - Currently enrolled 1st -7th grade intradistrict transfer students (and subsequent siblings).
 - Currently enrolled 1st -7th grade interdistrict transfer students.
2. Resident Kindergarten students who register at the school within their attendance area (for the following school year) by April 15.
3. Overflow students reassigned from the school within their attendance area to another district school. In second and subsequent years of attendance at the overflow school these students shall be deemed to have registered by March 1 at their school of residence. Overflow students will be given an opportunity to return to their home school, on a space available basis, for as long as they are on the waiting list. Should space become available to return to over capacity schools, district staff will contact families in the order their names appear on the waiting list and offer them the opportunity to return to their desired school. If they prefer to complete the year at the transfer school, they will be given the opportunity to return to their home school (as capacity permits) for the beginning of the following school year. If they prefer to remain at their transfer school, they shall be considered residents of that school and be given first priority status for all subsequent school years. All siblings of first priority students who prefer to attend at their transfer school shall also be deemed residents of that school.
4. Resident 1st -5th grade students not currently enrolled who apply on or before April 15.
5. New intradistrict transfer students who have submitted applications by March 1.
6. New interdistrict transfer students who have submitted applications by March 1.

The Superintendent or designee shall inform all new enrolling parents/guardians in groups 1-6 when certain schools or grade levels within a school are currently, or are likely to be, at capacity and therefore unable to accommodate any new students.

Selection Procedures for the Upcoming Year for Applications

1. The Superintendent or designee shall determine the capacity of each district school for the upcoming school year.
2. The Superintendent or designee shall identify those schools which may have space available for additional students. A list of these schools and interdistrict transfer applications shall be available at the school district office.
3. All students who submit applications to the district in the timeframes specified above shall be eligible for admission to their school of choice for the following school year. Admission will be based upon the district's enrollment priorities specified in the previous section and capacity determination by the Superintendent or designee. Admission will also be subject to the provisions of Section 7 below.
4. Subject to the provisions of Section 7 below, if student applications received by June 20 to enroll in a school are fewer than the openings available, all students requesting enrollment shall be enrolled. Categories 5-11 of this section outline the procedures to be used when student applications are greater than the available spaces in any school and/or grade.
5. If the number of first priority kindergarten students exceeds the capacity of any given school, the students with siblings at the school will be placed first. Registering K students who have a sibling who has been overflowed to another district school and are on a waiting list to return to their school of residence will be placed next. Following these placements, a lottery will be held whereby all remaining students' names will be drawn randomly, assigned a number in the order drawn, and placed at the students' school of residence in the order drawn until capacity has been attained. The remaining students will be overflowed to another district school and placed on a resident overflow waiting list for return to the school within their attendance area.
6. If the number of resident 1st -5th grade students not currently enrolled who apply (priority four students under Enrollment Priorities) exceeds the capacity of any given school, a lottery will be held whereby the applying students' names will be drawn randomly, assigned a number in the order drawn, and placed on a resident overflow waiting list in the order drawn. These students will be overflowed to another district school.
7. After all first through fourth priority students have been placed; one or two spaces for each classroom per school shall remain open for students who move into a particular attendance area over the summer. The superintendent shall have the discretion to determine the exact number of spaces to remain open per grade per site depending on site capacity. Students not in priority one through four will not be placed at a particular school until 10 calendar days prior to the start of the new school year unless space over and above this capacity is available. AR 5117.1 (e)
8. After all first through fourth priority students have been placed in a school or on a waiting list, lotteries shall be conducted for each of the next two priority levels (five and six) at each school and grade level affected (if necessary) in the same manner as described above. Students will be placed until capacity is reached and then intradistrict and interdistrict waiting lists will be established to indicate the order in which students may be accepted at each school and grade level (as openings occur in the priority detailed above). The waiting list for these applicants will stay in effect as long as there are students interested in staying on their respective list.
9. The Superintendent or designee shall inform applicants by mail on or before June 30 as to whether their applications have been approved, denied, or placed on a waiting list. Applicants will also be informed as to where on the waiting list they have been placed. If the application is denied; the reason(s) for denial shall be stated.
10. Applicants who receive approval must confirm their enrollment in writing within 10 calendar days of notification of transfer request approval.

11. Applicants who apply after the timeframes specified above will be admitted in the order they apply if space is available, again subject to the provisions of section 7. If space is not available they will be placed at the end of the appropriate resident overflow, intradistrict, or interdistrict waiting list for the school and grade in which they are interested. As openings in a school and grade occur, names will be taken from these lists in the following priority order: First names will be taken from the resident overflow list for a grade and school. When that list is empty, names will be taken from the intradistrict transfer list. When that list is empty, names will be taken from the interdistrict transfer list. Any complaints regarding the selection process should follow the Board adopted complaint procedures (BP 1312 -Complaints Concerning the Schools).

A student's interdistrict agreement may be revoked because of excessive truancy, poor grades, continual disruption of the educational program, or expulsion.

Transportation

Transportation shall not be provided for students attending a district school on an interdistrict agreement. (cf. 3250 -Transportation Fees) (cf. 3540 -Transportation)

Denial of Interdistrict Transfer Agreement

The parents/guardians of a student who is denied an interdistrict transfer shall receive timely notice, in accordance with law, regarding the process for appeal to the County Board of Education. 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.

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).

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict Attendance Agreements

Students

INTERDISTRICT ATTENDANCE

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. The Board desires to communicate with parents/guardians and students regarding the educational programs and services that are available in the Ross Valley School District.

(cf. 5116.1 -Intradistrict Open Enrollment)

(cf. 5117.1 -Interdistrict Attendance Agreements) (cf. 5145.6 -Parental Notifications)

The Board recognizes that the district may be capable of serving additional students. Therefore, the Superintendent or designee may approve interdistrict attendance agreements with other districts on a case-by-case basis to meet individual student needs.

The policy of this district is to approve interdistrict transfer requests when school or grade level capacity permits. Students who are admitted into the district as interdistrict transfers will be given resident status for the purposes of determining enrollment priority in ensuing years. Subsequent siblings in the family shall apply separately and be admitted when the school or grade level capacity permits.

This policy, as adopted by the Ross Valley School District Board of Trustees, includes a “grandfather” clause for all interdistrict transfer students enrolled prior to the day this policy is approved. Those students and subsequent siblings will be afforded resident status.

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48209-48209.17 Student attendance alternatives

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

52317 Admission of persons including nonresidents to attendance area; workers' compensation for pupils.

SAN RAFAEL CITY SCHOOLS DISTRICT

Students BP 5117(a)

INTERDISTRICT ATTENDANCE – ELEMENTARY SCHOOLS

California state law and the rules and regulations of the State Board of Education clearly indicate the principle that students should attend schools in their districts of residency. The Board of Education believes that children should attend elementary schools where they live, and supports the concept of neighborhood schools. The Board shall consider requests for interdistrict attendance agreements in accordance with this general principle.

The Board recognizes that students who reside in one school district may wish to attend school in another school district for a variety of reasons. Because of capacity issues within the district and due to limited resources, the Board will consider approving such transfers on a case-by-case basis through an interdistrict transfer agreement with another school district. In the case of a student wishing to transfer into the district, the request will be considered when class enrollment or program availability will permit the attendance of an out-of-district student.

The Superintendent or designee of the district shall review all requests for interdistrict attendance agreements. The Superintendent is authorized to grant or deny interdistrict attendance requests.

The decision to admit out-of-district students is discretionary. When capacity exists, applications may be approved based on the following priorities, listed in order (with the top priority listed first):

1. Students whose parents/guardians are employees of the San Rafael City Schools.
2. Students whose parents/guardians are employed within the district's boundaries.
3. Students whose requests are based on a desire to ensure educational continuity.
4. Students whose siblings are ongoing interdistrict transfer students.

Notwithstanding these priorities, the Superintendent/designee may grant a transfer if, in the judgment of the Superintendent/designee, the parents/guardians provide evidence of extraordinary circumstances warranting a transfer.

The Superintendent or designee may deny applications for interdistrict transfers due to space limitations or other non-discriminatory reasons. The Superintendent or designee may also revoke an interdistrict transfer permit for non-discriminatory reasons.

The parent/guardian of a student who is denied a transfer request pursuant to Education Code sections 46600-46611 shall receive timely notice, in accordance with law, regarding the process for appeal to the San Rafael City Schools Board of Education, and to the County Board of Education. A student whose request for transfer is based on his/her parent's employment within the district's boundaries, including employment by the district, shall not have the right to appeal a denial to the County Board.

Students who have been expelled from other school districts may not be admitted to the district on interdistrict attendance agreements during the period of their expulsions. Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials while expulsion proceedings are pending, or during the term of the expulsion.

Transportation will not be provided for students attending the district on interdistrict attendance agreements.

Legal References:

EDUCATION CODE

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48915 Expulsion; particular circumstances

48915.1 Expelled students; enrollment in another district

48918 Rules governing expulsion proceedings

48980 Notice at beginning of term

52317 ROP, enrollment of students, interdistrict attendance

Policy **SAN RAFAEL CITY SCHOOL DISTRICT**

adopted: September 14, 1992 San Rafael, California

revised: May 8, 1995

revised: January 25, 2010

Students AR 5117(a)

INTERDISTRICT ATTENDANCE – ELEMENTARY SCHOOLS

General Information

Requests for interdistrict attendance permits, both incoming and outgoing, shall be submitted to the employee in charge of interdistrict requests and reviewed by the Superintendent or designee. All requests, whether into or out of the district, are for one school year only and must be renewed annually. For transfers into the District, the student and parent/guardian must sign an Interdistrict Transfer Student Contract annually.

Each transfer request will be judged on its individual merits. All factual information and supporting documentation submitted with the transfer request will be subject to verification. Any transfer request containing or based upon false information will be denied or revoked, and the parent or guardian responsible will be referred to legal authorities as provided by law.

Requests for Interdistrict Attendance Permits Into the District

1. The parent/guardian must first obtain approval for the student's transfer from the student's current district of residence on the appropriate form.
2. The Superintendent or designee will consider all requests for interdistrict attendance permits that are approved by the district of residence and submitted to the San Rafael City Schools by June 1 for the following school year. Applicants will be advised by July 1 as to whether their applications have been approved, denied, or wait-listed. Each applicant will be notified in writing of the final disposition of the request not later than 14 days after the beginning of the subsequent school year.
3. The Superintendent or designee may deny requests for interdistrict attendance permits if the district's facilities are overcrowded at the relevant grade level and based on other nonarbitrary considerations. Regarding special programs at all elementary grade levels, the capacities per class (calculated as a District average) are identified as follows:
 - Special Day Class – 8
 - Resource Specialist Program – 15 (caseload per certificated staff member)
 - Designated Instructional Services – 35(caseload per certificated staff member)
4. If the request for transfer is approved, the district retains the authority to determine the specific school to which the student will be assigned. However, the district will attempt to accommodate a parent/guardian's request for placement in a specific school site, subject to the priorities and policies established in the district's residency regulations.
5. If the request for transfer is denied, the parent/guardian will be notified in writing of the right to appeal to the district Board of Education. If the appeal is denied by the Board of Education, the parent/guardian will be notified in writing regarding the process for appeal to the County Board of Education. An appeal to the County Board of Education must be made within thirty days of the district Board's denial. A student whose request for transfer is based on his/her parent's employment within the district's boundaries, including employment by the district, shall not have the right to appeal a denial to the County Board.

The Board requires that all requests for interdistrict attendance and the required supporting documentation be certified by the parent, guardian, childcare provider or caregiver under penalty of perjury. The Superintendent or designee is responsible for confirming the accuracy of information contained in such requests and

documentation; investigating any suspicion that information has been falsified; reporting such violations to the appropriate law enforcement agencies; and reporting such activities to the Board.

Requests for Renewal of Interdistrict Attendance Permits Into the District

Requests for renewal of interdistrict attendance permits into the district will be reviewed according to the process for new interdistrict attendance permits, with the following exceptions:

1. A request for renewal of an interdistrict attendance permit must be submitted by April 1st. Applicants will be advised by June 1 whether the application is approved or denied. Applications that are approved may be subject to participation in a lottery, should the number of applicants at the student's school site exceed capacity at that site. Lottery procedures, including relevant priorities, are described in the district's intradistrict attendance policy and regulations.
2. A request for renewal of an interdistrict attendance permit submitted after April 1 will be processed as a new request.
3. If admission to the district was approved *based on the location of the student's parent's employment*, the student shall be allowed to attend school in the district through the eighth grade if the parent/guardian so chooses, subject to (1) annual completion of the interdistrict application by the April 1st deadline to verify continued employment within the district according to proof acceptable to the District, consistent with the District's Residency Policy and Regulations; and (2) any other limitation as allowed by law, including violations of the Interdistrict Transfer Student Contract.

Grounds for Approval

The Superintendent or designee may approve interdistrict attendance permits when capacity within the district exists. Students whose requests are denied solely because of lack of capacity within the district will be placed on a waiting list, and their applications will be reconsidered if space becomes available.

Applications may be approved based on the following priorities, listed in order (with the top priority listed first):

1. A student whose parent or guardian is an employee of the San Rafael City Schools.
2. A student whose parent or guardian is employed within the district's boundaries.
3. A student whose request is based on a desire to ensure educational continuity.
4. A student whose sibling is an ongoing interdistrict transfer student.

Regarding priorities 1 and 2, above, "employment" generally describes a relationship between an employer and an employee. An employee does not include one who performs services as an independent contractor, but does include a person who is self-employed with a permanent place of business within the boundaries of the elementary district. Interdistrict transfer applications citing employment within the elementary district boundaries must be supported by written verification by the employer (or by the parent/guardian, if self-employed) of employment of at least twenty (20) hours/week and for at least thirty (30) weeks per year. Verification shall be attached to the original application for an interdistrict attendance permit, and to each subsequent application.

Regarding priority 3, above, "educational continuity" includes such considerations as the desire to complete the highest grade at a site or continuing education in the district after a number of years as a district student. Transfer requests also may be approved to allow a student to complete a school year when the parent or guardian has moved out of the district during the year, or to continue attendance if the student will be living out of the district for less than one school year. Students who have moved out of the district and wish to remain in

the district for the remainder of the year may stay pending approval by the new district of residence or an appeal of that district's decision to the Marin County Office of Education, and a positive recommendation by the school principal.

Notwithstanding these priorities, the Superintendent/designee may grant a transfer if, in the judgment of the Superintendent/designee, the parents/guardians provide evidence of extraordinary circumstances (such as a threat of physical harm to a student) warranting a transfer.

Grounds for Revocation

Pursuant to Education Code section 46600, the following are the terms and conditions under which an interdistrict attendance permit may be revoked:

1. Determination by the district that the transfer request or supporting documentation was based upon false or fraudulent information.
2. Failure to comply with the requirements of the Interdistrict Transfer Student Contract, which include demonstrating acceptable academic performance, attendance, and behavior. The Contract must be signed by both the student and the parent or guardian.
3. Determination by the district that the conditions on which the interdistrict attendance permit approval was based are no longer met. It is the responsibility of the parent or guardian to notify the district within ten (10) days if any of the conditions justifying the transfer approval change. The student may be permitted, within the discretion of the Superintendent or designee, to complete the school year in the district with the approval of the district of residence.
4. Determination by the district that the continuing presence of the student is not in the student's best educational interest, or will interfere with the needs of other students, or both.

The District will give ten days' notice to a parent or guardian prior to the revocation of an interdistrict attendance permit.

Requests for Interdistrict Attendance Agreements Out of the District

Parents/guardians of students wishing to transfer out of the district shall complete an application for transfer. It is required that the parent or guardian of the applicant meet with the student's current school principal to discuss the reason for the transfer request and obtain his/her signature on the application.

Applications will be approved or denied by the Superintendent or designee. Applicants will be notified in writing if the request is denied, and will be given the reason for the denial. Denials by the district may be appealed to the district Board. If the appeal is denied, the request may be appealed to the Marin County Office of Education within thirty days of the district's final decision.

Applications that are approved by the district must also be approved by the receiving district. Parents should advise the San Rafael City Schools of the final disposition of their request within five days of notification by the receiving district or the Marin County Office of Education, in the case of an appeal.

Regulation **SAN RAFAEL CITY SCHOOLS**

Approved: January 25, 2010 San Rafael, California

Students AR 5111.1(a)

DISTRICT RESIDENCY

Attendance Areas

In determining the attendance areas for each of the district's schools, the Board of Education shall establish each attendance area in such a way as to effect the best utilization of schools, plants and equipment.

In the elementary district, neighborhood schools shall be established insofar as possible. Attendance boundaries for all schools shall be approved by the Board upon recommendation of the Superintendent or designee.

The Superintendent or designee may assign a student attending school in one attendance area to a school in another due to capacity limitations, to balance class sizes, or to make maximum use of available classroom space. Students will be transferred in the following order:

1. New interdistrict transfers, in the reverse order of the date each application was approved;
2. Renewal interdistrict transfers;
3. New intradistrict transfers, in the reverse order of the date each application was approved;
4. Renewal intradistrict transfers;
5. Students whose parents reside in the attendance area from which transfer is required. These students will be transferred in the following order:
 - a. The reverse order of the date that residence was established, if residence was established and the student enrolled after April 1. However, students with a sibling at the site from which transfer is required will be given priority over other residents, if the currently attending sibling will continue to attend that school the following year.
 - b. For students whose parents established residence in the attendance area and who enrolled during the school year before April 1, such students will be subject to a residence lottery, to be conducted before June 1, to determine the order in which they will be transferred to another school site. However, students with siblings at the site from which transfer is required will be given priority over other resident students, and will be exempt from the residence lottery, if the currently attending sibling will continue to attend that school the following year. Further, should a student with siblings be allowed to remain at the attendance area site based on the outcome of a residence lottery, any siblings of that student will be given priority over other resident students, and will be exempt from the residence lottery.
 - c. Resident students who are transferred from their schools of attendance will be included on waiting lists to return to those schools, along with wait-listed intra/interdistrict attendance candidates, if any.

DISTRICT RESIDENCY (continued)

When it is necessary to transfer students from their schools of attendance due to capacity issues that arise at the beginning of a new school year, such decisions will be made not later than the ninth school day of the school year.

Criteria for Residency

A student shall be deemed to have complied with district residency requirements if s/he meets any of the following criteria:

1. The student's parent or guardian has established residence within district boundaries, as residence is defined in Government Code section 244.
2. The student is placed within district boundaries in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a court-ordered commitment or placement.
3. The student has been admitted through the district's interdistrict attendance process, including a student whose parent or legal guardian is employed by the district or is physically employed within the boundaries of the district.
4. The student is an emancipated minor residing within district boundaries.
5. The student lives with a caregiving adult within district boundaries. The caregiving adult must execute an affidavit under penalty of perjury, pursuant to relevant provisions of the California Family Code.
6. The student resides in a state hospital located within district boundaries.
7. The student is confined to a hospital or other residential health facility within district boundaries for treatment of a temporary disability.

District residency is not required for enrollment in a regional occupational center or program if there are openings in the program or class.

Proof of Residency

Prior to admission to district schools, the student's parent, guardian or caregiver shall provide proof of residency. At least three proofs of residency shall be submitted. Documents must be pre-printed with the name and address of the student's parent, guardian, or caregiver.

At least one document must be submitted from each of the following three categories:

Category One

- Valid California driver's license
- Valid California photo identification card
- Valid passport
- Government-issued photo identification card

Category Two

Utility service payment receipts (dated within past sixty days):

- PGE bill
- Home telephone bill
- Cable television bill

Category Three

- W-2 form (dated within past year)
- Property tax payment receipt (dated within past year)
- Copy of deed AND record of most recent mortgage payment
- Copy of lease AND record of most recent rent payment
- Payroll stub (dated within past sixty days)

Documentation of residency is subject to annual verification. Unannounced home visitations may be conducted to verify residency at any time during the student's attendance in the District.

A parent or guardian of a student who was admitted to the district based on the location of the parent or guardian's employment must initially and annually verify employment within the District's boundaries. Such verification must include proof of employment of at least twenty hours per week for at least thirty weeks per year. Proof will include a copy of a W-2 form (dated within the past year) supported by written verification by the employer. If the parent or guardian is self-employed, the parent or guardian must provide written verification in the form of a declaration under penalty of perjury.

Safe at Home Program

When a student or parent/guardian participating in the Safe at Home program requests that the district use the substitute address designated by the Secretary of State, the Superintendent or designee may request the actual residence address for the purpose of establishing residency within the district's boundaries. The Superintendent or designee shall not include the actual address in the student's file or any other public record and shall instead use the substitute address for all future communications and correspondence.

Denial or Revocation of Enrollment

If any district employee reasonably believes that the parent/guardian of a student has provided false or unreliable evidence of residency, the employee shall bring this issue to the attention of the Superintendent or designee. A member of the public who has a similar reasonable belief may bring those concerns to the Superintendent or designee. If the Superintendent or designee, upon investigation, determines that the student's enrollment or attempted enrollment is based upon false evidence of residency, s/he shall revoke the student's enrollment.

Before such revocation, the parent/guardian shall be sent written notice, summarizing the facts and evidence leading to the decision. This notice shall state the parent/guardian's right to schedule a meeting to take place within ten school days of the date of the notice with the Superintendent or designee. At the meeting, the parent/guardian will be provided an opportunity to rebut the district's evidence, and to present oral and/or documentary evidence, including witnesses, on the student's behalf. If the parent/guardian fails to schedule the above meeting, the student's enrollment shall be terminated eleven school days after the date of the notice.

The Superintendent or designee's decision shall be final.

Legal References:

EDUCATION CODE

35351 Assignment of students to particular schools

48050-48054 Nonresidents

48200-48208 Persons included (compulsory education law)

48980 Notifications at beginning of term

52317 ROP, admission of persons including nonresidents to attendance area

FAMILY CODE

6550-6552 Caregivers

GOVERNMENT CODE

6205-6211 Confidentiality of residence for victims of domestic violence

CODE OF REGULATIONS, TITLE 5

432 Varieties of student records

UNCODIFIED STATUTES

AB 687, Ch. 309, Statutes of 1995

COURT DECISIONS

Katz v. Los Gatos-Saratoga Joint Union High School District (2004) 117 Cal.App.4th 47

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

303.95 Verification of residency, LO: 1-95

WEB SITES

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

California Secretary of State, Safe at Home Program: <http://www.ss.ca.gov/safeathome>

Students BP 5116.1(a)

INTRADISTRICT OPEN ENROLLMENT

It is the intent of the Board of Education that every student residing in the district shall attend the school serving his/her zone of residence. However, to serve the diverse needs, potential, and interests of district students, transfers between attendance areas will be permitted according to the principles established below.

The Board shall annually review this policy.

The parents/guardians of any student who resides within district boundaries may apply to enroll their child in any district school, regardless of the location of the family's residence within the district.

The Board of Education shall annually calculate the enrollment capacity of each district school in a nonarbitrary manner, using student enrollment and available space.

The district shall employ a random, unbiased process for considering enrollment applications where the number of transfer requests is in excess of the spaces remaining to reach school capacity. This process shall prohibit an evaluation of whether a student should be enrolled based on his or her academic or athletic performance.

No student who resides in the attendance area of a school prior to the open enrollment period shall be displaced by a student from outside the attendance area.

Once enrolled in a school pursuant to an approved intradistrict attendance request, a parent/guardian is not required to re-submit a new request in subsequent years, provided continuous enrollment is maintained.

Exceptions

Exceptions may be made to the random, unbiased selection process based on the following, which are listed in priority order:

1. Existing entrance criteria for specialized schools or programs may be used provided that the criteria are uniformly applied to all applicants. Academic performance may be used to determine eligibility for, or placement in, programs for gifted and talented students.
2. If a district school receiving Title I funds is identified for program improvement, corrective action or restructuring, all students enrolled in that school shall be provided an option to transfer to another district school or charter school.
3. If while on school grounds a student becomes a victim of a violent criminal offense, as defined by the California Department of Education (CDE), or attends a school designated by the California Department of Education as persistently dangerous, he/she shall be provided an option to transfer to another district school or charter school.
4. Priority will be given to siblings of students already in attendance at a school, if the currently attending student will continue to attend that school the following year.
5. Priority will be given to a student who applies for transfer at the same time as a sibling, and whose sibling is granted a transfer through the lottery process.
6. Priority will be given to students whose parent or legal guardian is assigned to a school as his/her primary place of employment.
7. Priority will be given to students who were involuntarily transferred from schools in their attendance areas the previous year.

Transportation

The district shall not be obligated to provide transportation for students who attend schools outside their attendance areas, except as required by federal law for transfers out of Title I program improvement schools, or to the extent required and financed by federal law and requested by a parent/guardian. If a parent/guardian requests and receives an intradistrict transfer, the parent/guardian is responsible for the student's transportation.

Revocation

Intradistrict transfer requests that are granted will be revoked if the student does not comply with the provisions in his/her intradistrict attendance and behavior contract, which must be signed by the student and the student's parent/guardian.

Legal References:

EDUCATION CODE

35160.5 District policies; rules and regulations

35291 Rules

35351 Assignment of students to particular schools

48980 Notice at beginning of term

UNITED STATES CODE, TITLE 20

6316 Transfers from program improvement schools

7912 Transfers from persistently dangerous schools

CALIFORNIA CODE OF REGULATIONS, TITLE 5

11992-94 Definition of persistently dangerous schools

CODE OF FEDERAL REGULATIONS, TITLE 34

200.36 Dissemination of information

200.37 Notice of program improvement status, option to transfer

200.39 Program improvement, transfer option

200.42 Corrective action, transfer option

200.43 Restructuring, transfer option

200.44 Public school choice, program improvement schools

200.48 Transportation funding for public school choice

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

85 Ops. Cal. Atty. Gen. 95 (2002)

Management Resources:

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Public School Choice, February 2004 and January 2009

Unsafe School Choice Option, May 2004

WEB SITES

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

CDE: <http://www.cde.ca.gov>

U.S. Department of Education: <http://www.ed.gov>

Policy SAN RAFAEL CITY SCHOOLS

adopted: December 8, 2008, San Rafael, California

Revised: June 22, 2009

Revised: January 25, 2010

Students AR 5116.1(a)

INTRADISTRICT OPEN ENROLLMENT

Schools shall not accept students who reside in another school's attendance area without an approved intradistrict attendance permit. Approval of intradistrict enrollment requests will be subject to site capacity limitations and the following selection procedures. No student who is enrolled in a school in the attendance area where s/he resides as of April 1 will be displaced by a transferring student.

Application and Selection Process

1. Each year by March 1, the Board of Education or its designee shall identify those schools that may have space available for additional students. School capacity will be calculated in a nonarbitrary manner that uses student enrollment, available space, the district-adopted staffing ratio and class size ratios.
2. Students whose intradistrict enrollment requests are submitted to the school of residence by April 1 will be eligible for consideration. Requests will be accepted for only one school.
3. Parents/guardians will be notified by June 1 whether the application is approved, denied, or subject to a public lottery, also referred to as a "transfer lottery."
 - a. If requests to enroll are fewer than the openings available at the requested site/grade level, all students requesting enrollment shall be enrolled.
 - b. If student applications to enroll in a school or at the applicable grade level are greater than the openings available, a **transfer** lottery will be held at each affected school on June 1 or the first working day after June 1, if June 1 is not a working day. The **transfer** lottery may also include interdistrict renewal requests.
 - c. School site administrators will create class lists per grade level for those classes with capacity for additional students. As student names are drawn from the lottery, the names will be given a numerical rank on the appropriate class list. Students whose names are drawn after the appropriate class reaches its capacity shall be placed on a waiting list in the order that their names are drawn, and admitted beginning August 1, as space becomes available and after new resident students have enrolled in schools in their attendance areas, space permitting.
 - d. Only one **transfer** lottery will be held. Students applying after the **transfer** lottery date will be added to the bottom of the appropriate list in the order that completed applications are received.
4. Applicants who receive approval must confirm their intent to transfer to the new school within two weeks of the date of notification, or the right to transfer will be forfeited.
5. Approval or denial of intradistrict attendance requests will be made by the Superintendent or designee. Appeal of a denial may be made to the Board of Education. The Board's decision will be final. Complaints regarding the selection process should be taken to the Superintendent or designee.

Exceptions to the Transfer Lottery Process

Exceptions may be made to the random, unbiased selection process based on the following, which are listed in priority order:

1. Existing entrance criteria for specialized schools or programs may be used provided that the criteria are uniformly applied to all applicants. Academic performance may be used to determine eligibility for, or placement in, programs for gifted and talented students.
2. If a district school receiving Title I funds is identified for program improvement, corrective action or restructuring, all students enrolled in that school shall be provided an option to transfer to another district school or charter school.

3. If while on school grounds a student becomes a victim of a violent criminal offense, as defined by the California Department of Education (CDE), or attends a school designated by the CDE as persistently dangerous, he/she shall be provided an option to transfer to another district school or charter school.
4. Priority will be given to siblings of students already in attendance at a school, if the currently attending student will continue to attend that school the following year.
5. Priority will be given to a student who applies for a transfer at the same time as a sibling, and whose sibling is granted a transfer through the transfer lottery process.
6. Priority will be given to students whose parent or legal guardian is assigned to a school as his/her primary place of employment.
7. Priority will be given to students who were involuntarily transferred from schools in their attendance areas the previous year.

Once enrolled in a school pursuant to an approved intradistrict attendance request, a parent/guardian is not required to re-submit a new request in subsequent years, provided continuous enrollment is maintained.

Transfers for Victims of a Violent Criminal Offense

Within a reasonable amount of time, not to exceed 14 days after it has been determined that a student has been the victim of a violent criminal offense while on school grounds, the student's parents/guardians shall be offered an option to transfer their child to an eligible school identified by the Superintendent or designee. In determining whether a student has been the victim of a violent criminal offense, the Superintendent or designee shall consider the specific circumstances of the incident on a case-by-case basis and consult with local law enforcement as appropriate. Examples of violent criminal offenses include, but are not limited to, attempted murder, battery with serious bodily injury, assault with a deadly weapon, rape, sexual battery, robbery, extortion, or hate crimes.

The Superintendent or designee shall consider the needs and preferences of the affected student and his/her parent/guardian in making the offer. If the parent/guardian elects to transfer his/her child, the transfer shall be completed as soon as is practicable.

Transfers from a "Persistently Dangerous" School

Within a reasonable amount of time, not to exceed ten school days after receiving notification from the California Department of Education that a school has been designated as "persistently dangerous," the Superintendent or designee shall notify parents/guardians of the school's designation. Within ten school days after this notification has been provided to parents/guardians, the Superintendent or designee shall notify parents/guardians of their option to transfer their child.

If the parent/guardian elects to transfer his/her child, the transfer shall be completed as soon as is practicable. The Superintendent or designee shall consider the needs and preferences of the affected student and his/her parent/guardian.

Revoking an Intradistrict Attendance Request/Permit

The district retains the right to revoke an intradistrict attendance permit for reasons other than the student's academic or athletic performance. Reasons may include discovery that the application was falsified, or failure to comply with the provisions in the student's intradistrict attendance and behavior contract.

Notifications

Notifications shall be sent to parents/guardians annually describing all current statutory attendance options and local attendance options available in the district, including:

1. all options for meeting residency requirements for school attendance;
2. program options offered within local attendance areas;
3. a description of any special program options available on both an interdistrict and intradistrict basis;
4. a description of the procedure for application for alternative attendance areas or programs and the appeals process available, if any, when a change of attendance is denied;
5. a district application form for requesting a change of attendance; and
6. the explanation of attendance options under California law provided by the California Department of Education.

Regulation **SAN RAFAEL CITY SCHOOLS**

Approved: January 25, 2010 San Rafael, California

Students E 5111.1(a)

DISTRICT RESIDENCY

TIMELINE INTERSECTIONS

INTRA/INTERDISTRICT TRANSFERS, AND ATTENDANCE AREA RESIDENTS

March 1 - Sites with space available for the coming year are identified.

April 1 - All attendance area students registered by this date shall not be displaced by new intra/interdistrict attendance students. However, new neighborhood resident students who register by this date may be diverted to another district site if space is limited or unavailable at the student's home school at the relevant grade level, dependent on the outcome of a residence lottery.

April 1 - Annual application deadline for all new intradistrict transfers. Intradistrict transfers shall not need to re-apply in subsequent years, provided continuous enrollment is maintained.

April 1 - Annual application deadline for renewal of interdistrict transfers.

April 15 - Notification to new attendance area residents who registered by April 1 as to whether enrollment at the attendance area site is confirmed or subject to a residence lottery. If required, a residence lottery will be conducted prior to June 1. Waiting lists by school and grade level are established for students not being placed through the residence lottery.

June 1 - Applicants for new intradistrict transfers, and for renewal of interdistrict attendance agreements, shall be advised whether their applications are approved or denied, or subject to transfer lottery.

June 1 - Transfer lottery held if new intra requests and approved continuing inter requests exceed capacity on April 1 at the requested school. Waiting lists by school and grade level are established for students not being placed through the transfer lottery.

After June 1 - Late new intra applicants placed on the relevant waiting list.

Two weeks after notification - New intradistrict attendees shall confirm intent to enroll.

June 1 - Annual application deadline for new interdistrict transfers. Late continuing transfer requests are treated as new interdistrict requests.

July 1 - Applicants for new interdistrict attendance agreements will be notified as to whether application is approved, denied or wait-listed.

August 1 - Wait-listed intra/interdistrict transfers may be placed as space permits, after allowing new attendance area residents to enroll (space permitting) between April 2 and July 31.

9th day after new school year - Final determination of need to transfer students within District schools for capacity reasons.

14th day after new school year - Final notification to pending new interdistrict applicants.

SAUSALITO MARIN CITY SCHOOL DISTRICT

INTERDISTRICT ATTENDANCE

The district will accept transfers into the district under existing law governing interdistrict attendance agreements (Education Code 46600-46611).

Although students generally must attend school in the district where their parent/legal guardians reside, the Board of Trustees recognizes justifiable reasons for occasional interdistrict transfers. Upon request, the Board may accept students from another district and may also allow students who live within the district to attend out-of schools. Interdistrict attendance agreements may be approved for reasons such as the following:

1. When the child care needs of the student are met by a parent, relative, or sitter in another district.
2. When special mental or physical health needs of the student are certificated by a physician, school psychologist or other appropriate school personnel.
3. To complete a school year when parent/legal guardians have moved out of the district during that year.
4. To let eighth grade students attend the same school they attended as seventh graders even if their families moved out of the district during the seventh grade year.
5. When there is valid interest in a particular educational program not offered in the district of residency.

Interdistrict transfers may occur when class enrollments in the district will permit the addition of non-resident students. Interdistrict transfers may occur on a student-for student basis when equal numbers of students transfer between two (2) districts.

Transportation beyond that normally provided for students living in the district shall not be provided for students attending on an interdistrict attendance agreement.

The district of origin shall issue individual interdistrict attendance permits, valid for one year, verifying district approval for students transferring out of the district. These permits become valid when signed by an authorized representative of the district of future attendance. The district of attendance shall stipulate how and why the permit may be revoked.

The district shall not knowingly accept students who reside in another district without an interdistrict attendance permit.

BP5117(b)

The parent/legal guardian of a student who is denied a transfer shall be notified in writing, given specific reasons for the denial, and informed of the appeal process which might be pursued.

The school district administrative office shall have available the following forms:

1. Request form on which parent/legal guardian gives all information needed for a decision on whether or not to grant a permit.
2. Interdistrict attendance permit with specified time period and terms of the approval.

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict attendance agreements

52317 Admission of persons including nonresidents to attendance area; workers' compensation for pupils

Policy **SAUSALITO SCHOOL DISTRICT** adopted: September 14, 2000 Sausalito, California

INTERDISTRICT ATTENDANCE

1. Requests for interdistrict transfers shall be initiated by the parent/legal guardian by submitting a completed Interdistrict Attendance Agreement form to the Board of Trustees of the district where the child locally resides.
2. Upon receipt of a request for transfer to or from the Sausalito School District, communication will be made, in writing, to the parents/guardian acknowledging receipt of the form. The communication will also provide additional information as follows:
 - a. Date, time, and place of the board meeting at which time the request will be considered. Unless otherwise requested, hearings will be held in closed session.
 - b. A copy of the board policy and procedures.
 - c. The Superintendent's recommendation to the Board of Trustees in terms of approval or denial.
 - d. Other explanatory information.
3. It is the policy of the district that, in most instances, children should attend school in the district in which they reside. Any request for attending school in another school district should be based upon exceptional circumstances unique to the child concerned.

It is noted that the changing of schools due to family moves often produces anxiety in children. This is viewed as a normal situation that is a natural part of growing up and that often results in positive social and emotional growth. It is not cause, in itself, for the granting of an interdistrict attendance request.

Other frequently stated reasons for requesting out of district attendance include a parent's perception that one school district is better than another, convenience of baby-sitting, convenience of transportation, continuance of social contacts, and the proximity of a parent's work place. None of these will be cause for granting such a request unless it can be clearly demonstrated that there are exceptional circumstances unique to the child concerned that justify disrupting the normal pattern of school attendance.

It should also be noted that each school district establishes its own policy regarding interdistrict attendance request. In considering requests, the Sausalito School District Board of Trustees follows its own policy as stated in this document and not the policies of the other districts concerned.

4. The Superintendent has the authority of approval or disapproval of the interdistrict transfer request.
5. Please note that once approved, transportation to or from the Sausalito School District shall be the responsibility of the parent/legal guardian.
6. A student's interdistrict agreement may be revoked because of excessive truancy or continual disruption of the educational program.
7. In accordance with established Board Policy, Interdistrict Attendance Requests shall be approved for one year only, subject to annual review for the following school year beginning on June 1st of the school year in which these requests are granted.
8. Consistent with the County Policy, when Board of Trustees of two district within the county approve attendance:
 - a. Attendance shall be credited as provided in current Education Code.
9. Interdistrict attendance not by agreement of both Board of Trustees but pursuant to action of the County Board of Education.
 - a. No tuition will be charged the district. The district of attendance retains the A.D.A.
10. In the event the Board of either district rejects an interdistrict request, parents have the right to appeal to the County Board of Education.

INTERDISTRICT ATTENDANCE AGREEMENTS

Employment Related Requests for Transfer of Students

Requests for transfer based on local employment of parents

1. The purpose of this policy is to implement Education Code section 48204 (f) which provides that an elementary school pupil whose parent or guardian is employed within the boundaries of a school district has complied with the residency requirement for school attendance within that district.
2. Definitions

For the purpose of this policy:

"Elementary school pupil" is any student who attends school in grades kindergarten through ight. Students in special education not designated by grade level as classified in accordance with how their enrollments are reported to the California Basic Educational Data System.

"Employment" is the relationship of employer and employee. It does not include one who performs services as an independent contractor.

"Part-time employment" in another district shall not qualify a person under this policy. A parent must work full time, at least 37 hours per week, to apply for an interdistrict request under Employment Related Requests for Transfer of Students.

3. Criteria which shall be used by the Board in acting on a request to transfer from the Sausalito School District to another school district under this policy include the following.
 - a. The impact the transfer would have on court -ordered or voluntary desegregation plans of the district. The district may prohibit a transfer under this section based on a determination that the transfer would negatively impact such desegregation plans.
 - b. The number of pupils transferred pursuant to this policy. Unless approved by the Board, a transfer of pupils out of the district is not authorized in any fiscal year in excess of 5 percent of the average daily attendance of the district. AR 5117.1(b)
4. Criteria which shall be used by the Board in acting on a request to transfer to the Sausalito School District from another school district under this policy include the following:
 - a. The impact the transfer would have on the district's voluntary desegregation plans. The district may prohibit a transfer under this section based on a determination that the transfer would negatively impact this plan.
 - b. The additional cost of educating the pupil into the district. The district may prohibit a transfer under this section based on a determination that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of transfer.
 - c. Any other non-arbitrary reasons, included but not limited to factors such as grade level desired, needlhardship, availability of other options, time application submitted and prior years of enrollment in the district. The law provides that nothing in the statute requires the district within which the pupil's parents or guardians are employed to admit the pupil.

5. Procedures

- a. Requests shall be made on the district form for transfer requests under this policy. Such requests must be submitted to the Superintendent, Sausalito School District, 630 Nevada Street, Sausalito, CA 94965

Where the parent or legal guardian is employed in the Sausalito School District and is requesting that the pupil be allowed to attend school in the district, the parent or guardian shall submit a statement of employment within the boundaries of the district and shall receive approval from the school district of actual residence before submitted the request. Such approval shall be noted on the form by a representative of that district.

- b. Parents will be notified of the approval or denial of the request, outlining the probable timeline for authorizing the student's enrollment in the district.
- c. For continuing placement, parents must apply at the beginning of each school year, using the same procedure as outlined at the time of the initial enrollment. There is no guarantee of continuing enrollment in the district under the provisions of this policy.
- d. Denials of enrollment in this category must be heard by the Board, and the decision of the Board is final. Applicants will be notified in writing of the denial and the reasons for the denial following action. The denial and the specific reasons therefore shall be recorded in the minutes of the Board meeting in which the determination is made.

6. Miscellaneous

- a. Enrollment is contingent upon continuing employment in the district. The parent or guardian must notify the district upon termination of the employment which authorizes enrollment in the district. The district of residence and the district of attendance will determine the appropriateness of the continuing enrollment of the student in the district given the specific circumstances in each case.
- b. The district shall report annually to the Superintendent of Public Instruction, the following:
 - The number of request for transfer
 - The number of students transferred out of the district
 - The number of students transferred into the district

Regulation **SAUSALITO SCHOOL DISTRICT** approved: September 14, 2000 Sausalito, California

SHORELINE UNIFIED SCHOOL DISTRICT

INTERDISTRICT ATTENDANCE

Although students generally must attend school in the district where their residency has been established, the Governing Board recognizes justifiable reasons for occasional interdistrict transfers.

(cf. 5111 - Admission)

(cf 5111.1 - District Residency)

Upon request, the Board may accept students from another district and may also allow students who live within the district to attend out-of-district schools. Interdistrict attendance may be approved for reasons such as the following:

1. When child care needs of the student are met by a parent/guardian, relative or sitter in another district. (Education Code 46601.5)
2. When special mental or physical health needs, as certified by a physician, school psychologist or other appropriate school personnel, can be met in another district.
3. When the student has brother(s) or sister(s) attending school in a different district, to avoid splitting the family's attendance.
4. To complete a school year when parents/guardians have moved out of the district during that year.
5. To allow students to remain with a class graduating that year from an elementary, junior or senior high school.
6. To let seniors attend the same school they attended as juniors, even if their families moved out of the district during the junior year.
7. When the reason given is a valid interest in a particular educational program not offered by the district of residence. The transfer shall be approved on the condition that the student will be placed in the program(s) requested, and/or under the conditions provided in the interdistrict transfer agreement. Prior to granting an interdistrict transfer, the student's counselor in the school of residence shall be consulted.
8. When the reason given is to provide a major change in school environment for reasons of personal and social adjustment, on a trial basis, a principal or counselor of the school of residence shall be consulted first. In addition, the school of desired attendance shall be consulted on the reason for the request and acknowledges that it will accept the student.
9. When the parent/guardian provides written evidence that the family will be moving to the receiving district in the immediate future and would like the student to start the year in that district.
10. When the student will be living out of the district only for one year or less.
11. 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.

Interdistrict transfers may occur when space is available. Interdistrict transfers may occur on a student-for-student basis when equal numbers of students transfer between two districts.

Transportation normally provided for students living in the district may be provided for students attending on an interdistrict attendance agreement if space is available and if approved by the Superintendent or designee.

Students admitted by interdistrict agreement may continue attending district schools only as long as they do academically acceptable work and obey school rules.

The district shall not knowingly accept students who are not district residents without an interdistrict attendance permit. However, such permits will not be required for students enrolling in ROC or ROP. (Education Code 52317)

Denial of Transfer

The parent/guardian of a student who is denied a transfer shall receive timely notice, in accordance with law, regarding the process for appeal to the County Board of Education. 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.

(ec. 5119 -Students Expelled from Other Districts)

Legal Reference:

EDUCATION CODE

46600-46611 Interdistrict attendance computation

46621 Newly formed, changed or Joint district

48915 Expulsion: particular circumstances

48915.1 Expelled individuals: enrollment in another district

52317 Admission of persons including nonresidents to attendance area: workers' compensation for pupils

Policy **SHORELINE UNIFIED SCHOOL DISTRICT** adopted: November 15, 1990 Tomales, California

TAMALPAIS UNION HIGH SCHOOL DISTRICT

Students AR 5117(a)

INTERDISTRICT ATTENDANCE

General Information:

1. All communication shall be in writing using appropriate forms.
2. The Superintendent or designee may request any information needed to verify the validity of the request from the student, parent/guardian, other district personnel, and/or school personnel from the student's school of residence and last school of attendance.
If other public or private service agencies or professionals are involved, the Superintendent or designee may consult with such agencies or individuals for additional information.
3. The Superintendent may require proof of continued residency and may investigate fraudulent claims of residency. *ref. AR 5111.1(a).*
4. Students shall remain enrolled in their current school of attendance until the transfer request process is complete.
5. A student who transfers from one school to another without a change in his/her home residence may forfeit the right to compete in interscholastic athletics as per California Interscholastic Federation (CIF) guidelines. Parents should contact a school's principal/designee to determine how a transfer might impact their child's athletic eligibility.
6. Students with an approved interdistrict transfer enrolled at Tamalpais, Redwood or Drake High School may participate in Open Enrollment as provided by Board Policy.
(*cf. 5116.2 - Intradistrict Transfers - Open Enrollment*)
7. All interdistrict transfers, whether into or out of the District, are for one school year only and must be renewed annually. The student and parent/guardian must also sign an Interdistrict Attendance Contract annually (E 5117).
8. A student who intends to apply for an interdistrict transfer into the Tamalpais Union High School District must observe a strict timeline. Completed applications for the following school year will be accepted for consideration between December 1 and December 31 of each year. A completed application is one that has been filled out and signed by the student's parent AND approved by the student's district of residency. Incomplete applications and those submitted before December 1 or after December 31 will not be considered.

Requests for Interdistrict Attendance Agreements INTO the District:

Completed applications for the following school year will be accepted for consideration between December 1 and December 31 of each year. Please see #8, above, for more information.

1. The student, parent/guardian must first obtain approval for the student's transfer from the student's current district of residence on the appropriate form. This form should be obtained from the student's district of residence. As noted in #8, above, a strict timeline must be followed for an interdistrict transfer to be considered by the Tamalpais Union High School District.
2. If the transfer request is approved, the Superintendent shall determine the school (Tam, Drake, or Redwood) to which the student shall be assigned. The Superintendent shall notify the

Students AR 5117(b)

INTERDISTRICT ATTENDANCE (continued)

parent/guardian in writing of the transfer approval and school assignment, and shall include a copy of BP/AR 5117 - *Interdistrict Attendance* postmarked by February 22.

3. If the transfer request is denied, the Superintendent shall notify the parent/guardian in writing of the denial and of their appeal rights (Education Code 46601) and shall include a copy of BP/AR 5117- *Interdistrict Attendance* postmarked by February 22.

4. The Superintendent shall notify the student's district of residence of the decision to approve or deny the request.

Grounds for Approval

1. The Superintendent **MAY** approve a request for transfer when the transfer:

A. addresses the physical, mental or medical needs of a student as certified by the treating physician or psychologist or,

B. addresses substantive, previously identified and documented social adjustment needs of a student

AND, when no other suitable school attendance option exists within the student's current district of attendance or district of residence.

2. The Superintendent **SHALL** approve a request for transfer

A. to permit currently enrolled 9th, 10th, and 11th grade students to complete the current semester when the student and parent/guardian have moved their primary residence outside of the district boundaries during that school year provided the students meet the criteria listed in the Interdistrict Attendance Contract (E 5117).

B. to permit currently enrolled 12th grade students to continue attending school in the district through graduation when the student and parent/guardian have moved their primary residence outside of the district boundaries during the student's 12th grade school year provided the students meet the criteria listed in the Interdistrict Attendance Contract (E 5117). 9th, 10th, and 11th grade siblings who are concurrently enrolled in the same school may complete the school year provided they meet the criteria listed in the Interdistrict Attendance Contract (E 5117), but must enroll in their district of residence when their older sibling graduates.

C. to permit students who with their parent or guardian have temporarily vacated their primary residence within district boundaries while the residence is under construction to continue attending school in the district during the period of construction. *ref. AR5111.1*

D. to permit children of District employees to attend District schools under the following conditions:

- Employee must be a member of the district management team, regular school year certificated employee, confidential classified employee, or employee covered by the classified bargaining unit.

Students AR 5117(c)

INTERDISTRICT ATTENDANCE (continued)

- Employee must have permanent or probationary status in the District, with a .5 FTE or greater assignment.
- Children of employees will be defined as the natural and adopted children currently residing with a District employee as described above, or the children of an employee's registered Domestic Partner currently residing with the employee.

Note: New requests for interdistrict attendance permits based on child care needs will not be approved commencing with the 2008/09 school year.

3. The Superintendent will deny a transfer, or revoke an existing transfer, if material information provided on the transfer form, or provided in support of a transfer, or submitted in support of the initial claim of residency, is discovered to be false or fraudulent.

Revocation or Non-Renewal of Transfer

Each interdistrict attendance permit shall be subject to certain terms and conditions of enrollment. The student and parent/guardian must sign an Interdistrict Attendance Contract annually (E 5117).

The principal of a student's school of attendance may recommend to the Superintendent or designee that a student's permit be revoked or not renewed and the student returned to his/her district of residence because of a student's violation of the specific terms and conditions of the Interdistrict Attendance Contract, poor attendance, improper behavior, failing grades, G.P.A below 2.5 in any grading period, or when falsification of information is discovered on the Interdistrict application forms.

The principal of the school of attendance shall notify the student, parent/guardian of the recommendation to revoke or not renew the transfer and shall offer to meet with the student, parent/guardian to review the circumstances leading to the recommendation.

The Superintendent shall review the recommendation from the principal and may either revoke or not renew the transfer or allow the student to remain in the district subject to further terms or conditions. If the transfer is revoked or not renewed, the student must return to his/her district of residence. The Superintendent's decision shall be final.

Requests for Interdistrict Attendance Agreements OUT OF the District

1. The student, parent/guardian must obtain the appropriate interdistrict transfer request form from the Superintendent's office.
 2. The Superintendent may approve a request for transfer if the transfer satisfies a compelling social, medical, educational or familial need of a student. The request may be denied if the needs of the student can be met within the district.
 3. The Superintendent may contact the principal of the student's school of attendance for his/her recommendation on whether or not the transfer request meets the Board criteria for approval.
 4. Requests shall be approved for students with an approved interdistrict transfer the prior year.
- Students AR 5117(d)

INTERDISTRICT ATTENDANCE (continued)

5. If the request is denied, the Superintendent will notify the student, parent/guardian of the denial and of their appeal rights. (Education Code 46601)

Regulation

approved: February 23, 1993

revised: February 8, 1994

revised: June 14, 1994

revised: November 27, 1995 (*effective 1/30/96*)

revised: November 12, 1996

revised: November 25, 1997

revised: November 24, 1998

revised: November 9, 1999

revised: February 22, 2000

revised: November 20, 2000

revised: October 14, 2003

revised: May 22, 2007

revised: October 26, 2010

TAMALPAIS UNION HIGH SCHOOL DISTRICTLarkspur, California

UNION JOINT SCHOOL DISTRICT

UNION JOINT SCHOOL DISTRICT

POLICY: RESIDENCY BASED ON PARENTAL EMPLOYMENT

Parents or legal guardians of elementary (K-8) school pupils residing within the Union Joint Elementary School District ("District") who desire their children to attend school in another district, or parents or guardians of elementary (K-8) school pupils in other districts who desire their children to attend school in the District, must make annual written applications therefore. All requests for transfer into or out of the District must be approved by the governing board of the District. Each application shall be considered in light of individual circumstances.

The District is not required to admit a pupil to its schools based on parental employment in the District. Requests for admittance will not be denied for arbitrary or discriminatory reason, on the basis of race, ethnicity, sex, parental income, or scholastic achievement, except as expressly set forth herein. The District may deny an application for any of the following reasons:

1. The transfer would negatively impact the District's court-ordered or voluntary desegregation plan.
2. The additional cost of educating the pupil would exceed the additional amount of state aid received as a result of the transfer.
3. Other financial hardship to the District.
4. The transfer would negatively impact school programs in the year of transfer or succeeding years (for example, increase in class size beyond mandated limits, increase in teacher-student ratios beyond acceptable limits, loss of ADA support income, etc.).
5. Evidence that the pupil would be a discipline problem.
6. Misinformation contained in and/or falsification of, transfer application.
7. A determination that the parent or guardian is not employed for a significant period of time in the District on a regular basis. "Employment" is defined as the relationship of employer and employee. Employment ordinarily does not include one who performs services as an independent contractor, unless it is demonstrated that the contracting will continue for a significant period of time on a regular basis in the District's boundaries. Except in exceptional circumstances, no employment will be considered significant that is not at least 20 hours per week and for at least 30 weeks during the school year.
8. Any other reasonable objection of the District.

Written verification of employment in a form suitable to the District must be presented in all cases. Once admitted to a school in the District pursuant to this policy, a student shall not have to reapply in the next school year to attend a school in the District. However, the District has the right to require any student to verify continuing parental employment meeting the requirements of this policy in the next school year following admittance under this policy, and in all subsequent years, at any time the District has reason to believe the parent or guardian is no longer employed in a manner sufficient to meet the requirements of this policy.

The Board shall have sole responsibility to make all determinations whether or not to permit the transfer of a pupil into or out of the District based on parental employment inside or out of the District. When the Board prohibits a transfer based on any of the reasons enumerated in this policy, it shall identify and communicate in writing to the pupil's parent or guardian the specific reason for that determination. The Board shall also ensure that the determination and the reason therefore are accurately recorded in the minutes of the meeting in which the determination was made. Parents or guardians shall have no right to appeal the denial of a request pursuant to this policy to the governing board.

The District may deny a request to transfer out of the District if the Board determines that the transfer would negatively impact the District's court-ordered or voluntary desegregation plan or, if the proposed transfer were approved, the total transfers currently in effect would exceed five (5) percent of the total average daily attendance for that year. For purposes of invoking the transfer limits of Education Code Section 48204 (f) (6), the Board may count a transferred student each year that such student remains in another district.

In all cases, pupils residing in the District shall have priority over other pupils desiring to attend school in the District. No overloading of classrooms will be allowed to accommodate a student attending pursuant to this policy, nor will the District be responsible for providing transportation or incurring other added costs. The District shall not change or extend its bus runs to accommodate students attending pursuant to parental residence.

The parents of guardians of a student attending school in the District pursuant to parental employment must be accessible for obtaining consent, giving notice, and other contact as may be necessary, appropriate, or required by law, and must be willing to cooperate with District officials to serve the needs of the student and the District as necessary to comply with the law. Failure to do so shall be considered as grounds for evocation of student attendance.

Reference: Education Code Sections 48204 (f); 35160, 35160.1, 35161 Board Approved: 5/10/00
Revised/Approved: 12/13/00

UNION JOINT SCHOOL DISTRICT

POLICY: INTER-DISTRICT TRANSFER AGREEMENTS

The Education Code of the state of California requires that children attending a school district other than the one in which they reside, must have prior approval of the boards of trustees of both school districts involved. The Union Board of Trustees will enter into formal agreements with other school districts under certain circumstances. It is not feasible to set blanket criteria by which all inter-district attendance requests may be decided. Each case will be decided according to its own merits. In making its decisions, the board will take into consideration:

- a. The effect the agreement would have on those students, who attend Union School, including effect on student body size, grade size, and on special programs.
- b. The effect upon the student applicant.
- c. Financial impact.

INTER-DISTRICT TRANSFER AGREEMENTS PROCEDURE:

1 Official Board approval is required for all inter-district transfers once the Principal Procedures have been completed. (See page two for procedures)

2 Requests for inter-district transfers shall be initiated by the parent/guardian by submitting a completed inter-district attendance agreement form to the governing board of the district where the child resides. Once approved, the parent/guardian shall bring the agreement to Union School.

3 Inter-District attendance agreement requests for the start date in the current school year will be considered up until the March Board meeting. A request for renewal of existing inter-district transfer agreements must be submitted by May 1st. If May 1st falls on a non-business day, then the next preceding business day will be the deadline. Also, the parent/guardian and the student must agree to and sign an interdistrict attendance contract as described in policy 6991.1.

4 Approved contracts are valid for the current school year only and must be renewed annually. The Board reserves the right to revoke an inter-district attendance agreement at any time, or to not renew the agreement for the succeeding year.

1 In cases in which there are more inter-district attendance agreement requests to attend school than there are openings, preference would be provided to students returning under existing inter-district agreements and their siblings. A selection process will be used that is random and unbiased which generally means students must be selected through a lottery process rather than on a first-come, first served basis. A district cannot use a student's academic or athletic performance as a reason to accept or reject a transfer.

2 Requests for inter-district attendance agreements that are denied may be appealed to the County Board of Education within thirty (30) days.

PRINCIPAL PROCEDURES

Principal must inform Board president of pending inter-district transfer applications, meetings and scheduled observations by parents and students:

- 1 Applying parent/guardian must have a meeting with Principal.
- 2 Applying parent/guardian must observe class with preset appointment.
- 3 Applying parent/guardian and new student must attend preset morning session observation.
- 4 Applying parent/guardian meets again with Principal.

Board Policy No. 6991.1 Revised *12/13/2000*

Policy No. 6991.1 Inter-District Transfer Agreement
INTER-DISTRICT ATTENDANCE CONTRACT

School Year _____

I _____, in order that I may attend the Union Joint Elementary School District as a student in good standing, agree to do the following:

1. Demonstrate positive attitude and behavior at school and during school sponsored activities.
2. Attend school on a regular basis, arriving to and leaving school on time. I understand that five or more unexcused tardies or absences per quarter can be cause for revocation of this agreement.
3. Complete official independent study if five or more consecutive school days will be missed.
4. Meet other conditions as attached.

Provided that I abide by all of the above conditions, the inter-district agreement will be in effect for the school year.

I have read the provisions above and agree to abide by them.

| | | | |
|------------------------------------|---------------|------------------------------------|---------------|
| _____ Student's Signature | _____ Date | _____ Principal's Signature | _____ Date |
| _____ Parent/Guardian Signature | _____ Date | _____ Parent/Guardian Signature | _____ Date |

Board Approved: 5/10/00 Revised/Approved: 12/13/00

SECTION FOUR

APPEAL PROCESS TO THE MARIN COUNTY BOARD OF EDUCATION

SECTION FOUR

Education Code Section 46601

Attendance Requested For:

Current Term

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.

New Term

Requests for interdistrict attendance for the next term must be made at least 30 calendar days prior to commencement of instruction in that term. If within 14 calendar days after commencement of instruction in that new term a permit has not been issued the person having legal custody may appeal to the county board of education.

Note: 1) Appeals have been exhausted if a district takes action to deny or fails to act within the time periods noted above. 2) A denial of residency, based on employment in the district, is not per se appealable. A parent may, however, then request an interdistrict attendance permit, the denial of which is appealable.

Failure to appeal in writing within the required time is good cause for denial of an appeal.

An appeal shall be accepted only upon verification by the county board's designee that appeals within the districts have been exhausted.

The appeal shall be granted or denied on its merits. 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/she desire to attend and the applicable period of time.

The county 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.

Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or recisions while expulsion proceedings are pending, or during the term of the expulsion.

COUNTY BOARD POLICY AND PROCEDURES

Board Policy 8610

SOOO *COUNTY* BOARD OF EDUCATION

8600 APPELLATE FUNCTIONS

8610 **INTERDISTRICT ATTENDANCE**

It is the policy of the Marin County Board of Education that, with few exceptions, children should attend school in the district of residence.

The Board shall adopt rules and regulations governing the appellate process when an interdistrict attendance agreement has been denied. These rules and regulations shall include the criteria the Board will consider in rendering its decision.

The district denying an interdistrict attendance permit or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right of appeal to the \larin County Board of Education.

References Education Code 46601

Administrative Regulations 8610.01

MARIN COUNTY BOARD OF EDUCATION REGULATIONS AND PROCEDURES

APPEALS FROM DENIAL OF INTERDISTRICT ATTENDANCE REQUESTS

Legal provisions for interdistrict attendance agreements are contained in California Education Code Sections 46600-46609. Section 4660 I provides, upon a district's refusal to enter into such an agreement, that a person having legal custody of a child may appeal to the County Board of Education. Interpretations by County Counsel indicate that the County Board of Education has broad powers in relation to such an appeal and that its decision is binding on all parties.

The following procedures and criteria have been developed in order to guide the Marin County Board of Education and to provide clarification and explanation to those involved in such an appeal.

1. PROCEDURE

A. CONDITIONS UNDER WHICH AN APPEAL MAY BE MADE

1. Permit sought for current term.

If the governing board of either district neglects or refuses to enter into an interdistrict attendance agreement within 30 calendar days after the person having legal custody of a pupil has requested the board so to do, an appeal may be made to the County Board of Education.

2. Permit sought for subsequent term.

If, at least 30 calendar days prior to the commencement of a new term, the person having legal custody or the pupil requests each of the districts to grant an interdistrict permit and such permit is not granted, an appeal may be made to the County Board of Education within 14 calendar days of the commencement of the new term.

3. An appeal shall be accepted only upon verification by the Marin County Superintendent of Schools, or his/her designee, that appeals within the districts have been exhausted.

9/26/89

Revised -9/17/93, 4/11/95; 7/11/95

B. FILING AN APPEAL

The written appeal should be filed on a form provided by the district office or the County Office of Education within 30 calendar days after either district fails or refuses to issue a permit. Failure to appeal within the required time is good cause for denial of an appeal. The appeal must include at least the following information:

1. Name(s), address and telephone number of the parent(s), guardian(s) or custodian(s) of the student(s).
2. Student(s) name(s), age(s), grade(s) and school(s) currently attending (or previously attended, if request is made when school is not in session).
3. Name of districts involved.
4. Actions taken on the request.
5. Reasons for requesting the interdistrict attendance agreement.

The County Board of Education shall, within 30 calendar days after the written appeal is filed, determine whether the pupil should be permitted to attend in the district in which he/she desires to attend and for what period of time. The County Board of Education or the County Superintendent of Schools may, for good cause, extend the time period for up to five (5) school days.

C. PREPARATION FOR HEARING THE APPEAL

1. Upon receiving the appeal, the County Superintendent, or his/her designee, will inform the person appealing concerning procedures by which the appeal will be heard.
2. The County Superintendent, or his/her designee, shall verify that appeals within the districts have been exhausted.
3. A date will be set for the appeal to be heard. Normally, appeals will be heard at regular meetings and must be filed at least one week prior to a regular meeting in order to be placed on the agenda for that meeting.

4. Both school districts concerned will be informed of the appeal, of the date for the hearing, and of the appeal procedure and will be invited to have representatives at the hearing to speak regarding the appeal, if they so desire.

5. The person appealing may retain private legal counsel, if he/she so desires. The districts involved may also be represented by legal counsel.

D. CONDUCT OF THE HEARING

1. The hearing will be in a public meeting of the Board unless one or both of the following circumstances exists, in which case that portion of the hearing will be in closed session:
 - a. When the case of the person appealing includes allegations against identifiable staff members and/or other identifiable students
 - b. When the case is such that it will require using information of a personal/confidential nature concerning the student(s) for whom transfer is requested and the parent(s), guardian(s) or custodian(s), request a closed session.
2. The Board will consider all evidence presented to it and render its decision in public session.

Strict rules of evidence as required in court proceedings will not be applied. Evidence to be admissible must be related to the issue and be the type of evidence on which responsible persons rely in the conduct of serious affairs. Hearsay is admissible, but cannot be the sole basis for a finding.

Evidence may include witnesses and documentary materials

The Presiding Officer of the Board may recognize any concerned parties at any time during the hearing to ask questions or to add information

9/26/89

Revised -9/17/93; -+/11/95; 7/11/95

3. The procedures shall be substantially as follows:
 - a. The Presiding Officer of the Board will briefly explain the procedures to be followed in the hearing.
 - b. The person appealing will be given an opportunity to speak regarding the appeal.
 - c. The representative of the school district which originally denied the request will be given an opportunity to speak regarding the appeal.
 - d. The representative of the other district involved will be given an opportunity to speak regarding the appeal.
 - e. The Board may call for additional testimony or documentary evidence as it deems necessary. In the event the Marin County Office of Education staff, at the request of the Board, has gathered information on the appeal, this information will be heard at this point.
 - f. The person appealing will be given the opportunity to present a summary and the same opportunity will be offered to the school district representatives.
 - g. The Board will then deliberate the matter and make a decision as to the disposition of the appeal.
 - h. 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.
4. A written statement of the Board's action will be mailed to the person appealing and to each of the districts involved in the request.

9/16/89

Revised -9/7/93; 4/1/95; 7/11/95

II. GUIDELINES AND CRITERIA

With few exceptions, children should attend school in the district of residence. Any request for attending school in another school district should be based upon exceptional circumstances unique to the child concerned.

It is noted that the changing of schools due to family moves often produces anxiety in children. This is viewed as a normal situation that is a natural part of growing up and that often results in positive social and emotional growth. It is not cause, in and of itself, for the granting of an interdistrict attendance request.

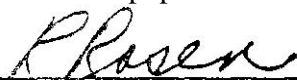
Other frequently stated reasons for requesting out of district attendance includes a parent's perception that one school district is better than another, convenience of transportation, continuance of social contacts and the proximity of a parent's work place. None of these should be cause for granting such a request unless it can be clearly demonstrated that there are exceptional circumstances unique to the child concerned that justify disrupting the normal pattern of school attendance.

It should be noted that each school district establishes its own policy regarding interdistrict attendance requests. In considering appeals, the County Board of Education follows its own policy as stated in this document and not the policies of the districts concerned.

Primary considerations of this Board in acting on an appeal from the denial for a request for interdistrict attendance include

1. Exceptional circumstances regarding the health, safety, emotional development, social development and/or academic development of the child concerned.
2. Exceptional circumstances regarding other family members that are relevant to the child's school attendance.
3. The effect that the granting of the appeal would have upon the districts concerned.
4. The ability of the requested district to meet the stated needs of the child concerned,
5. The child care needs of the pupil.

Approved as to form:


Deputy County Counsel

Ordenanza del Consejo 8610

8000 CONSEJO DE EDUCACION DEL CONDADO

8600 FUNCIONES DE APELACION

8610 ASISTENCIA INTERDISTRITO

La política del Consejo de Educación del Condado de Marin es que, con pocas excepciones, los niños deben asistir a la escuela en los distritos de residencia.

El Consejo debe adoptar reglas y regulaciones que gobiernan el proceso de apelación cuando un acuerdo para asistencia de interdistritos ha sido denegado. Estas reglas y regulaciones deben incluir el criterio que el Consejo considera al entregar su decisión.

El distrito que deniega un permiso de asistencia interdistrito, o en la ausencia de un acuerdo, el distrito de residencia, deberá avisar a la persona que pide el permiso del derecho de apelación al Consejo de Educación del Condado de Marin.

Referencias: Código de Educación 46601

Aprobado para establecer

(hay una firma que se lee R Rosen) Consejero Suplente del Condado

Aprobado por el Consejo de Educación del Condado de Marin 9 /26 /89 Revisado 9/7/93; 4/11/95;
7/11/95

Inrerdistrict Attendance Spanish Translation

REGULACIONES Y PROCEDIMIENTOS ADMINISTRATIVOS DEL CONSEJO DE EDUCACION DEL CONDADO DE MARIN

APELACIONES POR DENEGACION AL PEDIDO DE ASISTENCIA INTERDISTRITO

Las provisiones legales para los acuerdos de asistencia interdistrito están contenidas en el Código de Educación de California Secciones 46600-46609. La Sección 46601 provee, que ante la negativa del distrito de entrar en tal acuerdo, la persona que tenga custodia legal de un/a niño/a podrá apelar al Consejo de Educación del Condado. Las interpretaciones del Consejero del Condado indican que el Consejo de Educación del Condado tiene poderes amplios en relación con dicha apelación y que su decisión es obligatoria para todas las partes.

Los siguientes procedimientos y criterio han sido desarrollados para guiar al Consejo del Condado de Marin y para proveer clarificación y explicación a aquellos interesados en tal apelación.

I. PROCEDIMIENTO

A. CONDICIONES ANTE LAS CUALES SE PUEDE HACER UNA APELACION

1. Pedido de permiso para el termino actual

Si el consejo gubernativo de cualquiera de los distritos deniega o rehusa entrar en un acuerdo de asistencia interdistrito dentro de los 30 días calendarios luego de que la persona que tenga la custodia legal de un/a alumno/a haya pedido al consejo que así lo haga, podrá hacerse una apelación ante el Consejo de Educación del Condado.

2. Pedido de permiso para el termino subsiguiente

Si, al menos 30 días calendarios previos al comienzo de un nuevo termino, la persona que tiene la custodia legal de un/a alumno/a pide a cualquiera de los distritos que le otorgue un permiso interdistrito y tal permiso no es otorgado, se puede hacer una apelacion al Consejo de Educacion del Condado dentro de los 14 días calendarios del comienzo del nuevo termino.

3. Una apelación sera aceptada solo bajo la verificacion por parte del/la Superintendente de las Escuelas del Condado de Marin, su designado/a, de que las apelaciones dentro de los distritos han sido agotadas.

9/26/89

Revisado -9/7/93; 4/11/95; 7/11/95

Administrative Regulations 8610.01 Spanish Translation

B. LLENAR UNA APELACION

La apelacion escrita debera ser llenada en un fonnulario provisto por la oficina del distrito o por la Oficina de Educacion del Condado dentro de los 30 dias calendarios luego de que el distrito no otorgue o rehuse otorgar el penniso. La falta de apelacion dentro de los tenninos establecidos es causa justa para la denegacion de una apelacion. La apelacion debeni incluir al menos la siguiente infonnacion:

1. Nombre (s) direccion y numero de telefono del/los padre/s, guardian/es o custodio/s del/los estudiante/s.
2. Nombre/s de/los estudiantes, edad/es, grado/s y escuela/s de atencion en el presente (que hayan atendido previamente, si el pedido se hace cuando la escuela no esta en sesion).
3. Nombre de los distritos involucrados.
4. Acciones tomadasas sobre el pedido.
5. Razones para el pedido de un acuerdo de asistencia interdistrito.

El Consejo de Educacion del Condado debera, dentro de los 30 dias calendarios luego de que la apelacion escrita es llenada, deteminar si se le pennitira al/la estudiante asistir en el distrito en el cual el/ella desea asistir y por que periodo de tiempo. El Consejo de Educacion del Condado o el/la Superintendente de las Escuelas del Condado pueden, con causa justificada, extender el perfodo de tiempo por hasta cinco (5) dias escolares.

C. PREPARACION PARA LA AUDIENCIA DE APELACION

1. Al recibir la apelacion, el/la Superintendente del Condado o su designado/a, infonnara a la persona apelante lo concemiente a los procedimientos por los medio de los cuales se oira la apelacion.
2. El Superintendente del Condado o su designado/a, verificara que las apelaciones dentro de los distritos han sido agotadas.
3. Se fijani una fecha para que la apelacion sea oida. Nonnalmente, las apelaciones son oidas durante las reuniones regulares y deben ser llenadas al menos una semana previa a la reunion regular para que se anote en la agenda para esa reunion.

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Revisado -9/17/93; 4/11/95; 7/11/95

Interdistrict Attendance Appeal-Spanish Translation

4. Ambos distritos escolares involucrados serán informados de la apelación, de la fecha de la audiencia, y de los procedimientos de la apelación, y serán invitados a tener a sus representantes en la audiencia para hablar con respecto a la apelación, si así lo desean.
5. La persona que apela podrá retener consejero/a legal privado/a, si así lo desea. Los distritos involucrados podrán estar representados por consejería legal.

D. CONDUCCION DE LA AUDIENCIA

1. La audiencia será en una reunión pública del Consejo, a menos que una o ambas de las siguientes circunstancias exista, en cuyo caso, esa porción de la audiencia se hará en sesión a puertas cerradas:
 - a. Cuando el caso de la persona que apela incluye alegatos contra miembros indistinguibles del personal y/o estudiantes indistinguibles.
 - b. Cuando el caso es tal que requiera usar información de naturaleza personal/confidencial concierne al/los estudiante/s para quien la transferencia es pedida y al/los padre/s, guardianes o *custodio/s* piden una sesión a puertas cerradas.
2. El Consejo considerará toda la evidencia que se le presente y tomará una decisión en una sesión pública.

No se aplicarán reglas estrictas de evidencia como las requeridas en procedimientos de la corte. La evidencia admisible debe estar relacionada al tema y ser de la clase de evidencia en la cual las personas responsables confían como en la conducción de temas serios. Los testimonios son admisibles, pero no podrán ser la (única) base para un fallo.

La evidencia podrá incluir testigos y material documentado.

El oficial que preside el Consejo podrá identificar a cualquiera de las partes involucradas en cualquier momento durante la audiencia para hacerle preguntas o para agregar información.

9/26/89

Revised -917193; 4111195; 7111195

Interdistrict Attendance Appeal-Spanish Translations

APELACIONES DE ASISTENCIA INTERDISTRITO Pitgina 4 de 6

3. Los procedimientos deben ser sustancialmente como sigue:
 - a. El oficial que preside el Consejo explicará brevemente los procedimientos a seguir en la audiencia.
 - b. Se le dará una oportunidad de hablar sobre la apelación a la persona que apela.
 - c. Se le dará una oportunidad de hablar sobre la apelación a los representantes del distrito escolar que originalmente denegó el pedido.
 - d. Se le dará la oportunidad de hablar sobre la apelación a los representantes del otro distrito involucrado.
 - e. El Consejo podrá requerir testimonio adicional o evidencia documental como lo considere necesario. En el evento que el personal de la Oficina del Condado de Educación, a pedido del Consejo, haya reunido información sobre la apelación, esta información deberá ser oída en este momento.
 - f. Se le dará la oportunidad a la persona apelante de presentar un resumen y la misma oportunidad se le ofrecerá a los representantes del distrito escolar.
 - g. El Consejo luego deliberará sobre el tema y hará una decisión sobre la disposición de la apelación.
 - h. Si se introducen nueva evidencia o bases para el pedido, el Consejo de Educación del Condado podrá devolver el caso para consideración adicional del o de los distrito/s.
4. Una declaración escrita de la acción del Consejo deberá ser enviada por correo a la persona apelante y a cada uno de los distritos involucrados en el pedido.

926/89

Revisado -9/7/93; 4/11/95; 7/11/95

Interdistrict Attendance Appeal-Spanish Translation

II. GUIAS Y CRITERIOS

Con pocas excepciones, los niños deberán asistir a la escuela en el distrito de su residencia. Cualquier pedido para asistir a la escuela en otro distrito escolar deberá estar basado en circunstancias excepcionales únicas al niño/a en cuestión.

Ha sido notado que el cambio de escuelas debido a cambio de domicilio de la familia con frecuencia produce ansiedad en los niños. Esto se ve como una situación normal que es parte del crecer y que con frecuencia resulta en un crecimiento social y emocional positivo. Esta, en sí misma, no es causa para otorgar un pedido de asistencia interdistrito.

Otra razón frecuente para el pedido de asistencia fuera del distrito incluye la percepción de los padres de que un distrito escolar es mejor que otro, la conveniencia del transporte, la continuación de los contactos sociales y la proximidad del lugar de trabajo de los padres. Ninguna de estas debería ser causa para otorgar dicho pedido, a no ser que sea claramente demostrado que existan en circunstancias excepcionales únicas al niño/a en cuestión que justifican la interrupción de un patrón normal de asistencia a la escuela.

Deberá notarse que cada distrito escolar establece su propia política en relación a los pedidos de asistencia interdistrito. Al considerar las apelaciones, el Consejo de Educación del Condado sigue sus propias políticas como se establece en este documento y no las políticas de los distritos involucrados.

Las consideraciones primarias de este Consejo al decidir en una apelación por la denegación de un pedido de asistencia interdistrito incluyen:

1. Circunstancias excepcionales relacionadas con la salud, seguridad, desarrollo emocional, social y/o académico del niño/a en cuestión
2. Circunstancias excepcionales relacionada con otros miembros de la familia que son relevantes a la asistencia escolar del niño/a.
3. El efecto que la otorgación de la apelación tendría en los distritos involucrados.

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Revisado -9/7/93; 4/11/95; 7/11/95

Interdistrict Attendance Appeal-Spanish Translation

4. La habilidad del distrito al que se le pide el cambio, de proveer de las necesidades estipuladas del niño/a.
5. Las necesidades de cuidado del niño/a.

Aprobado para establecer:

(hay una firma que se lee R Rosen) Conscjero Suplente del Condado

Aprobado por el Consejo de Educación del Condado de Marin -9/26/89

Revisado -9/7/93; 4/11/95; 7/11/95

Interdistrict Attendance Appeal-Spanish Translation

SECTION FIVE

RELATED LEGISLATION

SECTION FIVE

LEGISLATION PERTAINING TO RESIDENCY, INTERDISTRICT AND INTRADISTRICT ATTENDANCE

GOVERNMENT CODE RESIDENCE

- § 243 Residence
- § 244 Determination of Place of Residence

FAMILY CODE CAREGIVER'S RESIDENCY

- § 6550 Residency Caregivers
- § 6552 Caregiver's Authorization Affidavit

EDUCATION CODE INTRADISTRICT

- § 35160 (b) (1) Open Enrollment Policy
- § 35160 (b) (2) Open Enrollment Policy Elements

EDUCATION CODE INTERDISTRICT ATTENDANCE

- § 46600 Agreement by Governing Board
- § 46601 Appeal to County Board
- § 46602 Admission Without Delay; Notice of Decision
- § 46603 Provisional Attendance
- § 46604 Interdistrict Attendance Computation

EDUCATION CODE CHARTER SCHOOLS

- § 47605(a)(5)(L) Attendance Alternatives

EDUCATION CODE COMPULSORY EDUCATION

- § 48203 Reports of Severance of Attendance of Handicapped
- § 48204 Residency Requirements in Effect Until July 1, 2012
- § 48204 Residency Requirements in Effect July 1, 2012

EDUCATION CODE PUPIL ATTENDANCE ALTERNATIVES

| | |
|---------|--|
| § 48300 | Definitions |
| § 48301 | Interdistrict Transfers |
| § 48302 | Current Educational Programs Offered |
| § 48303 | Additional Costs of Educating the Pupil |
| § 48304 | Displacement |
| § 48305 | Uniform Entrance Criteria |
| § 48306 | Siblings and Children of Military Personnel |
| § 48307 | Limit of Transfers Out |
| § 48308 | Application for Transfer |
| § 48309 | Acceptance of Previous Coursework/Revocation |
| § 48310 | ADA to District of Choice |
| § 48311 | Transportation Assistance |
| § 48312 | Request of Information |
| § 48313 | Records of Requests for Alternative Attendance |
| § 48314 | Informed Choice |
| § 48315 | Date of Repeal |

EDUCATION CODE SUSPENSION/EXPULSION

| | |
|------------|--|
| § 46600(b) | Enrollment of Expelled Student |
| § 46601(e) | Effect of Expulsion on Interdistrict Appeals |
| § 48915.1 | Enrollment in Another School District Following Expulsion |
| § 48915.2 | Limitations on Enrollment in Another School After Being Expelled |
| § 48915.5 | Expulsion of Students With Exceptional Needs or Enrolled in Special Education |
| § 48916 | Readmission Following Expulsion |

EDUCATION CODE RESIDENCY

| | |
|-------------|---|
| § 48980 | Notification of Parent |
| § 48980 (h) | Availability of Employment-Based Attendance |
| § 48980 (i) | Attendance and Residency Requirements |

Government Code § 243. Residence

Every person has, in law, a residence.

Government Code § 244. Determination of place of residence

In determining the place of residence the following rules shall be observed:

- (a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- (b) There can only be one residence.
- (c) A residence cannot be lost until another is gained.
- (d) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child.
- (e) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act.
- (f) The residence can be changed only by the union of act and intent.
- (g) A married person shall have the right to retain his or her legal residence in the state of California notwithstanding the legal residence or domicile of his or her spouse.

Family Code § 6550. Authorization affidavits; scope of authority; reliance on affidavit

- a. A caregiver's authorization affidavit that meets the requirements of this part authorizes a caregiver 18 years of age or older who completes items 1-4, inclusive, of the affidavit provided in Section 6552 and signs the affidavit to enroll a minor in school and consent to school-related medical care on behalf of the minor. A caregiver who is a relative and who completes items 1-8, inclusive, of the affidavit provided in Section 6552 and signs the affidavit shall have the same rights to authorize medical care and dental care for the minor that are given to guardians under Section 2353 of the Probate Code. The medical care authorized by this caregiver who is a relative may include mental health treatment subject to the limitations of Section 2356 of the Probate Code.
- b. The decision of a caregiver to consent to or to refuse medical or dental care for a minor shall be superseded by an contravening decision of the parent or other person having legal custody of the minor, provided the decision of the parent or other person having legal custody of the minor does not jeopardize the life, health, or safety of the minor.
- c. A person who acts in good faith reliance on a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is not subject to criminal liability or to civil liability to any person, and is not subject to professional disciplinary action, for that reliance if the applicable portions of the affidavit are completed. This subdivision applies even if medical or dental care is provided to a minor in contravention of the wishes of the parent or other person having legal custody of the minor as long as the person providing the medical or dental care has no actual knowledge of the wishes of the parent or other person having legal custody of the minor.
- d. A person who relies on the affidavit has no obligation to make any further inquiry or investigation.
- e. Nothing in this section relieves any individual from liability for violations of other provisions of law.
- f. If the minor stops living with the caregiver, the caregiver shall notify any school, health care provider, or health care service plan that has been given the affidavit. The affidavit is invalid after the school, health care provider, or health care service plan receives notice that the minor is no longer living with the caregiver.
- g. A caregiver's authorization affidavit shall be invalid, unless it substantially contains, in not less than 10-point boldface type or a reasonable equivalent thereof, the warning statement beginning with the word "warning" specified in Section 6552. The warning statement shall be enclosed in a box with 3-point rule lines.
- h. For purposes of this part, the following terms have the following meanings:
 - (1) "Person" includes an individual, corporation, partnership, association, the state, or any city, county, city and county, or other public entity or governmental subdivision or agency, or any other legal entity.

(2) "Relative" means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

(3) "School-related medical care" means medical care that is required by state or local governmental authority as a condition for school enrollment, including immunizations, physical examinations, and medical examinations conducted in schools for pupils.

Family Code § 6552. Form of authorization affidavit

The caregiver's authorization affidavit shall be in substantially the following form:

Caregiver's Authorization Affidavit

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: _____.
2. Minor's birth date: _____.
3. My name (adult giving authorization): _____.
4. My home address: _____.
5. ☐ I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").
6. Check one or both (for example, if one parent was advised and the other cannot be located):
☐ I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
☐ I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.
7. My date of birth: _____.
8. My California's driver's license or identification card number: _____.

Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Dated: _____ Signed: _____

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

Additional Information:

TO CAREGIVERS:

1. "Qualified relative", for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit. The affidavit is invalid after the school, health care provider, or health care service plan receives notice that the minor no longer lives with you.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS:

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. A person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is not subject to criminal liability or to civil liability to any person, and is not subject to professional disciplinary action, for that reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.

Education Code § 35160.5(b)(1)

(b)(1) On or before July 1, 1994, the governing board of each school district, as a condition for the receipt of school apportionments from the state school fund, shall adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to a school district that has only one school or a school district with schools that do not serve any of the same grade levels.

Education Code § 35160.5(b)(2)

(2) The policy shall include all of the following elements:

(A) It shall provide that the parent or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for a school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether a pupil should be enrolled based upon his or her academic or athletic performance. The governing board of a school district shall calculate the capacity of the schools in the district for purposes of this subdivision in a nonarbitrary manner using pupil enrollment and available space. However, school districts may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants. This subdivision shall not be construed to prohibit school districts from using academic performance to determine eligibility for, or placement in, programs for gifted and talented pupils established pursuant to Chapter 8 (commencing with Section 52200) of Part 28 of Division 4.

(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.

Education Code § 46600. Agreements for interdistrict attendance; terms and conditions; individual permits verifying district's approval; application

(a) The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the districts. The agreement may provide for the admission to a district other than the district of residence of a pupil who requests a permit to attend a school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission.

The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied.

The supervisor of attendance of the district of residence shall issue an individual permit verifying the district's approval, pursuant to policies of the board and terms of the agreement, for the transfer and for

the applicable period of time. A permit shall be valid upon concurring endorsement by the designee of the governing board of the district of proposed attendance. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the district of attendance.

(b) In addition to the requirements of subdivision (e) of Section 48915.1, and regardless of whether an agreement exists or a permit is issued pursuant to this section, any district may admit a pupil expelled from another district in which the pupil continues to reside.

Education Code § 46601. Failure to approve interdistrict attendance; appeal

If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, 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 appeal to the county board of education.

If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each district not later than 30 calendar days prior to the commencement of instruction in that term in that district, the governing board of either district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the districts to permit that attendance, fails or refuses to enter 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 appeal to the county board of education.

Notifying districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of 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's designee that appeals within the districts have been exhausted. If new evidence or grounds for the request are introduced, the county board 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)(1) 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 the pupil desires to attend and the applicable period of time. In the event that compliance by the county board within the time requirement for determining whether the pupil should be permitted to attend in the district in which the pupil desires to attend is impractical, the county board or the county superintendent of schools, for good cause, may extend the time period for up to an additional five school days. The county 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 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 school days of any hearing conducted by the board unless the person who filed the appeal requests a postponement.

(2) In a class 1 or class 2 county, the county board 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 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 is applicable to a hearing by any impartial administrative panel and, for purposes of this section, the term “hearing officer” in Section 27722 includes an impartial administrative panel. No member of the impartial administrative panel shall be a member of the county board of education, nor be employed by the school district of residence or the district of desired attendance. The definitions of “class 1 county” and “class 2 county” in subdivision (c) of Section 48919.5 apply to this section. If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the district in which the pupil desires to attend, the county board of education within 10 days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code shall render a decision.

(c) The county 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 in reaching a decision.

(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 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 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 do not then concur, the pupil’s appeal shall be denied.

(e) Students who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or recisions while expulsion proceedings are pending, or during the term of the expulsion.

Education Code § 46602. Admission to school without delay upon board approval; counting attendance for revenue purposes; notice of board’s decision

If the county board of education determines that the pupil should be permitted to attend in the district in which he or she desires to attend, the pupil shall be admitted to school in the district without delay and the attendance may be counted by the district of attendance for revenue limit and state apportionment purposes.

Written notice of the decision by the county board of education shall be delivered to the pupil and the parent or guardian, or person having custody of him or her, and to the governing boards of the districts.

Education Code § 46603. Provisional attendance pending appeal on decision regarding interdistrict attendance

For a period not to exceed two school months, the governing board of a school district may provisionally admit to the schools of the district a pupil who resides in another district, pending a decision of the two boards, or by the county board of education upon appeal, regarding the interdistrict attendance.

Regardless of whether the decision on interdistrict attendance is allowed, the provisional attendance may be counted by the district of attendance for revenue limit and state apportionment purposes.

Education Code § 46604. Failure by district of residence to pay tuition charges

If the governing board of a school district in which pupils reside who are lawfully attending in another district fails or refuses to pay, when due, the amount required to be paid to the district of attendance for the education of those pupils under any provision of this code, the county superintendent of schools having jurisdiction over the district of residence shall draw a requisition against the funds of the district of residence in favor of the district of attendance in payment of that amount and transmit the requisition to the governing board of the district of attendance.

Education Code § 47605(a)(5)(L)

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

Education Code § 48203. Reports of severance of attendance of children with exceptional needs or handicapped children; examination; hearings

(a) The superintendent of a school district and the principal of a private school in each county shall, upon the severance of attendance or the denial of admission of any child who is an individual with exceptional needs, as that term is defined in Section 56026, or who is a qualified handicapped person, as that term is defined in regulations promulgated by the United States Department of Education pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), but who is otherwise subject to the compulsory education laws of California, report the severance, expulsion, exclusion, exemption, transfer, or suspension beyond 10 schooldays to the county superintendent of schools. The report shall include names, ages, last known address, and the reason for the severance, expulsion, exclusion, exemption, transfer, or suspension.

(b) It is the duty of the county superintendent to examine those reports and draw to the attention of the county board of education and governing board of a school district any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After a preliminary study of available information in cases referred to it, the county board of education may, on its own action, hold hearings on those cases in the manner provided in Section 48914 and with the same powers of final decision as therein provided.

Education Code § 48204. Residency requirements for school attendance

< Text of section operative until July 1, 2012 >

(a) Notwithstanding Section 48200, a pupil complies with the residency requirements for school attendance in a school district, if he or she is any of the following:

(1) (A) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or

placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(B) An agency placing a pupil in a home or institution described in subparagraph (A) shall provide evidence to the school that the placement or commitment is pursuant to law.

(2) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(3) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(4) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

(5) A pupil residing in a state hospital located within the boundaries of that school district.

(b) A school district may deem a pupil to have complied with the residency requirements for school attendance in the district if at least one parent or the legal guardian of the pupil is physically employed within the boundaries of that district.

(1) This subdivision does not require the school district within which at least one parent or the legal guardian of a pupil is employed to admit the pupil to its schools. A school district shall not, however, refuse to admit a pupil under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the parents or the legal guardian of the pupil is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the district.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) The governing board of a school district that prohibits the transfer of a pupil pursuant to paragraph (1), (2), or (3) is encouraged to identify, and communicate in writing to the parents or the legal guardian of the pupil, the specific reasons for that determination and is encouraged to ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision is calculated pursuant to Section 46607.

(6) Unless approved by the sending school district, this subdivision does not authorize a net transfer of pupils out of a school district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in a fiscal year in excess of the following amounts:

(A) For a school district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For a school district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever amount is greater.

(C) For a school district with an average daily attendance of 2,501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever amount is greater.

(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district the boundaries of which include the location where at least one parent or the legal guardian of a pupil is physically employed, the pupil does not have to reapply in the next school year to attend a school within that district and the district governing board shall allow the pupil to attend school through grade 12 in that district if the parent or legal guardian so chooses and if at least one parent or the legal guardian of the pupil continues to be physically employed by an employer situated within the attendance boundaries of the district, subject to paragraphs (1) to (6), inclusive.

(c) This section shall become inoperative on July 1, 2012, and as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

Education Code § 48204. Residency requirements for school attendance

< Text of section operative July 1, 2012 >

Notwithstanding Section 48200, a pupil complies with the residency requirements for school attendance in a school district, if he or she is:

(a) (1) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(2) An agency placing a pupil in the home or institution described in paragraph (1) shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) This section shall become operative on July 1, 2012.

Education Code § 48300. Definitions

For purposes of this article, the following definitions apply:

(a) "School district of choice" means a school district for which a resolution is in effect as described in subdivision (a) of Section 48301.

(b) "School district of residence" means the school district that a pupil would be directed by this chapter to attend, except as otherwise provided by this article.

Education Code § 48301. Interdistrict transfers; acceptance by governing board; restrictions upon pupil transfers; communications to parents or guardians; compliance review

(a) The governing board of any school district may accept interdistrict transfers. A school district that receives an application for attendance under this article is not required to admit pupils to its schools. If, however, the governing board elects to accept transfers as authorized under this article, it may, by resolution, elect to accept transfer pupils, determine and adopt the number of transfers it is willing to accept under this article, and ensure that pupils admitted under the policy are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based upon his or her academic or athletic performance. Any pupil accepted for transfer shall be deemed to have fulfilled the requirements of Section 48204. If the number of transfer applications exceeds the number of transfers the governing board elects to accept under this article, approval for transfer pursuant to this article shall be determined by a random drawing held in public at a regularly scheduled meeting of the governing board of the school district.

(b) Either the pupil's school district of residence, upon notification of the pupil's acceptance to the school district of choice pursuant to subdivision (c) of Section 48308, or the school district of choice may prohibit the transfer of a pupil under this article or limit the number of pupils so transferred if the governing board of the district determines that the transfer would negatively impact any of the following:

(1) The court-ordered desegregation plan of the district.

(2) The voluntary desegregation plan of the district.

(3) The racial and ethnic balance of the district.

(c) The school district of residence may not adopt policies that in any way block or discourage pupils from applying for transfer to another district.

(d) Communications to parents or guardians by districts electing to enroll pupils under the choice options provided by this article shall be factually accurate and not target individual parents or guardians or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic.

(e) A school district of choice, at its expense, shall ensure that the auditor who conducts the annual audit pursuant to Section 41020, at the same time that he or she is conducting that annual audit, reviews compliance with the provisions in this section regarding a random, unbiased selection process and appropriate communications. The compliance review specified in this subdivision is not subject to the requirements in subdivision (d) of Section 41020. The school district of choice shall notify the auditor regarding this compliance review specified in this subdivision prior to the commencement of the annual audit. The governing board of the school district of choice shall include a summary of audit exceptions, if any, resulting from the compliance review conducted pursuant to this subdivision in the report it provides pursuant to subdivision (b) of Section 48313.

Education Code § 48302. Informational hearings on current educational programs

School districts are encouraged to hold informational hearings on the current educational program the district is offering so that parents may provide input to the district on methods to improve the current program and so that parents may make informed decisions regarding their children's education.

Education Code § 48303. Rejection of pupil transfer; criteria; discriminatory practices prohibited

(a) The school district of choice may not prohibit a transfer of a pupil under this article based upon a determination by the governing board of that school district that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer. A school district may reject the transfer of a pupil if the transfer of that pupil would require the district to create a new program to serve that pupil, except that a school district of choice shall not reject the transfer of a special needs pupil, including an individual with exceptional needs, as defined in Section 56026, and an English learner.

(b) This section is intended to ensure that special education, bilingual, English learner, or other special needs pupils are not discriminated against by the school district of choice because of the costs associated with educating those pupils. Pupils with special needs may take full advantage of the choice options available under this section.

Education Code § 48304. Application approval conditions

An application of any pupil for transfer may not be approved under this article if the transfer would require the displacement, from a school or program conducted within any attendance area of the school district of choice, of any other pupil who resides within that attendance area or is currently enrolled in that school.

Educational Code § 48305. Entrance criteria; school district authority

School districts of choice may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants.

Educational Code § 48306. Entrance priority for siblings and children of military personnel

(a) A school district of choice shall give priority for attendance to siblings of children already in attendance in that district.

(b) A school district of choice may give priority for attendance to children of military personnel.

Educational Code § 48307. Annual outbound transfers of pupils; school district limits

(a) A school district of residence with an average daily attendance greater than 50,000 may limit the number of pupils transferring out each year to 1 percent of its current year estimated average daily attendance.

(b) A school district of residence with an average daily attendance of less than 50,000 may limit the number of pupils transferring out to 3 percent of its current year estimated average daily attendance and may limit the maximum number of pupils transferring out for the duration of the program authorized by this article to 10 percent of the average daily attendance for that period.

(c) A school district of residence that has a negative status on the most recent budget certification completed by the county superintendent of schools in any fiscal year may limit the number of pupils who transfer out of the district in that fiscal year.

(d) Notwithstanding any prior or existing certification of a school district of residence pursuant to Article 3 (commencing with Section 42130) of Chapter 6 of Part 24, only if the county superintendent of schools determines that the district would not meet the standards and criteria for fiscal stability specified in Section 42131 for the subsequent fiscal year exclusively due to the impact of additional pupil transfers pursuant to this article in that year, the district may limit the number of additional pupils who transfer in the upcoming school year pursuant to this article up to the number that the county superintendent identifies beyond which number of additional transfers would result in a qualified or negative certification in that year exclusively as a result of additional transfers pursuant to this article.

(e) If a school district of residence limits the number of pupils who transfer out of the district pursuant to subdivision (c) or (d), pupils who have already been enrolled or notified of eligibility for enrollment, including through the random, public selection process prior to the action by the district to limit transfers shall be permitted to attend the school district of choice.

(f) Notwithstanding any other provision of this article, a pupil attending a school district of choice or a pupil who received a notice of eligibility to enroll in a school district of choice, including a pupil selected by means of a random selection process conducted on or before June 30, 2009, pursuant to this article, as it read on June 30, 2009, shall be permitted to attend the school district of choice.

Education Code § 48308. Applications; deadlines; exception for children of relocated military personnel; form; acceptance or rejection; annual renewal of final acceptance

(a) (1) An application requesting a transfer pursuant to this article shall be submitted by the parent or guardian of a pupil to the school district of choice that has elected to accept transfer pupils pursuant to Section 48301 prior to January 1 of the school year preceding the school year for which the pupil is requesting to be transferred. This application deadline may be waived upon agreement of the school district of residence of the pupil and the school district of choice.

(2) The application deadline specified in paragraph (1) does not apply to an application requesting a transfer if the parent or guardian of the pupil, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days prior to submitting the application.

(b) The application may be submitted on a form provided for this purpose by the department and may request enrollment of the pupil in a specific school or program of the school district.

(c) (1) Not later than 90 days after the receipt by a school district of an application for transfer, the governing board of the school district may notify the parent or guardian in writing whether the application has been provisionally accepted or rejected or of the placement of the pupil on a waiting list. Final acceptance or rejection shall be made by May 15 preceding the school year for which the pupil is requesting to be transferred.

(2) (A) Notwithstanding paragraph (1), the governing board of a school district shall, not later than 90 days after receipt of an application submitted according to paragraph (2) of subdivision (a), make a final acceptance or rejection of that application. A pupil may enroll in a school in the school district immediately upon his or her acceptance.

(B) If an application submitted according to paragraph (2) of subdivision (a) is submitted less than 90 days prior to the beginning of the school year for which the pupil seeks to be transferred, the governing board of the school district shall accept or deny the application prior to the commencement of the school year. A pupil may enroll in a school in the school district immediately upon his or her acceptance.

(3) If the application is accepted, the notice required by this subdivision may be provided to the school district of residence. If the application is rejected, the district governing board may set forth in the written notification to the parent or guardian the specific reason or reasons for that determination, and may ensure that the determination, and the specific reason or reasons therefor, are accurately recorded in the minutes of a regularly scheduled board meeting in which the determination was made.

(d) Final acceptance of the transfer is applicable for one school year and will be renewed automatically each year unless the school district of choice through the adoption of a resolution withdraws from participation in the program and no longer will accept any transfer pupils from other districts. However, if a school district of choice withdraws from participation in the program, high school pupils admitted under this article may continue until they graduate from high school.

Education Code § 48309. Transfer of completed coursework, attendance and other academic progress; revocation of acceptance

(a) Any school district of choice that admits any pupil under this section may accept any completed coursework, attendance, and other academic progress credited to that pupil by the school district or districts previously attended by that pupil, and may grant academic standing to that pupil based upon the district's evaluation of the academic progress credited to that pupil.

(b) Any school district of choice that admits a pupil under this section may revoke the pupil's transfer if the pupil is recommended for expulsion pursuant to Section 48918.

Education Code § 48310. Average daily attendance; state aid apportionment; computations

(a) The average daily attendance for pupils admitted by a school district of choice pursuant to this article shall be credited to that district pursuant to Section 46607. The attendance report for the school district of choice may include an identification of the school district of residence.

(b) Notwithstanding other provisions of law, state aid for categorical education programs for pupils admitted under this article shall be apportioned to the school district of choice.

(c) For any school district of choice that is a basic aid district, the apportionment of state funds for any average daily attendance credited pursuant to this section shall be 70 percent of the district revenue limit calculated pursuant to Section 42238 that would have been apportioned to the district of residence. For purposes of this subdivision, the term "basic aid district" means a school district that does not receive from the state, for any fiscal year in which the subdivision is applied, an apportionment of state funds pursuant to subdivision (h) of Section 42238.

(d) The average daily attendance of pupils admitted by a school district of choice pursuant to this article shall be credited to that school district for the purposes of any determination under Article 2 (commencing with Section 17010) of Chapter 12 of Part 10 that utilizes an average daily attendance calculation.

Education Code § 48311. Transportation assistance

Upon request of the pupil's parent or guardian, each school district of choice that admits a pupil under this section to any school or program of the district may provide to the pupil transportation assistance within the boundaries of the district to that school or program, to the extent that the district otherwise provides transportation assistance to pupils.

Education Code § 48312. Information regarding programs, policies and procedures; availability to interested persons

Each school district may make information regarding its schools, programs, policies, and procedures available to any interested person upon request.

Education Code § 48313. Districts accepting transfers; recordkeeping requirements; reporting requirements; information to be made available by Legislative Analyst

(a) Pursuant to this article, each school district electing to accept transfer pupils shall keep an accounting of all requests made for alternative attendance and records of all disposition of those requests that shall include, but are not limited to, all of the following:

(1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records shall indicate the reasons for the denials.

(2) The number of pupils transferred out of the district pursuant to this article.

(3) The number of pupils transferred into the district pursuant to this article.

(4) The race, ethnicity, gender, self-reported socioeconomic status, and the school district of residence of each of the pupils described in paragraphs (2) and (3).

(5) The number of pupils described in paragraphs (2) and (3) who are classified as English learners or identified as individuals with exceptional needs, as defined in Section 56026.

(b) The information maintained pursuant to subdivision (a) shall be reported to the governing board of the school district at a regularly scheduled meeting of the governing board. No later than May 15th of each year, the school district shall report the information maintained pursuant to subdivision (a) in addition to information regarding the district's status as a school district of choice in the upcoming school year to each school district that is geographically adjacent to the district electing to accept transfer pupils, the county office of education in which the district is located, the Superintendent, and the Department of Finance. The Department of Finance shall make the information reported to it pursuant to this subdivision available upon request to the Legislative Analyst.

(c) The Legislative Analyst annually shall make all of the following information available to the Governor and the appropriate fiscal and policy committees of the Legislature:

(1) The number and characteristics of pupils who use the school district of choice option pursuant to this article.

(2) The Academic Performance Index scores of schools in school districts of residence and school districts of choice.

(3) The graduation rates of school districts of residence and school districts of choice.

(4) The enrollment of school districts of residence and school districts of choice for the previous five years.

(5) The fiscal health of school districts of residence and school districts of choice, including, but not limited to, both of the following:

(A) Increasing or declining enrollment.

(B) Whether a school district received a negative or qualified rating pursuant to Section 42131.

(6) Whether a school district has exceeded the transfer limits specified in Section 48307.

(7) Other information the Legislative Analyst deems appropriate.

(d) As necessary and practicable, the Legislative Analyst shall survey school districts of residence and school districts of choice to gather the information described in subdivision (c).

Education Code § 48314. Legislative intent regarding informed parental choice

It is the intent of the Legislature that every parent in this state be informed of their opportunity for currently existing choice options under this article regardless of ethnicity, primary language, or literacy.

Education Code § 48315. Duration of article

This article shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

Education Code § 46600(b)

In addition to the requirements of subdivision (e) of Section 48915.1, and regardless of whether an agreement exists or a permit is issued pursuant to this section, any district may admit a pupil expelled from another district in which the pupil continues to reside.

Education Code § 46601(e)

Students who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or recisions while expulsion proceedings are pending, or during the term of the expulsion.

Education Code § 48915.1 Expelled individuals; enrollment in another school

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918.

A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

Education Code § 48915.2. Expelled pupil; enrollment during and after period of expulsion

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions.

(1) He or she has established legal residence in the school district, pursuant to Section 48200.

(2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

Education Code § 48915.5. Suspension or expulsion of pupils with exceptional needs; schools; schoolbuses

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

Education Code § 48916. Expulsion orders; readmission date; rehabilitation plan

(a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order, which may include, but not be limited to, periodic review as well as assessment at the time of review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

Education Code § 48980. Notice at beginning of term of rights and responsibilities; required content

(a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of a minor pupil regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, and 51938 and Chapter 2.3 (commencing with Section 32255) of Part 19 of Division 1 of Title 1.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification also shall advise the parents and guardians of all pupils attending a school within the school district of the schedule of minimum days and pupil-free staff development days, and if minimum or pupil-free staff development days are scheduled thereafter, the governing board of the district shall notify parents and guardians of the affected pupils as early as possible, but not later than one month before the scheduled minimum or pupil-free day.

(d) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options, including, but not limited to, United States savings bonds.

(e) The notification shall advise the parent or guardian of the pupil that each pupil completing grade 12 is required to successfully pass the high school exit examination administered pursuant to Chapter 9 (commencing with Section 60850) of Part 33. The notification shall include, at a minimum, the date of the examination, the requirements for passing the examination, and shall inform the parents and guardians regarding the consequences of not passing the examination and shall inform parents and guardians that passing the examination is a condition of graduation.

(f) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) of Chapter 3 of Part 19 of Division 1 of Title 1 shall inform parents or guardians of the program as specified in Section 32390.

(g) The notification also shall include a copy of the written policy of the school district on sexual harassment established pursuant to Section 231.5, as it relates to pupils.

(h) The notification shall advise the parent or guardian of all existing statutory attendance options and local attendance options available in the school district. This notification component shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. This notification component also shall include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification component also shall include an explanation of the existing statutory attendance options, including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part

26, and subdivision (b) of Section 48204. The department shall produce this portion of the notification and shall distribute it to all school districts.

(i) It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within its district and that the districts strive to make available enrollment options that meet the diverse needs, potential, and interests of the pupils of California.

(j) The notification shall advise the parent or guardian that a pupil shall not have his or her grade reduced or lose academic credit for any absence or absences excused pursuant to Section 48205 if missed assignments and tests that can reasonably be provided are satisfactorily completed within a reasonable period of time, and shall include the full text of Section 48205.

(k) The notification shall advise the parent or guardian of the availability of state funds to cover the costs of advanced placement examination fees pursuant to Section 52244.

(l) The notification to the parent or guardian of a minor pupil enrolled in any of grades 9 to 12, inclusive, also shall include the information required pursuant to Section 51229.

Assembly Bill No. 97

CHAPTER 21

An act to amend Section 56836.155 of, and to add and repeal Article 7 (commencing with Section 48300) of Chapter 2 of Part 27 of, the Education Code, relating to public schools, and declaring the urgency thereof. to take effect Immediately.

[Approved by Governor March 4, 2004. Filed with Secretary of State March 5, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 97, Nation. Public schools.

(1) Existing law requires each person between the ages of 6 and 18 years. not otherwise exempt, to attend the public full-time day school in the district in which their parent or guardian is a resident.

This bill would authorize the governing board of any school district to admit pupils residing in another school district to attend any school in that district, as specified. The bill would authorize each school district that elects to accept transfers to adopt a resolution to determine the number of transfers it will accept and to ensure that the pupils admitted under the policy are selected through a random, unbiased selection **process**.

The bill would authorize the district of residence or the district of choice to prohibit a transfer upon a determination that the transfer would negatively impact that district's court-ordered or voluntary desegregation plan or that district's racial and ethnic balance and would place additional conditions upon the administration of the transfers. The bill would authorize districts of residence to limit the number of pupils newly transferring out each year, as specified.

The bill would require that an application for transfer be submitted by January 1 of the school year preceding the school year for which the pupil is to be transferred, unless the deadline is waived.

The bill would authorize a school district that has elected to accept transfer pupils to approve or reject each application for transfer between districts within 90 days after receiving the application. This bill would require that transfers be granted for the entire school year and be automatically renewed for each succeeding year, unless the school district of choice, through the adoption of a resolution, withdraws from participation in the program and no longer accepts any transfer pupils from other districts. The bill would also specify that high school transfers would be automatically renewed even if a school district of choice withdraws from participation in the program. The bill would permit school districts of choice to revoke the transfer of any pupil who **is recommended for expulsion**.

The bill would credit the district of choice, as to pupils admitted to a school district under this authority, with a corresponding increase in average daily attendance for state apportionment purposes and for purposes of certain computations under the Leroy F. Greene State School Building Lease-Purchase Law of 1976, including computations affecting allowable building area for school construction projects. The bill would require that state aid for categorical education programs for the pupil be apportioned to the school district of choice. The bill would authorize the admitting district, at the request of the pupil's parent or guardian, to provide pupil transportation within the district, to the extent the district otherwise provides transportation assistance to pupils.

The bill would authorize each school district to annually report to the Superintendent of Public Instruction regarding pupil applications and transfers between districts pursuant to the above authority and would require the superintendent to summarize and report that information to the Legislature.

The bill would repeal those provisions on July 1, 2008.

(2) Existing law, in order to recognize the distribution of pupils with severe and costly disabilities among special education local plan areas, requires the State Department of Education, in conjunction with the Office of the Legislative Analyst, to calculate an incidence multiplier for each special education local plan area and requires the Department of Finance to approve the final incidence multiplier for each special education local plan area. Existing law requires the Superintendent of Public Instruction to calculate in the 1998-99 fiscal year and each fiscal year thereafter to and including the 2002-03 fiscal year, an adjusted entitlement for the incidence of disabilities for each special education local plan area using the incidence multiplier for each special education local plan area, as specified.

This bill would extend the requirement that the superintendent perform that calculation, as specified, through the 2003-04 fiscal year.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Article 7 (commencing with Section 48300) is added to Chapter 2 of Part 27 of the Education Code, to read:

Article 7. Pupil Attendance Alternatives

48300. For purposes of this article, the following definitions apply:

(a) "School district of choice" means a school district for which a resolution is in effect as described in subdivision (a) of Section 48301.

(b) "School district of residence" means the school district that a pupil would be directed by this chapter to attend, except as otherwise provided by this article.

48301. (a) The governing board of any school district may accept interdistrict transfers. A school district that receives an application for attendance under this article is not required to admit pupils to its schools. If, however, the governing board elects to accept transfers as authorized under this article, it may, by resolution, elect to accept transfer pupils, determine and adopt the number of transfers it is willing to accept under this article, and ensure that pupils admitted under the policy are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based upon his or her academic or athletic performance. Any pupil accepted for transfer shall be deemed to have fulfilled the requirements of Section 48204.

(b) Either the pupil's school district of residence, upon notification of the pupil's acceptance to the school district of choice pursuant to subdivision (c) of Section 48308, or the school district of choice may prohibit the transfer of a pupil under this article or limit the number of pupils so transferred if the governing board of the district determines that the transfer would negatively impact any of the following:

- (1) The court-ordered desegregation plan of the district.
- (2) The voluntary desegregation plan of the district.
- (3) The racial and ethnic balance of the district.

(c) The school district of residence may not adopt policies that in any way block or discourage pupils from applying for transfer to another district.

48302. School districts are encouraged to hold informational hearings on the current educational program the district is offering so that parents may provide input to the district on methods to improve the current program and so that parents may make informed decisions regarding their children's education.

48303. (a) The school district of choice may not prohibit a transfer of a pupil under this article based upon a determination by the governing board of that school district that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer. However, a school district may reject the transfer of a pupil if the transfer of that pupil would require the district to create a new program to serve that pupil.

(b) This section is intended to ensure that special education, bilingual, or other special needs pupils are not discriminated against by the school district of choice because of the costs associated with educating those pupils. Pupils with special needs may take full advantage of the choice options available under this section.

48304. An application of any pupil for transfer may not be approved under this article if the transfer would require the displacement, from a school or program conducted within any attendance area of the school district of choice, of any other pupil who resides within that attendance area or is currently enrolled in that school.

48305. School districts of choice may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants.

48306. Each school district of choice shall give priority for attendance to siblings of children already in attendance in that district.

48307. (a) A school district of residence with an average daily attendance greater than 50,000 may limit the number of pupils transferring out each year to 1 percent of its current year estimated average daily attendance.

(b) A school district of residence with an average daily attendance of less than 50,000 may limit the number of pupils transferring out to 3 percent of its current year estimated average daily attendance and may limit the maximum number of pupils transferring out for the duration of the program authorized by this article to 10 percent of the average daily attendance for that period.

48308. (a) Any application for transfer under this article shall be submitted by the pupil's parent or guardian to the school district of choice that has elected to accept transfer pupils pursuant to Section 48301 prior to January 1 of the school year preceding the school year for which the pupil is to be transferred. This application deadline may be waived upon agreement of the pupil's school district of residence and the school district of choice.

(b) The application may be submitted on a form provided for this purpose by the department and may request enrollment of the pupil in a specific school or program of the district.

(c) Not later than 90 days after the receipt by a school district of an application for transfer, the governing board of the district may notify the parent or guardian in writing whether the application has been provisionally accepted or rejected or of the pupil's position on any waiting list. Final acceptance or rejection shall be made by May

15 preceding the school year for which the pupil is to be transferred. In the event of an acceptance, that notice may be provided also to the school district of residence. If the application is rejected, the district governing board may set forth in the written notification to the parent or guardian the specific reason or reasons for that determination, and may ensure that the determination, and the specific reason or reasons therefor, are accurately recorded in the minutes of a regularly scheduled board meeting in which the determination was made.

(d) Final acceptance of the transfer is applicable for one school year and will be renewed automatically each year unless the school district of choice through the adoption of a resolution withdraws from participation in the program and no longer will accept any transfer pupils from other districts. However, if a school district of choice withdraws from participation in the program, high school pupils admitted under this article may continue until they graduate from high school.

48309. (a) Any school district of choice that admits any pupil under this section may accept any completed coursework, attendance, and other academic progress credited to that pupil by the school district or districts previously attended by that pupil, and may grant academic standing to that pupil based upon the district's evaluation of the academic progress credited to that pupil.

(b) Any school district of choice that admits a pupil under this section may revoke the pupil's transfer if the pupil is recommended for expulsion pursuant to Section 48918.

48310. (a) The average daily attendance for pupils admitted by a school district of choice pursuant to this article shall be credited to that district pursuant to Section 46607. The attendance reported for the school district of choice may include an identification of the school district of **residence**.

(b) Notwithstanding other provisions of law, state aid for categorical education programs for pupils admitted under this article shall be apportioned to the school district of choice.

(c) For any school district of choice that is a basic aid district, the Superintendent of Public Instruction shall calculate for that basic aid district an apportionment of state funds that provides 70 percent of the district revenue limit calculated pursuant to Section 42238 that would have been apportioned to the school district of residence for any average daily attendance credited pursuant to this section. For purposes of this subdivision, the term "basic aid district" means a school district that does not receive from the state, for any fiscal year in which the subdivision is applied, an apportionment of state funds pursuant to subdivision (h) of Section 42238.

(d) The State Allocation Board shall develop procedures to ensure that the average daily attendance of pupils admitted by a school district of choice pursuant to this article shall be credited to that school district for the purposes of any determination under Article 2 (commencing with Section 17010) of Chapter 12 of Part 10 that utilizes an average daily attendance calculation.

48311. Upon request of the pupil's parent or guardian, each school district of choice that admits a pupil under this section to any school or program of the district may provide to the pupil transportation assistance within the boundaries of the district to that school or program, to the extent that the district otherwise provides transportation assistance to pupils.

48312. Each school district may make information regarding its schools, programs, policies, and procedures available to any interested person upon request.

48313. (a) Pursuant to this article, each school district electing to accept transfer pupils may keep an accounting of all requests made for alternative attendance and records of all disposition of those requests that may include, but are not to be limited to, all of the following:

- (1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records may indicate the reasons for the denials.
- (2) The number of pupils transferred out of the district.
- (3) The number of pupils transferred into the district.

(b) The information maintained pursuant to subdivision (a) may be reported to the governing board of the school district at a regularly scheduled meeting of the governing board. If the information is reported to the governing board of the school district, the information shall be reported to the Superintendent of Public Instruction annually, and the superintendent shall make the information available to the Governor, the Legislature, and the public.

48314. It is the intent of the Legislature that every parent in this state be informed of their opportunity for currently existing choice options under this article regardless of ethnicity, primary language, or literacy.

48315. This article shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 56836.155 of the Education Code is amended to read:

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Office of the Legislative Analyst, shall do the following:

- (1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to

Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Office of the Legislative Analyst for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998-99 fiscal year and each fiscal year thereafter to and including the 2003-04 fiscal year, the superintendent shall perform the following calculation to determine each special education local plan area's adjusted entitlement for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount offunding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002-03 and 2003-04 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997-98 fiscal year, the superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997-98 fiscal year.

(f) On or before March 1, 2003, the Office of the Legislative Analyst, in conjunction with the Department of Finance and the department, shall submit to the Legislature a new study of the incidence multiplier, with recommendations as to the necessity of continuing to adjust the funding formula contained in this chapter for the purposes of this section to the extent that funding is provided for this purpose. The Office of the Legislative Analyst may contract for this study. It is the intent of the Legislature to provide funding for this study in the Budget Act of 2002.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that laws regarding pupil attendance, including those laws regarding pupils with special needs, are enacted at the earliest possible time, it is necessary that this act take effect immediately.

Senate Bill No. 140
CHAPTER 529

An act to amend Section 51747.3 of. to amend. add, and repeal Section 48204 of, and to add Section 46601.5 to, the Education Code, relating to school attendance, and declaring the urgency thereof. to take effect immediately.

[Approved by Governor September 24,2003. Filed with Secretary of State September 25,2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 140, Denham. Education: school attendance requirements.

(1) Existing law required any 2 school districts entering into an agreement for interdistrict attendance to give consideration to the child care needs of the pupil and required any district that entered into an agreement for interdistrict attendance to allow the pupil to remain continuously enrolled in the school district of choice, subject to certain requirements. Existing law made these provisions operative until July 1, 2003. This bill would reenact those provisions, would additionally prohibit a school district from requiring a pupil in kindergarten or any of grades I to 6, inclusive, attending the school pursuant to an interdistrict attendance agreement originally executed on or after the effective date of the act to reapply for interdistrict attendance in that school district, unless the pupil ceased to receive child care in the district, and would encourage a school district to allow any pupil to remain continuously enrolled in the school district of choice if the parent or guardian so chooses. This bill would extend the operative date of those provisions until July 1,2007.

(2) Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements.

This bill would additionally authorize the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, as specified.

This bill would make those provisions authorizing the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade inoperative on and after July 1, 2007, and would repeal the provisions on January 1, 2008.

(3) This bill would make other technical and conforming changes.

(4) This bill would become operative only if AB 97 is enacted and takes effect.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 46601.5 is added to the Education Code, to read:

46601.5. (a) The governing boards of any two school districts that have been requested by a pupil's parent or legal guardian to enter into an agreement for interdistrict attendance pursuant to Section 46600 are encouraged to, in considering that request, give consideration to the child care needs of the pupil.

(b) The governing board of any school district that has entered into an agreement for the interdistrict attendance of a pupil based on that pupil's child care needs may not require those pupils in kindergarten or any of grades 1 to 6, inclusive, to reapply for an interdistrict transfer originally granted pursuant to an agreement executed on or after the effective date of this section unless the pupil ceases to receive child care in the district and is encouraged to allow any pupil to remain continuously enrolled in the school district of choice if the parent or guardian so chooses. subject to paragraphs (1) to (6), inclusive, of subdivision (b) of Section 48204.

(c) The governing board of any high school district whose feeder elementary school has entered into an agreement with another school district for the interdistrict attendance of a pupil based on that pupil's child care needs is encouraged to allow that pupil to continue to attend school through the 12th grade in the same district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (b) of Section 48204.

(d) This section shall remain in effect only until July 1,2007, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 2007, deletes or extends that date.

SEC. 2. Section 48204 is added to the Education Code, to read:

48204. (a) Notwithstanding Section 48200, a pupil is deemed to have complied with the residency requirements for school attendance in a school district, if he or she is any of the following:

(1) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in a home or institution described in this subdivision shall provide evidence to the school that the placement or commitment is pursuant to law.

(2) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(3) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(4) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division II of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the caregiver's home, unless the school district determines from actual facts that the pupil is not living in the caregiver's home.

(5) A pupil residing in a state hospital located within the boundaries of that school district.

(b) A school district may deem a pupil as having complied with the residency requirements for school attendance in the school district if one or both the parents or legal guardians of the pupil is employed within the boundaries of that school district.

(1) This subdivision does not require the school district within which the parents or guardians of a pupil are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the parents or guardians of the pupil is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the district.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) The governing board of a school district that prohibits the transfer of a pupil pursuant to paragraph (1), (2), or (3) is encouraged to identify, and communicate in writing to the parents or guardians of the pupil, the specific reasons for that determination and is encouraged to ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision is calculated pursuant to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever amount is greater.

(C) For any district with an average daily attendance of 2,501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever amount is greater.

(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one or both parents of a pupil is employed, or where the legal guardian of the pupil is employed, the pupil does not have to reapply in the next school year to attend a school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses and if one or both of the pupil's parents or guardians continues to be employed by an employer situated within the attendance boundaries of the school district, subject to paragraphs (1) to (6), inclusive.

(c) This section is inoperative on and after July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 48204 of the Education Code, as amended by Section 19.5 of Chapter 299 of the Statutes of 1997, is amended to read:

48204. Notwithstanding Section 48200, a pupil is deemed to have complied with the residency requirements for school attendance in a school district, if he or she is:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under

Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in the home or institution shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division II of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the caregiver's home, unless the school district determines from actual facts that the pupil is not living in the caregiver's home.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) This section is operative on and after July 1, 2007. SEC. 4. Section 51747.3 of the Education Code is amended to read: 51747.3. (a) Notwithstanding any other provision of law, a local educational agency, including, but not limited to, a charter school, may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the agency has provided any funds or other thing of value to the pupil or his or her parent or guardian that the agency does not provide to pupils who attend regular classes or to their parents or guardians. A charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district, or to his or her parent or guardian.

(b) Notwithstanding paragraph (1) of subdivision (d) of Section 47605 or any other provision of law, community school and independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported.

(c) The Superintendent of Public Instruction shall not apportion funds for reported average daily attendance, through full-time independent study, of pupils who are enrolled in school pursuant to subdivision (b) of Section 48204.

(d) In conformity with Provisions 25 and 28 of Section 2.00 of the Budget Act of 1992, this section is applicable to average daily attendance reported for apportionment purposes beginning July 1, 1992. The provisions of this section are not subject to waiver by the State Board of Education, by the State Superintendent of Public Instruction, or under any provision of Part 26.8 (commencing with Section 47600).

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maintain the status of existing law governing school district attendance, it is necessary that this act take effect immediately. SEC. 6. This act shall become operative only if Assembly Bill 97 is enacted and takes effect.

SECTION SIX

FORMS

**REQUEST FOR INTERDISTRICT TRANSFER
MARIN COUNTY, CALIFORNIA**

PLEASE PRINT

USE A SEPARATE FORM FOR EACH CHILD

STUDENT'S NAME: _____

PART A: Parent/Guardian completes this section and returns to DISTRICT OF RESIDENCE

☐ **New Request** ☐ **Renewal** (continuing transfer) School year _____ Grade Level _____
(for year requested) (for year requested)

I am requesting the transfer:

| | | |
|-------------|--|--|
| FROM | | |
| | Name of District of Residence | Name of School Currently Attending |
| | | Grade |
| TO | | |
| | Name of District of Desired Attendance | School Requested (District retains right to assign any school) |

Each school district in Marin County has a policy with locally determined criteria for accepting/denying/revoking interdistrict transfers which may or may not include the reasons listed below. After reviewing your local district policy, check the reason for requesting the transfer, and attach written supporting explanation and/or documentation, if necessary. District policy may allow for revocation of a permit for interdistrict enrollment based on such criteria as student behavior, attendance and academic performance. District policy may also allow for conditional approval, dependent on program capacity or class size limits.

Check reason:

- ☐ Complete current school year
- ☐ Child care _____
Name and address of provider _____
- ☐ Specific Program Needs such as independent study (please describe) _____
- ☐ Sibling Attending (Name, Grade Level & School) _____
- ☐ Other _____

Is this student currently under an "Expulsion Order"? ☐ Yes ☐ No If yes, please attach Expulsion Order.

Has student been expelled in the past? ☐ Yes ☐ No

Has the expulsion been expunged? ☐ Yes ☐ No If no, please attach expulsion order.

Is your child currently under an order of suspension? ☐ Yes ☐ No If yes, please attach order of suspension.

I DECLARE UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED ABOVE, INCLUDING THE REASON FOR REQUEST, IS TRUE AND ACCURATE. I UNDERSTAND THAT THIS COMPLETED FORM MAY BE RELEASED BY THE DISTRICT OF RESIDENCE TO THE DISTRICT OF DESIRED ATTENDANCE AND TO THE MARIN COUNTY OFFICE OF EDUCATION. I UNDERSTAND THAT THIS INFORMATION MAY BE VERIFIED, AND INACCURATE OR FALSE INFORMATION MAY SUBJECT MY REQUEST TO DENIAL OR REVOCATION. I ALSO UNDERSTAND THAT THE INTERDISTRICT TRANSFER REQUEST MUST BE RENEWED ANNUALLY. I UNDERSTAND THAT BOARD POLICY OF THE DISTRICT OF RESIDENCE MAY CONDITION CONTINUING APPROVAL OF THIS REQUEST ON STUDENT BEHAVIOR, ATTENDANCE AND ACADEMIC PERFORMANCE.

PLEASE PRINT

Parent/Guardian Names: _____ Date _____

Address _____
Street City State Zip

Home phone _____ Work phone _____ Email Address _____

SIGNATURE OF PARENT/GUARDIAN

PART B: District completes

ACTION OF DISTRICT OF RESIDENCE

☐ Approved ☐ Conditional Approval ☐ Denied

Reason: _____

By: _____
Authorized Representative Date

Title: _____

ACTION OF DISTRICT OF DESIRED ATTENDANCE

☐ Approved ☐ Conditional Approval ☐ Denied

Reason: _____

By: _____
Authorized Representative Date

Title: _____

Terms of Conditional Approval: _____

Please Note: Both districts must identify the length of the approval period, which may be for a period of one to five school years, and make specific reference to board policies that set forth the terms and conditions under which the permit shall be granted or denied, revoked, or not renewed.

PARENT'S RIGHTS

Relating to Interdistrict Attendance Agreement Requests

As a parent, or legal guardian, you have a right to:

- Request an interdistrict attendance permit from your district of residence to the district you desire your child to attend.
- Receive a written copy of local school board policy relating to interdistrict attendance agreement requests from both the district of your residence and the district you desire to attend.
- Whether you may appeal an adverse decision from either the district superintendent or designee to the local school board is subject to local school board policy.
- Receive written notice of local board action or superintendent's decision acting on behalf of the board within a period of time specified by local policy.
- Appeal a denial or failure to take timely action on your request to the Marin County Board of Education, after both the district of residence and the district of intended enrollment, appeals have been exhausted. Please call (415) 499-5801 for appeal procedures.

Revised: 5/14/14

NOTE:

Completed Request for Interdistrict Transfer form is to be returned to the District of Residence. District of Residence returns the completed NCR form (Pink Copy) to the Marin County Office of Education.

SOLICITUD DE TRANSFERENCIA ENTRE DISTRITOS
CONDADO DE MARIN, CALIFORNIA

ESCRIBA EN LETRA DE MOLDE

Use un formulario por separado para cada niño

NOMBRE DEL ESTUDIANTE: _____

PARTE A: El padre o tutor completa esta sección y la devuelve al DISTRITO DE RESIDENCIA

☐ **Nueva solicitud** ☐ **Renovación** (transferencia continuada) Año escolar _____ Grado _____
(para el año solicitado) (para el año solicitado)

Yo estoy solicitando la transferencia:

| | | | |
|-----------|--|--|-------|
| DE | | | |
| | Nombre del distrito de residencia | Nombre de la escuela a la que asiste en el presente | Grado |
| A | | | |
| | Nombre del distrito al que desea asistir | Escuela solicitada (El distrito retiene el derecho de asignar cualquier escuela) | |

Marque la razón:

Cada distrito escolar del condado de Marin tiene una política con criterios determinados a nivel local para aceptar/negar/revocar las transferencias entre distritos, que puede o no incluir las razones siguientes. Después de revisar la política de su distrito escolar, marque el motivo de solicitar la transferencia y si es necesario, adjunte una explicación de apoyo por escrito y/o documentación. La política del distrito puede permitir la revocación de un permiso para inter-inscripción en base a criterios tales como el comportamiento, la asistencia y el rendimiento académico. La política del distrito también puede permitir la aprobación condicional, dependiendo de la capacidad del programa o los límites del tamaño de las clases.

☐ Año escolar completo actual
☐ Cuidado de niños _____

Nombre y dirección del proveedor

☐ Necesidad de programa específico tal como el de estudio independiente (por favor describa) _____
☐ Hermanos/as que asisten (Nombre, nivel de grado y escuela) _____
☐ Otra _____

¿Está el estudiante ahora bajo una "Orden de Expulsión"? ☐ Si ☐ No Si marcó Si, por favor adjunte la Orden de Expulsión

¿Ha sido el estudiante expulsado en el pasado? ☐ Si ☐ No

¿Ha sido cancelada la expulsión? ☐ Si ☐ No Si marcó No, por favor adjunte la Orden de Expulsión

DECLARO BAJO PENA DE FALSO TESTIMONIO QUE LA INFORMACION PROPORCIONADA ANTERIORMENTE, INCLUYENDO EL MOTIVO DE LA SOLICITUD, ES EXACTA Y VERDADERA. ENTIENDO QUE ESTE FORMULARIO PUEDE SER LIBERADO POR EL DISTRITO DE RESIDENCIA AL DISTRITO DE ASISTENCIA DESEADO Y A LA OFICINA DE EDUCACION DEL CONDADO DE MARIN, ENTIENDO QUE ESTA INFORMACION PUEDE SER VERIFICADA, Y QUE LA INFORMACION INEXACTA O FALSA PUEDE SOMETER MI SOLICITUD A SU NEGACION O REVOCACION. TAMBIEN ENTIENDO QUE LA SOLICITUD DE TRASLADO ENTRE DISTRITOS DEBE SER RENOVADA ANUALMENTE. ENTIENDO QUE LA POLITICA DEL DISTRITO DE APROBACION PUEDE CONDICIONAR LA APROBACION CONTINUADA DE ESTA SOLICITUD AL COMPORTAMIENTO, ASISTENCIA Y RENDIMIENTO ACADEMICO DEL ESTUDIANTE.

¿Está su hijo/a ahora bajo una Orden de Suspensión? ☐ Si ☐ No Si marcó Si, por favor adjunte la Orden de Suspensión.

Nombre del padre o tutor: _____ Fecha _____

Dirección _____
Calle Ciudad Estado Código postal

Teléfono de la casa _____ Teléfono del trabajo _____

FIRMA DEL PADRE O TUTOR

PARTE B: El distrito la completa

ACCION DEL DISTRITO DE RESIDENCIA

☐ Aprobada ☐ Aprobación condicional ☐ Negada

Razón: _____

Por: _____

Representante autorizado Fecha

Título: _____

ACCION DEL DISTRITO DE ASISTENCIA DESEADA

☐ Aprobada ☐ Aprobación condicional ☐ Negada

Razón: _____

Por: _____

Representante autorizado Fecha

Título: _____

Términos de la aprobación condicional: _____ **Por favor note:** Ambos distritos deben identificar la longitud del período de aprobación, que puede ser de uno a cinco años escolares, y hacer una referencia específica a las políticas del consejo que establecen los términos y condiciones en que el permiso será concedido o negado, revocado o no revocado.

DERECHOS DE LOS PADRES

Acuerdo en relación a solicitudes de asistencia entre distritos

Como padre, madre o tutor legal, usted tiene derecho a:

- Solicitar un permiso de asistencia interdistrital de su distrito de residencia al distrito que usted desea que su hijo asista.
- Recibir una copia escrita de la política del consejo escolar en relación con los acuerdos de solicitudes de asistencia entre distritos de ambos, el distrito de su residencia y el distrito al que se desea asistir.
- Si usted desea apelar una decisión adversa del superintendente o persona designada del distrito ante el consejo de educación local, está sujeto a la política del consejo escolar.
- Recibir una notificación por escrito del consejo local o de la decisión del superintendente que actúa en nombre del consejo de educación en un plazo de tiempo estipulado por la política local.
- Apelar una negación o falta de acción oportuna de su solicitud al Consejo de Educación del Condado de Marin, después de que las apelaciones tanto al distrito de residencia como al distrito de inscripción deseado se hayan agotado. Por favor llame al (415) 499-5801 para los procedimientos de apelación.

NOTA:

El formulario completo de Petición de Transferencia Interdistrital debe devolverse al distrito de residencia. El distrito de residencia devuelve el formulario completo de NCR (copia rosada) a la Oficina de Educación del Condado de Marin.

**EMPLOYMENT RELATED REQUEST FOR TRANSFER
OF A SCHOOL PUPIL**

[Pursuant to Education Code Section 48204(b)(see reverse)]

PART A: Parent/Guardian fill out this section and RETURN TO DISTRICT OF EMPLOYMENT:

School Year Requested _____ District of Residence _____
District of Employment _____ Parent/Guardian _____
Home Address _____ City _____ Zip _____
Grade Level (for year requested) _____ Home Phone _____ Work Phone _____

_____, of whom I am the parent or legal guardian, is a student in the
(Student's name)

_____ School District. I request transfer of this pupil under the
provisions of Education Code Section 48204(b). **Employment must be verified annually.**

I am employed by:

_____ (name of employer)
_____ (employment address)
_____ (employment phone)

Place of employment located in the _____ School District.

Contact district for specific employment verification requirements.

VERIFICATION OF EMPLOYMENT MUST BE ATTACHED

I declare under penalty of perjury that the information provided above, including the reason for request, is true and accurate. I understand that this information may be verified, and inaccurate or false information, may subject my request to denial or revocation.

Parent/Guardian Signature: _____ Date: _____
(Parent – Do not write below this line.)

PART B: Action by District of Parent Employment: Date received by district: _____

- [] Employment of parent/guardian in this district has been verified and the governing board of this district has **conditionally* approved** the requested transfer.
- [] The request for transfer is **denied** pursuant to a determination by the governing board as recorded in the minutes of the board meeting on _____ (meeting date). The reasons for this determination are attached.

By: _____ District: _____
Authorized Representative

Title: _____ Date: _____

* Approval is contingent upon a determination as to whether the additional costs of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

PART C: Notification to District of Residence

Notification to district of residence for purposes of determination under Education Code 48204(b),
(6), (A), (B) or (C).

California Education Code 48204(b): Residency Requirements

Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following:

(b) A school district may deem a pupil as having complied with the residency requirements for school attendance in the school district if one or both the parents or legal guardians of the pupil is employed within the boundaries of that school district.

(1) This subdivision does not require the school district within which the parents or guardians of a pupil are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the parents or guardians of the pupil is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the district.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) The governing board of a school district that prohibits the transfer of a pupil pursuant to paragraph (1), (2) or (3) is encouraged to identify, and communicate in writing to the parents or guardians of the pupil, the specific reasons for that determination and is encouraged to ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision is calculated pursuant to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5e percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever amount is greater.

(C) For any district with an average daily attendance of 2,502 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever amount is greater.

(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one or both parents of a pupil is employed, or where the legal guardian of the pupil is employed, the pupil does not have to reapply in the next school year to attend a school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses and if one or both of the pupil's parents or guardians continues to be employed by an employer situated within the attendance boundaries of the school district, subject to paragraphs (1) to (6), inclusive.

(c) This section is inoperative on and after July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed. (Added by Stats. 2003, c.529 (S.B. 140), § 2, eff. Sept. 25, 2003.)

INFORMATION:

1. Completed Employment Related Request for Interdistrict Transfer of a School Pupil starts with the district of employment. If approved at that level, forward to district of residence.
2. There are no appeal provisions to the Marin County Board of Education on employment related requests.

**SOLICITUD DE TRANSFERENCIA DE UN ALUMNO
RELACIONADA CON EL EMPLEO**

[De conformidad con la Sección 48204(b) del Código de Educación (vea el reverso)]

PARTE A: El padre o tutor llena esta sección y la devuelve AL DISTRITO DE EMPLEO:

Año escolar solicitado _____

Distrito de residencia

Distrito de empleo

Padre o tutor

Dirección de la casa Ciudad Código Postal

Nivel de grado (para el año solicitado) _____

Teléfono de la casa

Teléfono del trabajo

_____, de quien yo soy el padre o tutor legal, es un alumno en el
(Nombre del estudiante)

Distrito Escolar _____. Yo solicito la transferencia de este
alumno de conformidad con la sección 48204(b) del Código de Educación. **El empleo debe ser verificado
anualmente.**

Soy empleado de:

(nombre del empleador)

(dirección del empleo)

(teléfono del empleo)

Lugar de empleo ubicado en el Distrito Escolar _____.

Comuníquese con el distrito para los requisitos específicos de verificación de empleo.

SE DEBE ADJUNTAR LA VERIFICACION DE EMPLEO

Declaro bajo pena de perjurio que la información proporcionada anteriormente, incluyendo los motivos de la solicitud, es verdadera y exacta. Yo entiendo que esta información puede ser verificada, y la información inexacta o falsa puede causar la denegación o revocación de mi solicitud.

Firma del padre o tutor: _____ Fecha: _____
(Padre – No escriba debajo de esta línea.)

PARTE B: Acción del Distrito de empleo del padre: Fecha recibida por el distrito: _____

[] El empleo del padre o tutor en este distrito ha sido verificado y el consejo de educación del distrito ha **aprobado condicionalmente*** la transferencia solicitada.

[] La solicitud de transferencia es **negada** en virtud de una determinación por parte del consejo de educación como consta en el acta de la reunión del consejo de _____ (fecha de la reunión). Se adjuntan las razones de esta determinación.

Por: _____ Distrito: _____

Representante autorizado

Título: _____ Fecha: _____

* La aprobación está condicionada a una determinación en cuanto a si los costos adicionales de la educación del alumno superarían el importe de las ayudas estatales que se reciban como resultado de la transferencia.

PARTE C: Notificación al Distrito de Residencia

Notificación al distrito de residencia a efectos de la determinación bajo la sección 48204(b) del Código de Educación, (6), (A), (B) o (C).

Distribución:

MCOE Business Form No. 9/04

Blanco (original) – Distrito de empleo

Rosado – Oficina de Educación del Condado de Marin

Amarillo claro – Distrito de residencia

Amarillo oscuro – Padre o tutor

Código de Educación de California 48204(b): Requisitos de residencia

No obstante la Sección 48200, se considerará que un alumno ha cumplido con los requisitos de residencia para asistir a la escuela en un distrito escolar, siempre y cuando él sea uno de los siguientes:

(b) Un distrito escolar puede considerar que un alumno ha cumplido con los requisitos de residencia para asistir a la escuela en el distrito escolar si uno o ambos padres o tutor legal del alumno se emplea dentro de los límites de este distrito escolar.

(1) Esta subdivisión no requiere que el distrito escolar en el que los padres o tutores de un alumno se emplean admitan a los alumnos a la escuela. Los distritos no pueden, sin embargo, negarse a admitir a los alumnos bajo esta subdivisión en base a, con excepción de lo expresamente dispuesto en este inciso, la raza, etnia, sexo, ingreso de los padres, rendimiento escolar, o cualquier otra consideración arbitraria.

(2) El distrito en el que se establece la residencia de los padres o tutores del alumno, o el distrito escolar para el que el alumno va a ser transferido bajo esta subdivisión, puede prohibir la transferencia del alumno bajo esta subdivisión si el consejo escolar del distrito determina que la transferencia tendría un impacto negativo en el plan de integración ordenado por la corte o voluntario del distrito.

(3) El distrito escolar al que el alumno va a ser transferido bajo esta subdivisión puede prohibir la transferencia del alumno si el distrito determina que el costo adicional para educarlo supera el importe de las ayudas estatales recibidas como resultado de la transferencia.

(4) Se anima al consejo de educación de un distrito escolar que prohíbe el traslado de un alumno de conformidad con el párrafo (1), (2), o (3), a identificar y comunicar por escrito a los padres y tutores del alumno las razones específicas de la determinación, y se anima a asegurarse que la determinación y las razones específicas se precisen en el acta de la reunión del consejo en la que se dictó la resolución.

(5) El promedio de asistencia diaria de los alumnos admitidos de conformidad con esta subdivisión se calcula conforme a la Sección 46607.

(6) A menos que sea aprobado por el distrito de origen, esta subdivisión no autoriza una transferencia neta de alumnos de un distrito determinado, calculada como la diferencia entre el número de alumnos que salen del distrito y el número de alumnos que ingresan al distrito, en cualquier año fiscal, en exceso de las siguientes cantidades:

(A) Para cualquier distrito con una asistencia diaria promedio para un año fiscal de menos de 501, el 5 por ciento del promedio de asistencia diaria del distrito.

(B) Para cualquier distrito con una asistencia diaria promedio para ese año fiscal de 501 o más, pero menos de 2.501, un 3 por ciento del promedio de asistencia diaria del distrito, o 25 alumnos, la cantidad que sea mayor.

(C) Para cualquier distrito con una asistencia diaria promedio de 2.502 o más, un 1 por ciento del promedio de asistencia diaria del distrito, o 75 alumnos, la cantidad que sea mayor.

(7) Una vez considerado que un alumno ha cumplido con los requisitos de residencia para la asistencia escolar de conformidad con esta subdivisión, y está inscrito en una escuela de un distrito escolar cuyos límites incluyen el lugar donde uno o ambos padres o tutor legal es empleado, el alumno no tiene que volver a solicitar al siguiente año escolar asistir a una escuela dentro del distrito escolar, y el consejo directivo del distrito permitirá al alumno asistir a la escuela hasta el grado 12º en ese distrito si el padre o tutor así lo decide y si uno o ambos padres o tutor del alumno sigue siendo empleado por un empleador situado en la zona de asistencia del distrito escolar, sujeto a los párrafos (1) a (6) inclusive.

(c) Esta sección no es operativa a partir del 1º de julio, 2007, y a partir del 1º de enero, 2008, se deroga, a menos que una ley promulgada posteriormente, que tenga vigencia antes del 1º de enero, 2008, elimine la extensión de las fechas en que se vuelve inoperante y se derogue (*Added by Stats. 2003, c.529 (S.B. 140), § 2, eff. Sept. 25, 2003.*)

INFORMACION:

1. La solicitud completada relacionada con el empleo para el traslado entre distritos de un alumno se inicia en el distrito de empleo. Si es aprobada a ese nivel, se continúa en el distrito de residencia.
2. No existen disposiciones de apelación ante el Consejo de Educación del Condado de Marin relacionadas con peticiones de empleo.

**ROMERO BILL/OPEN ENROLLMENT REQUEST FOR TRANSFER
OF A SCHOOL PUPIL**

[Pursuant to Education Code Section 48354, 48356 (see reverse)]

PART A: Parent/Guardian fill out this section and *RETURN TO DISTRICT OF REQUESTED ENROLLMENT*:

School Year Requested _____
District of Residence _____
Parent/Guardian _____
Home Address _____ City _____ Zip _____
Grade Level (for year requested) _____
Home Phone _____ Work Phone _____

_____, of whom I am the parent or legal guardian, is a student in the
(Student's name)

_____ School District. I request transfer of this pupil under the
provisions of Education Code Section 48354.

PART B: Action by District of Requested Enrollment: Date received by district: _____

- ☐ Enrollment in this district has been considered by the governing board of this district and has been **approved**.
☐ The request for transfer is **denied** pursuant to a determination by the governing board as recorded in the minutes of the board meeting on _____ (meeting date). The reasons for this determination are attached.

By: _____ District: _____
Authorized Representative

Title: _____ Date: _____

For purposes of "open enrollment" under the Romero Bill Education Code section 48356(a) allows each school district of enrollment to adopt "specific, written standards for acceptance and rejection" of open enrollment applications.

PART C: Notification to District of Residence

Education Code section 48357 provides that the district of enrollment has 60 days to accept or reject the application. Written notice of the acceptance or rejection must be given by the district of enrollment to both the parent/guardian and the district of residency.

Distribution:
MCOE Business Form No. 9/04
Updated: August 2011

White (original) - District of Employment
Pink - Marin County Office of Education

Yellow - District of Residence
Goldenrod - Parent/Guardian

EDUCATION CODE
48354 and 48356

48354 (a) The parent of a pupil enrolled in a low-achieving school may submit an application for the pupil to attend a school in a school district of enrollment pursuant to this article.

(b) (1) Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Sec. 6301 et seq.), on or before the first day of the school year, or, if later, on the date the notice of program improvement, corrective action, or restructuring status is required to be provided under federal law the district of residence shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

(3) The application deadline specified in paragraph (2) does not apply to an application requesting a transfer if the parent, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days prior to submitting the application.

(4) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.

(5) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(6) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article.

48356 (a) A school district of enrollment may adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1 on the Academic Performance Index determined pursuant to subdivision (a) of Section 48352.

(3) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204.

**SOLICITUD DE INSCRIPCION ABIERTA PARA LA TRANSFERENCIA DE UN ALUMNO/
PROYECTO DE LEY ROMERO /**

[De conformidad con las Secciones 48354, 48356 del Código de Educación (ver el reverso)]

PARTE A: El padre o tutor llena esta sección y la DEVUELVE AL DISTRITO DE INSCRIPCION SOLICITADO:

Año escolar solicitado _____
_____ Distrito de residencia

_____ Padre o tutor

_____ Dirección de la casa _____ Ciudad _____ Código postal

Grado (para el año solicitado) _____
_____ Teléfono de la casa _____ Teléfono del trabajo _____

_____, de quien yo soy el padre o tutor legal,
(Nombre del estudiante)

es un estudiante en el Distrito Escolar _____.

Yo solicito la transferencia de este alumno conforme a las disposiciones de la Sección 48354 del Código de Educación.

PARTE B: Acción del distrito de inscripción solicitado: Fecha recibida por el distrito: _____

- [] La inscripción en este distrito ha sido considerada por el consejo de educación de este distrito y ha sido **aprobada**.
[] La solicitud de transferencia es **negada** en virtud de una determinación del consejo de educación según consta en el acta de reunión del consejo del _____ (fecha de la reunión). Se adjuntan las razones para esta determinación.

Por: _____ Distrito: _____
Representante autorizado

Título: _____ Fecha: _____

A los efectos de la “inscripción abierta” bajo el Proyecto de Ley Romero Sección 48356(a) del Código de Educación, se permite que cada distrito escolar de inscripción adopte “normas escritas específicas de aceptación y rechazo” de las solicitudes de inscripción abierta.

PARTE C: Notificación al distrito de residencia

La Sección 48357 del Código de Educación establece que el distrito de inscripción tiene 60 días para aceptar o rechazar la solicitud. La notificación escrita de la aceptación o rechazo debe ser dada por el distrito de inscripción tanto a los padres o tutores y como al distrito de residencia.

| | | |
|-----------------------------|--|---|
| Distribución: | Blanco (original) - Distrito de empleo | Amarillo claro - Distrito de residencia |
| MCOE Business Form No. 9/04 | Rosado – Oficina de Educación del Condado de Marin | Amarillo oscuro – Padre o tutor |
| Updated: August 2011 | | |

CODIGO DE EDUCACION
48354 y 48356

48354 (a) El padre de un alumno matriculado en una escuela de bajo rendimiento puede presentar una solicitud para que el alumno asista a una escuela en el distrito escolar de inscripción de conformidad con este artículo.

(b) (1) De acuerdo con los requisitos de la Sección 116(b)(1)(E) de la Ley Federal de Educación Primaria y Secundaria del 2001 (20 USC sec. 6301 et seq.), en o antes del primer día del año escolar, o si fuera posterior, en la fecha de notificación del programa de mejoría, acción correctiva o reestructuración, se requiere bajo la ley federal que el distrito de residencia proporcione a los padres o tutores de todos los alumnos matriculados en una escuela determinada en el inciso (a) de la Sección 48352, una notificación de la opción de transferencia a otra escuela pública administrada por el distrito de residencia o de otro distrito escolar.

(2) Una solicitud pidiendo una transferencia en virtud del presente artículo deberá ser presentada por el padre de un alumno a la escuela del distrito de inscripción antes del 1º de enero del año escolar anterior al cual el alumno solicita la transferencia. El distrito escolar de inscripción podrá renunciar al plazo establecido en este párrafo.

(3) El plazo de solicitud especificado en el párrafo (2) no aplica a una solicitud que pida una transferencia si el padre con quien reside el alumno, está enlistado en el ejército y fue trasladado por el ejército dentro de los 90 días antes de la presentación de la solicitud.

(4) La solicitud puede pedir la inscripción del alumno en una escuela o programa específico dentro del distrito escolar de inscripción.

(5) Un alumno puede matricularse en una escuela en el distrito escolar de inscripción en el año escolar inmediatamente después de la aprobación de la solicitud.

(6) Con el fin de proporcionar oportunidades de prioridad de inscripción para los alumnos que residen en el distrito escolar, el distrito escolar de matriculación deberá establecer un plazo para la inscripción de alumnos residentes antes de aceptar las solicitudes de transferencia en virtud del presente artículo.

48356 (a) Un distrito escolar de inscripción podrá adoptar normas específicas escritas de aceptación y rechazo de las solicitudes en virtud del presente artículo. Las normas pueden incluir consideración de la capacidad de un programa, clase, grado, escuela o impacto financiero adverso. Sujeto a la subdivisión (b), y salvo que sea necesario de conformidad con la Sección 48355, las normas no incluirán el examen de logros académicos previo del alumno, condición física, dominio del idioma inglés, ingreso familiar o cualquiera de las características individuales establecidas en la Sección 200.

(b) Al considerar una solicitud de conformidad a este artículo, un distrito escolar no residente podrá aplicar sus requisitos habituales para la admisión a una escuela especializada o a un programa diseñado para servir a los alumnos dotados y talentosos.

(c) Con sujeción a las reglas y normas que se aplican a los alumnos que residen en el distrito escolar de matriculación, un alumno residente que está inscripto en una de las escuelas de conformidad con este artículo, no está obligado a presentar una solicitud para permanecer inscripto.

(d) Un distrito escolar de matriculación se asegurará que los alumnos inscriptos de conformidad con las normas adoptadas en virtud de esta sección son inscriptos en una escuela con un Índice de Rendimiento Académico más alto que el de la escuela en la que fueron matriculados con anterioridad y son seleccionados a través de un proceso al azar e imparcial, que prohíbe una evaluación de si un alumno debe ser inscripto en base a su desempeño individual académico o deportivo, o por cualquiera de las otras características establecidas en la subdivisión (a), excepto que a los alumnos que soliciten una transferencia en virtud del presente artículo se les asignará prioridad de aprobación de la siguiente manera:

(1) La primera prioridad para los hermanos de niños que ya asisten a la escuela deseada.

(2) La segunda prioridad para los alumnos que transfieran de una escuela de mejoría de programa clasificada en el rango 1 en el Índice de Desempeño Académico determinado conforme a la subdivisión (a) de la Sección 48352.

(3) Si el número de alumnos que solicitan una escuela en particular es superior al número de plazas disponibles en esa escuela, se llevará a cabo una lotería en el orden de prioridad del grupo identificado en los párrafos (1) y (2) para seleccionar a los alumnos al azar hasta que se llenen todos los espacios disponibles.

(e) La solicitud inicial de un alumno para su traslado a una escuela en un distrito escolar de inscripción no será aprobada si el traslado exige el desplazamiento en la escuela deseada de cualquier otro alumno que reside en el área de asistencia de la escuela o está inscripto en esa escuela.

(f) Un alumno aprobado para una transferencia a un distrito escolar de inscripción en virtud del presente artículo se considerará que ha cumplido con los requisitos de la Sección 48204.



MARIN COUNTY BOARD OF EDUCATION

APPEAL REGARDING DENIAL OF INTERDISTRICT ATTENDANCE REQUEST

The District of Residence and the District of Desired Attendance must act on the transfer request prior to appeal to the Marin County Board of Education.

Parent/Guardian making appeal: _____

Address: _____

Phone: (Home) _____ (Work) _____

Student Name: _____ Age: _____ Grade Level (for year requested): _____

District of Residence: _____ Number of Years: _____

District board approved _____ denied _____ the request for interdistrict attendance.

Date of board action: _____

Have all appeals within the district been exhausted? Yes _____ No _____

District of desired attendance: _____

District board approved _____ denied _____ the request for interdistrict attendance.

Date of board action: _____

Have all appeals within the district been exhausted? Yes _____ No _____

State the Reason for Request: (Attach additional sheets if necessary. Also attach any supporting documentation.)

Request for Closed Session:

The hearing will be in a public meeting of the Board unless one or both of the following circumstances exists.

(Check one/both)

_____ The appeal includes allegations against staff members and/or other students.

_____ The case is such that it will require using information of a personal/confidential nature concerning the student for whom transfer is requested.

Date: _____ Signature: _____

Parent will attend meeting: Yes _____ No _____

Please submit completed form to: Marin County Office of Education - (415) 499-5820.
P.O. Box 4925/1111 Las Gallinas Avenue
San Rafael, CA 94913

**This form must be submitted within 30 calendar days of the failure or refusal to issue a permit allowing the attendance, to the County board of education.
Failure to appeal within the required time is good cause for denial of an appeal.**

California Education Code 46601(a)(b)(c): Appeal to County Board

If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, 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 appeal to the county board of education.

If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each district not later than 30 calendar days prior to the commencement of instruction in that term in that district, the governing board of either district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the districts to permit that attendance, fails or refuses to enter 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 appeal to the county board of education.

Notifying districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of 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's designee that appeals within the districts have been exhausted. If new evidence or grounds for the request are introduced, the county board 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 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 or the county superintendent of schools, for good cause, may extend the time period for up to an additional 5 school days. The county 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 rules may provide for the granting of continuances upon a showing of good cause.
- (c) The county 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 in reaching a decision.

CONSEJO DE EDUCACIÓN DEL CONDADO DE MARIN

APELACIÓN CON RELACIÓN A LA NEGACIÓN DE LA SOLICITUD
DE ASISTENCIA INTERDISTRITAL

El Distrito de Residencia y el Distrito de Asistencia Deseada deben actuar sobre la solicitud de transferencia antes de apelar al Consejo de Educación del Condado de Marin.

Padre, madre o tutor que hace la apelación: _____

Dirección: _____

Teléfono: (Casa) _____ (Trabajo) _____

Nombre del estudiante: _____ Edad: _____ Nivel de grado (para el año solicitado): _____

Distrito de residencia: _____ Número de años: _____

El consejo del distrito aprobó _____ negó _____ la solicitud de transferencia interdistrito.

Fecha de acción del consejo: _____

¿Se han agotado todos los recursos dentro del distrito? Si _____ No _____

Distrito de asistencia deseada: _____

El consejo del distrito aprobó _____ negó _____ la solicitud de transferencia interdistrito.

Fecha de acción del consejo: _____

¿Se han agotado todos los recursos dentro del distrito? Si _____ No _____

Indique el motivo de la solicitud: (Adjunte hojas adicionales si necesario. También adjunte la documentación de apoyo).

Solicitud de sesión cerrada al público: La audiencia será en una reunión pública del Consejo a menos que exista una o ambas de las siguientes circunstancias. (Marque una o ambas)

_____ La apelación incluye acusaciones contra los miembros del personal y/u otros estudiantes.

_____ El caso es tal que se requiere el uso de información de carácter personal o confidencial sobre el estudiante para quien se solicita la transferencia.

Fecha: _____ Firma: _____

Los padres asistirán a la reunión: Si _____ No _____

Por favor envíe el formulario completado a: Marin County Office of Education – (415) 499-5801
P.O. Box 4925/1111 Las Gallinas Avenue
San Rafael, CA 94913

Este formulario debe ser presentado ante el Consejo de Educación del Condado dentro de los 30 días calendarios siguientes a la omisión o negativa a expedir un permiso permitiendo la asistencia. La falta de apelación dentro del tiempo requerido es motivo suficiente para la negación de un recurso de apelación

Sección 46601 (a)(b)(c) del Código de Educación de California: Apelación al Consejo del Condado

Si, dentro de los 30 días calendarios después que la persona que tenga la custodia legal de un alumno lo ha solicitado, el consejo gobernante de cualquiera de los distritos escolares no aprueba la asistencia interdistrito para el término actual, o, en ausencia de un acuerdo entre distritos, se niega o rechaza entrar en un acuerdo, el distrito que niega el permiso, o, en ausencia de un acuerdo, el distrito de residencia, asesorará a la persona que solicita el permiso sobre el derecho a apelar ante el consejo de educación del condado.

Si, dentro de los 14 días calendarios siguientes al inicio de la instrucción en un nuevo término en cada uno de los distritos escolares, respectivamente, cuando la persona que tenga la custodia legal de un alumno así lo ha solicitado separadamente a cada distrito a más tardar 30 días calendarios antes del comienzo de la instrucción en ese término en ese distrito, el consejo gobernante de cualquiera de los distritos no aprueba la asistencia interdistrito en ese término, o, en ausencia de un acuerdo entre los distritos para permitir esa asistencia, se niega a entrar en un acuerdo, el distrito que niega el permiso, o, en la ausencia de un acuerdo, el distrito de residencia, asesorará a la persona que solicita el permiso sobre el derecho a apelar ante consejo de educación del condado.

Los distritos notificantes deberán también, en todos los casos, asesorar a las personas que realizan sin éxito solicitudes de asistencia interdistrito, de todo lo siguiente:

- (a) La persona que tenga la custodia legal puede apelar, dentro de los 30 días calendarios siguientes a la falta de o negativa a expedir un permiso, o a entrar en un acuerdo que permita la asistencia, ante el consejo de educación del condado que tenga jurisdicción sobre el distrito de residencia del padre, madre o tutor legal o persona que tenga la custodia legal. La falta de apelación dentro del plazo requerido es causa suficiente para la denegación de un recurso de apelación. Una apelación será aceptada solo tras la verificación de la persona designada por el consejo del condado que las apelaciones dentro los distritos se han agotado. Si las nuevas pruebas o razones para la solicitud son presentadas, el consejo del condado puede remitir el asunto para su posterior consideración por el distrito o distritos. En los demás casos, la apelación será concedida o denegada en sus méritos.
- (b) El consejo de educación del condado, en un plazo de 30 días calendarios después que la apelación se ha presentado, deberá determinar si el alumno debe ser autorizado a asistir al distrito en el que desea asistir y el período de tiempo aplicable. En el caso de que el cumplimiento por parte del consejo del condado dentro tiempo requerido para determinar si el alumno debe ser autorizado a asistir en el distrito que el o ella desea asistir sea poco práctico, el consejo del condado o el superintendente de escuelas del condado, con causa justificada, podrá prorrogar el plazo por un máximo de 5 días escolares adicionales. El condado deberá proporcionar notificación adecuada a todas las partes de la fecha y la hora de cualquier audiencia programada y de la posibilidad de presentar declaraciones por escrito y documentación y de ser oído en el asunto de conformidad con las normas y reglamentos adoptados por el consejo de educación del condado. Las reglas del consejo del condado pueden disponer la concesión de aplazamientos si se demuestra un motivo suficiente.
- (c) El supervisor de asistencia del condado, u otra persona designada por el superintendente de las escuelas del condado, investigará para determinar si los recursos locales en la materia han sido agotados y para proporcionar cualquier información adicional que se estime útil para que el consejo del condado tome una decisión.

SECTION SEVEN

LEGAL OPINIONS

DELAINE EASTIN
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

LO: 1-95

LEGAL ADVISORY

DATE: March 3, 1995

CALIFORNIA STATE DEPARTMENT OF EDUCATION

721 Capitol Mall, Sacramento, CA 95814

CONTACT: Michael E. Hersher
Deputy General Counsel
PHONE: (916) 657-2453

To: County and District Superintendents of Schools;
Directors of Welfare and Attendance

From: Office of the General Counsel
Legal and Audits Branch

Subject: VERIFICATION OF RESIDENCY

This advisory is intended to assist districts and county offices regarding the information you may rely on to determine that a child is a resident for purposes of public school attendance. Although no California statute specifically defines "residence," this office has opined on the subject of residency documentation in several prior advisories. In the context of the homeless, this office advised districts to accept any kind of document, including a parental declaration, indicating an intent to remain in the district for an indefinite period.¹ This office has also advised districts that they may be "flexible" in accepting proof of parent employment within the district where the employment is difficult to verify with payroll records.² In addition, the Department of Education has promulgated regulations regarding eligibility for child care and development services that allow a wide range of documents to be accepted by providers as proof of residency.³

These opinions and regulations reflect a balance of several competing interests. First, the overriding concern is that every child that resides in California be educated somewhere. Second, a child's place of residence is sometimes difficult to determine, given the complexity and mobility of California families. Despite that difficulty, school districts need stability and predictability in attendance patterns in order to plan for and provide adequate services. Finally, while reasonable compliance with attendance accounting law is necessary, school districts are not law enforcement agencies.

Given these competing issues, what is reasonable proof of residency? In our view, that question must be answered in the context of particular facts. The general rule is that districts may

¹ Legal Advisory LO: 5-88 (Nov. 15, 1988), Calif. Department of Education, Legal and Audits Branch.

² Advisory Opinion No. 89-1 (June 19, 1989), Calif. Department of Education, Field Services Branch.

³ 5 California Code of Regulations, Section 18107(b).

accept a wide range of documents and parent representations regarding residency in the first instance. There is no particular list of documents that may be accepted; any reasonable evidence of residence is sufficient. A district may presume the legitimacy of the documents provided by the parents of a child at the time of enrollment. The district should retain a copy of any writing produced to verify residence.⁴ If no written document is available, a written verification of residence by the parents or a school official should be retained. In the first instance, it is within the discretion of district officials to develop reasonable procedures for the annual verification of each student's residence within the district. This standard is the same as that applied by the State Controller in reviewing district residency records for compliance.

However, when information comes to the attention of employees of the district indicating that the parents have provided false or unreliable evidence of residency, the district must either disenroll the child or make a reasonable effort to determine that the child actually resides within the district.⁵ The amount of effort necessary to make that determination may vary substantially from case to case and district to district. A district, however, should not ignore indications of obvious residency fraud by parents or guardians. It is a fact of life that districts located on international borders face a more difficult problem with residency than other districts. This problem has been recognized by the Legislature in Education Code sections 48051 and 48052, which allow non-resident students to cross the border daily to attend California schools if they pay tuition.

These are the general parameters within which districts and county offices must operate. For more specific assistance regarding particular residency questions, please contact Michael E. Hersher, Deputy General Counsel of this office at (916) 657-2453.

The guidance in this Legal Advisory is not binding on local education agencies or other entities. Except for the statutes, regulations, and court decisions that are referenced herein, this Legal Advisory is exemplary, and compliance with it is not mandatory. (See Education Code section 33308.5.)

⁴It should be noted that an opinion on this issue was requested by attorney Keith Bray from Richard Chivaro, Chief Counsel to the State Controller. Mr. Chivaro responded that such opinions should be obtained from the Department of Education, rather than the State Controller's office. To the extent that this Legal Advisory contains such an opinion, all future audits of attendance records should be guided by the principles stated herein.

⁵For example, if 25 unrelated children all claim the same post office box as their residence address, the evidence would appear to be unreliable.



CALIFORNIA STATE DEPARTMENT OF EDUCATION

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Bill Honig

Superintendent

of Public Instruction

Advisory Opinion No.89-1 -- June 19, 1989

Requested by: **LA MONT SKIBY, Superintendent**
Buttonwillow Union School District

Opinion by: **JOSEPH R. SYMKOWICK, General Counsel**
Michael E. Hersher, Staff Counsel

QUESTION

Superintendent La Mont Skiby of Buttonwillow Union School District (BUSD) has requested an opinion from the State Department of Education (SDE) on the following question:¹

May a school district prohibit parents from transferring their child to another school district where the sending district concludes that the parents are not employed in the receiving district or that the transfer is not based on childcare needs?

CONCLUSION

A sending school district does not have authority to unilaterally prohibit parents who reside within the sending

¹ Education Code section 33319.5 authorizes SDE to render, publish, and disseminate advisory opinions as follows:

The State Department of Education may encourage among school districts, county boards of education, and county superintendents of schools the implementation of the authority granted to those agencies by Section 35160, including the rendering to those agencies, upon request, advisory opinions on whether a program, activity, or course of action is authorized by Section 35160. The department may publish and disseminate those opinions.

Education Code section 35160 provides:

On and after January 1, 1976, the governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.

district from enrolling their child in another school district. The receiving district may enroll the child if that district determines that the residency requirements have been met.

ANALYSIS

Attendance at school is compelled by Education Code section 48200 which states, in relevant part:

Each person between the ages of 6 and 18 years not exempted under the provisions of this chapter... is subject to compulsory full-time education. Each person...shall attend the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located and each parent, guardian, or other person having control or charge of the pupil shall send the pupil to the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residence of either the parent or legal guardian is located. (Emphasis added.)

"Residence" is not defined in Section 48200.² The term does not have a standard or fixed legal meaning; rather, the term is construed to give effect to the purpose of particular legislation. (Burt v. Scarborough (1961) 56 Cal.2d 817, 821.) For the purposes of the compulsory education statute, "residence" has been limited in order to bring predictability to the enrollment level of each district and to ensure enforcement of the attendance laws. (Laton Joint Union High School Dist. v. Armstead (1933) 130 Cal.App. 628, 631.) However, in order to ensure that children attend school somewhere, even when they lack permanent street addresses, SDE has adopted the following definition of "residence:"³

² In fact, recent amendments to the statute deleted a reference to Welfare and Institutions Code section 17.1(a) which defined the residence of a child as:

The residence of the parent with whom a child maintains his or her place of abode or the residence of any individual who has been appointed legal guardian...

³ See, SDE Legal Advisory LO: 5-88, "Application of the Residency Requirements for Homeless Children and Youth" (Nov. 15, 1988).

Personal presence at some place with no present intention of definite and early removal and with purpose to remain for undetermined period...but not necessarily with design to stay permanently.... (Black's Law Dict.(5th ed. 1979) p. 1176, col. 2.)

Alternative methods of meeting the residency requirements of Section 48200 have been created by Education Code section 48204.⁴ In particular, Section 48204(f) states:

Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following:

(f) An elementary school pupil, one or both of whose parents, or whose legal guardian, is employed within the boundaries of that school district.

(1) Nothing in this subdivision requires the school district within which the pupil's parents or guardians are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subsection, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the pupil's parents or guardians is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the

⁴ Although it is not within the scope of the question raised by BUSD here, a question has repeatedly been raised as to whether a child may claim residency for school attendance purposes when living with a relative in a different district than the child's parents or legal guardians. Section 48204(d) allows a parent or guardian to establish the residence of a child "in a home located within the boundaries of that school district, provided such home is properly licensed as required by law." Under 22 C.C.R. section 80007(a)(11), the home of a relative is specifically exempted from the licensing requirements applied to "community care facilities." In SDE's opinion, if a parent establishes the residence of his or her child in the home of a relative (within the meaning of 22 C.C.R. sec. 80001(a)(43)), that child may attend school in the district in which the relative resides under Section 48204(d).

transfer would negatively impact the district's court ordered or voluntary desegregation plan.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) Any district governing board prohibiting a transfer pursuant to paragraph (1), (2), or (3) shall identify, and communicate in writing to the pupil's parent or guardian, the specific reasons for that determination and shall ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision shall be calculated pursuant to Section 46616.

(6) Unless approved by the sending district, this subdivision does not authorize a transfer of pupils out of any given district in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of that district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2501, 3 percent of the average daily attendance of the district or 25 pupils, whichever is greater.

(C) For any district with an average daily attendance of 2501 or more, 1 percent of the average daily attendance or 75 pupils, whichever is greater.

The question presented here is what are the relative powers and responsibilities of the sending and receiving school districts where a transfer has been requested under Section 48204(f). To begin with, Section 48204(f) is inherently ambiguous since it purports to create an alternative method of satisfying residency requirements, yet refers to interdistrict transfers. If the section is a residency statute, then the pupil would have a right to attend in any district for which the statutory requirements are met, without the need for an interdistrict transfer agreement under Education Code section 46600. Yet Section 48204(f) gives the receiving district

authority to refuse the transfer, suggesting that the receiving district must agree to accept the transfer.

A receiving district may refuse to admit any pupil who applies for a Section 48204(f) transfer because of the excessive cost of educating the pupil or for any reason that is not discriminatory or "arbitrary." Either district may prohibit the transfer if it would interfere with a desegregation plan. Finally, the sending district may prohibit the transfer of more than a specified percentage of its total enrollment for that fiscal year. The statute, then, gives each district the power to unilaterally block the transfer under certain circumstances.⁵

What is not clear from the face of the statute is which district has authority to determine whether the transfer request was valid in the first place? Section 48204(f) allows a parent to claim residence in a school district in which he or she is "employed." The purpose of this provision is not expressly stated. The purpose appears to be to allow parents who work a long distance from their homes more immediate access to their children during the school day. The original bill which carried the amendments to Section 48204(f) also added Education Code section 46601.5, which requires districts, in considering a request for an interdistrict transfer, to consider "the child care needs of the pupil." (Stats.1986, ch. 172, sec. 1.)⁶ We assume that the overall intent was to give working parents more child care choices and more flexibility in coordinating commuting, school attendance, and school-age child care.

A transfer may therefore be based upon parental employment or the pupil's child care needs. Such a request may be denied for the various reasons enumerated in Section 48204(f), for any legitimate reason by the receiving district under Section 48204(f)(1), or for any legitimate reason by either district under Section 46601.5. The statutes do not indicate which district must initially decide whether the request is based on

⁵ Presumably, the Legislature expected each district to respect the exercise of the other's judgment within its area of unilateral control. As a practical matter, each district is an independent entity and only a court could compel a district to comply with another district's decision.

⁶ Section 46601.5 provides:

The governing board of any two school districts that have been requested by a pupil's parent or legal guardian, to enter into an agreement for interdistrict attendance pursuant to Section 46600, shall, in considering that request, give consideration to the child care needs of the pupil.

actual employment or child care needs or the degree of proof that a district may require of the parents.

In SDE's opinion, Sections 48204(f) and 46601.5 create different authority and must be distinguished. Section 46601.5 clearly gives districts authority to enter into transfer agreements based on a pupil's child care needs. Either district may block such a transfer by refusing to enter an agreement. Section 48204(f), on the contrary, is an exception to a residency statute which gives a pupil the right to attend school in one or more districts, without the need for an interdistrict transfer agreement. If the Legislature had intended Sections 48204(f) and 46601.5 to operate in the same manner, they would have included them in the same statutory scheme. Having chosen to create two separate statutory schemes, we must assume the Legislature intended different results. (People v. Norwood (1972) 26 Cal.App.3d 148, 156.)

The question presented here is whether a sending school district may enact a policy regarding Section 48204(f) transfer requests and may reach a conclusion as to the merits of a parental request. Given the difference noted above between Sections 48204(f) and 46601.5, SDE concludes that the legislative intent was not to allow the sending district to exercise any authority over the merits of a transfer request under Section 48204(f). The receiving district is expressly authorized by the section to refuse to admit a pupil so long as the refusal is not arbitrary or discriminatory. The exercise of refusal power clearly requires the receiving district to make substantive determinations regarding a parental claim of employment in the district. SDE believes that the Legislature did not intend for both the sending and receiving districts to possess such authority over the same determination at the same time. If both districts had equal authority over a transfer request, it would create the anomalous and wasteful situation of two districts fighting over the right to enroll a pupil. The statute should be interpreted so as to avoid such an absurd result, if possible. (Steilberg v. Lackner (1977) 69 Cal.App.3d 780, 785.)

Education Code section 35160 authorizes a school district to conduct any program or activity that is not "in conflict with or inconsistent with, or preempted by, any law..." Based on the analysis above, SDE concludes that it would be inconsistent with the intended operation of Section 49204(f) for both the sending and receiving districts to reach conflicting determinations as to the merit of a transfer request based on employment. In our view, only the receiving district may determine the merits of such a transfer request.

We turn now to the specific transfer policy enacted by Buttonwillow Union School District. BUSD Policy No. 6201.1.D, currently states, in relevant part:

This Board of Trustees will consider parent or guardian requests for interdistrict transfers on an individual basis, however, such requests will be denied unless there is clear and compelling reason to permit the transfer. Examples of compelling reasons to permit the transfers include the following:

Child care needs of students in grades Kindergarten through sixth where the person(s) with whom the child resides work(s) regularly and cannot obtain child care in this district.

As a threshold matter, SDE believes that this policy may only be applied to employment-based transfer requests when BUSD is the receiving district. However, even assuming that BUSD is the receiving district, this particular policy statement raises a series of four additional questions regarding transfer requests. 1) May a district require that a parent demonstrate both employment and the availability of child care in the receiving district? 2) May the receiving district limit parental employment to "regular" work in that district? 3) What degree of proof of "regular" employment may a district require a parent to submit in support of a transfer request? 4) May a district require that such proof substantiate a "clear and compelling" reason for the transfer?

As to the first issue, the answer is no. Sections 48204(f) and 46601.5, though created by the same legislation, appear to create independent bases for requesting a transfer. That is, a parent may seek an interdistrict transfer based on either employment under Section 48204(f) or child care needs under Section 46601.5. Although parents often seek child care near their work for convenience, the statutory provisions are neither cross-referenced nor contingent upon each other. Therefore, Buttonwillow's policy, which requires a parent to demonstrate both employment and child care within the receiving district, is too restrictive; it conflicts with the intent of the Legislature to allow either basis for transfer.

The answer to the second question depends upon the meaning of "regular." SDE believes that a receiving district may determine whether an assertion of employment in another district is genuine. However, "employment," like "residence" discussed above, does not have a fixed legal meaning. The term must be interpreted in light of the intent of the particular statute in which it is used. (Knight v. Bd. etc. Employees' Retirement (1948) 32 Cal.2d 400, 402.) Section 48204(f) appears to be aimed at such employment that causes a parent to be present in the receiving district for such substantial periods of time that various family needs can be better met by having the children and the parents in closer proximity during the day. This purpose is

very general and does not necessarily depend on such concepts as full-time, part-time, or intermittent employment, as defined by other statutes. The Buttonwillow policy, which requires employment to be "regular," would be permissible if its intent was to identify actual employment which requires substantial periodic presence in the receiving district during the school year. It would not be within the district's authority to limit transfers to parents with regular assigned shifts, whether in full or part-time jobs. However, it would be reasonable for a district to find that infrequent or occasional work performed in the receiving district was not sufficient to justify a transfer.

As to the third question involving the degree of proof, we believe that a district may accept a parental assertion of employment in another district at face value. There is no legal requirement that districts engage in thorough independent investigations of such parental requests. However, it is certainly within the district's authority to require substantiation of a parental assertion, such as a statement from the employer indicating the hours and conditions of employment or reasonable evidence of self-employment, if the district believes such additional support is warranted. This is particularly true where the district has independent reason to believe that the parental claim of employment is suspect.⁷

As to the fourth question, we believe that a parent may be required to submit a reason for transfer that is "clear and compelling." The general rule for determining the appropriate school district is the residency requirement of Section 46600. This rule furthers the strong policy interest in stability of district enrollment and in predictability of average daily attendance and financial resources from year to year. (Laton Joint Union School Dist. v. Armstead, *supra*, 130 Cal.App. at p. 631.) Sections 48204 and 46601.5 provide exceptions to that rule; they further the special interests of a limited number of families and, therefore, should be narrowly construed to allow transfers only in cases where a clear need has been established. (City of National City v. Fritz (1949) 33 Cal.2d 635, 636.) In SDE's opinion, a "clear and compelling" standard balances competing interests and still requires the district to act reasonably in reviewing parental requests.

⁷ In a prior advisory by SDE regarding homeless children and youth, we advised school districts to be flexible in accepting proof of residency. (See fn. 3 above.) Such flexibility is particularly necessary where the parents, due to their circumstances, are unable to produce proof of a "regular" or permanent street address or even post office box. Similar consideration should be given to parents whose employment is impossible to verify in the usual manner.

Based on all the foregoing, it is SDE's conclusion that a sending district is without authority to determine the merits of a parental request for transfer of a pupil based on the parent's place of employment. A receiving district may determine the merits of such a request by reviewing evidence of actual and substantial employment in the receiving district.

mh/

DATE: November 15, 1988

LEGAL ADVISORY

CALIFORNIA STATE DEPARTMENT OF EDUCATION
721 CAPITOL MALL, SACRAMENTO, CA 95814

CONTACT: Joyoe Eckren
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PHONE: (916) 445-4694

To: County and District Superintendents of Schools;
Directors of Welfare and Attendance

From: Joseph R. Symkowick, General Counsel
Legal and Audits Branch

Subject: APPLICATION OF THE RESIDENCY REQUIREMENTS FOR HOMELESS
CHILDREN AND YOUTH

This advisory is designed to assist districts with the interpretation of California's residency laws as they apply to admission to the public schools. Its purpose is to suggest ways of determining residency so as not to exclude homeless children from the public schools. It should not be generalized to populations other than the homeless.

In 1987 Congress enacted Title VII, subtitle B of the McKinney Homeless Assistance Act (Act) to address the educational needs of homeless children.¹ Congress stated that:

The purpose of this subtitle is to make plain the intent and policy of Congress that every child of a homeless family and each homeless youth be provided the same opportunities to receive free, appropriate educational services as children who are residents of the state. No child or youth should be denied access to any educational services simply because he or she is homeless. Of particular concern are potential disputes between school districts over the placement of these children, which could result in the homeless being denied an education in any school district.²

¹42 U.S.C. sections 11432 - 11433.

²House Conf. Report No. 100-174 100th Cong., 1st Sess.; reprinted in [1987] U.S. Code Cong. & Admin. News, 362, 472.

To carry out the purposes of this Act, Congress has made grants to State Educational Agencies to begin the planning processes. It is anticipated that in future years, funds will also be available for allocation to local educational agencies.

As a recipient of these federal funds, California's plan must ensure that homeless youth are able to participate in education, in their school district of origin or in the school district in which the pupil is living, whichever is in the best interests of the child. The State plan must also contain a mechanism to resolve disputes which arise between districts over the responsibility to educate homeless children. The Act requires that "any State that has a residency requirement as a component of its compulsory school attendance laws...will review and undertake steps to revise such laws to assure that homeless youth are afforded a free and appropriate public education."³

California's compulsory education law⁴ has long been interpreted as incorporating a residency requirement,⁵ requiring the pupil to attend school in the district wherein the pupil's parent or legal guardian resides.

Explicit exceptions to the residency requirement are contained in various education code sections.⁶ Interpretive exceptions have historically been made for children who live with relatives or other responsible adults, other than their parents or legal guardians.⁷

There is, however, no explicit residency exception for homeless children. As the residency law is typically applied, if the parents cannot provide proof of a street address within the district, the child is denied admission. Furthermore, because the term "residency" is ill-defined and because of fiscal and desegregation concerns, school officials are often reluctant to accept temporary addresses, post office box addresses and similar indices of residency. Yet, requiring proof of an actual street

³42 U.S.C. section 11431.

⁴Education Code section 48200.

⁵See, for example, Laton Joint Union High School v. Armstead (1933) 130 Cal. App. 628; 11 OPS. CAL. ATTY. GEN. 59; 26 OPS. CAL. ATTY. GEN. 269; 67 OPS. CAL. ATTY. GEN. 452.

⁶See, for example, section 46605 (newly formed districts); section 48204 (interdistrict attendance); sections 56156.5 and 56167 (redefining residency requirements for special populations).

⁷11 OPS. CAL. ATTY. GEN. 59

address may be an overly restrictive interpretation of the residency requirement⁸ and may deny otherwise eligible pupils their right to receive a public education.

This advisory attempts to clarify the purpose and meaning of the "residency" requirement, and how it can be applied to effect the legislative purpose without unnecessarily denying homeless pupils access to public education.

1. What does residency mean for purposes of admission to the public schools?

"Residency" should not be construed so as to require a permanent and fixed home to which one intends to return in perpetuity, but rather as:

Personal presence at some place with no present intention of definite and early removal and with the purpose to remain for an undetermined period, but not necessarily with a design to stay permanently. [See discussion below]

Education Code section 48200, from which the residency requirement is derived, is California's compulsory education law. It establishes that parents, legal guardians, or other persons having control or charge of a pupil must send that pupil to school. It compels the pupil to attend. The primary purpose of the statute, therefore, is to ensure that every person of school age attends school.⁹ Thus, it should be liberally construed to effect this purpose.

By reviewing the exceptions to the residency requirement (e.g., section 48204, Interdistrict Attendance) another purpose - to ensure orderly and predictable attendance patterns within the various districts - is evident.¹⁰ A similar purpose is to limit

⁸California Education Code section 2 requires that the code "be liberally construed, with a view to effect its objects and to promote justice."

⁹11 OPS. CAL. ATTY. GEN. 59, 60.

¹⁰Laton Joint Union High School Dist. v. Armstead, supra, 130 Cal.App. 628. The legislative and interpretive history of the compulsory education law indicates that the legislature intended that districts have some way of restricting admission to the public schools. Prior to 1955, the Attorney General interpreted the residency requirement as allowing districts to exclude children from school attendance if the child was living with other than the parent or legal guardian for the sole purpose

the benefit of a free public education to those who reside within California. But even these exceptions are designed to ensure that children attend school. They are not designed to exclude children or to make admission prohibitively cumbersome.¹¹

Thus, it is the State Department of Education's position that the residency requirement must be broadly and liberally construed to ensure that all school-aged children who reside in California are permitted to attend the public schools.

The word "residence" is a term with no definite legal meaning. It is subject to varying constructions, depending upon the purposes of the particular statute.¹²

Sometimes "residence" is used in the legal sense of "domicile". Blacks Law Dictionary, Fifth Edition, distinguishes these two terms as follows:

Residence. Personal presence at some place with no present intention of definite and early removal and with purpose to remain for undetermined period... but not necessarily with design to stay permanently....

Residence means living in a particular locality, but domicile means living in that locality with the intent to make it a fixed and permanent home. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention

of attending school there. (11 OPS. CAL. ATTY. GEN. 59) In 1955, the legislation was amended, replacing the word "resides" with the word "lives". The Attorney General interpreted this amendment to mean that the pupil was eligible to attend the district wherein he lived without an interdistrict agreement and without regard to his motive or intent for living in the district. (26 OPS. CAL. ATTY. GEN. 269) In 1977, the statute was again amended to restore the term "resides". It is of interest that this latter amendment coincides in time with much of the desegregation litigation, and was probably intended to restore the prohibition against living with friends or relatives simply for the purpose of attending the public schools there.

¹¹Further evidence that the primary purpose of the compulsory education law is to ensure school attendance is that sections 48291-48295 provide for penalties for non-attendance.

¹²Nadler v. California Veterans Board (1984) 152 Cal.App.3d 707, 715 n.5; Burt v. Scarborough (1961) 56 C.2d 817, 821.

to make it one's domicile [citations omitted]. "Residence" is not synonymous with "domicile", though the two terms are closely related; a person may have only one legal domicile at one time, but he may have more than one residence [citations omitted].

It is the State Department of Education's position that "residence" should not be confused with "domicile" for purposes of school admission and that a permanent and fixed dwelling place is not necessary to establish residency for school purposes.

2. Must a pupil provide evidence of a permanent home/street address in order to enroll in a public school?

No. Although this is a permissible method for districts to determine residency, it should not be applied routinely so as to exclude children from school attendance. Section 17.1 of the Welfare and Institutions Code states, in part, that the child's residence is "the residence of the parent with whom a child maintains his or her place of abode" (emphasis added). Blacks Law Dictionary, Fifth Edition, defines "abode" as "One's home; habitation; place of dwelling; or residence...Living place impermanent in character". A temporary shelter would certainly meet the test of either a residence or an abode. Other less traditional habitats, such as vehicles or tents, could also meet the definitions of residence or abode. The important factors are that the child is personally present somewhere within the district with a purpose to remain, but not necessarily to remain permanently. The intent of the law is to keep children in school, not to exclude them under the definition of residency.

3. What indices of residence, other than a street address, may a district accept?

Some districts accept letters from a social service agency verifying that the person does in fact live within the district boundaries. Hotel or motel receipts are also accepted by some districts. Although Post Office Box numbers are not favored, they could be combined with an affidavit by the parent declaring that the family is homeless and lives within the district. Where the family may be living on the street, it is permissible to accept an affidavit from the parent that they are living within the district with the purpose of remaining there.¹³

¹³Some proof of residency is necessary to prevent abuse of desegregation, interdistrict and assignment policies. However, districts should look for alternatives to avoid excluding those who are in the unfortunate situation of being homeless.

Where the pupil has no family (e.g., runaways), but wishes to attend school, it is recommended that the school district work cooperatively with either the social service agency or a legal advocacy group.

4. Must the original district serve a pupil whose family has temporarily been housed in another district but states the intention of returning to the original district?

Although the above analysis of residence would seem to relieve the original district of the obligation to serve the pupil, the federal law requires a determination of the child's best interests. The federal law states that:

(3) The local educational agency of each homeless child or youth shall either --

- (A) continue the child's or youth's education in the school district of origin for the remainder of the school year; or
- (B) enroll the child or youth in the school district where the child is actually living, whichever is in the child's best interest or the youth's best interest.¹⁴

[Emphasis added]

If it is clear that the relocation is temporary, and if distance factors are not prohibitive, the original district ought to make arrangements to continue serving the pupil through interdistrict agreement procedures¹⁵ if other factors indicate that it is in the best interests of the pupil.¹⁶

There are numerous other issues surrounding the education of homeless children and youth that are not addressed by this legal advisory. This advisory is intended solely to reassure districts that it is not unlawful to serve children who have no home. The State Department of Education will be working with an advisory

¹⁴42 U.S.C. section 11432(e)(3).

¹⁵Education Code section 46600.

¹⁶ The federal district court in Orozco by Arroyo v. Sobol (1987) 674 F.Supp. 125, ruling on a preliminary injunction while the merits were being argued, ordered the school district wherein the temporary residence was located to serve the pupil. Distance, duration, and the nebulous intent of the parent influenced this result.

committee to address such issues as timely receipt of health records and procedures for dealing with immunization issues, assignment, labeling, identification and reporting, and run-away youth. Further program advisories may be developed and sent to school districts as determined necessary or helpful.

If you have any questions regarding the legal residency issues raised herein, please contact Joyce Eckrem, Staff Counsel at 916-445-4694. Any policies which your district implements should, of course, be reviewed by your own counsel.

SAMPLE AFFIDAVIT

I, _____ declare as follows:
(Name)

1. I am the parent/legal guardian of _____
who is of school age and is seeking admission to _____
School District.

2. Since _____ our family has not had a permanent home,
(Date)
however, we have been residing within the _____
School District boundaries and intend to remain herein.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct and of my own personal knowledge and that if called upon to testify, I would be competent to testify thereto.

Date: _____ Signature: _____

I regularly contact and receive my mail at:

Name: _____

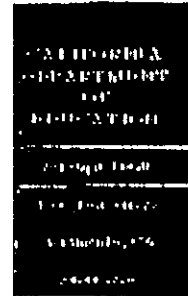
Address: _____

Phone Number: _____

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DELAINE EASTIN
State Superintendent of Public Instruction



[Students](#) > [Homeless](#) > [NCLB Provisions](#)

Date: May 31, 2002

To: County Superintendents
 District Superintendents
 Directors of State and Federal Categorical Programs

From: Joanne Mendoza
 Deputy Superintendent
 Curriculum and Instructional Leadership Branch

Subject: New Provisions of the Education of Homeless Children and Youth

This letter is to inform you of some of the changes contained in the No Child Left Behind (NCLB) Act of 2001, signed into law by President Bush on January 8, 2002 as it relates to the education of homeless children and youth. The McKinney-Vento Homeless Assistance Act, reauthorized in January 2002, ensures educational rights and protections for children and youth experiencing homelessness. This summary letter provides a brief overview of key provisions of the reauthorized Act. To acquire a copy of the legislation, it is available at the California Department of Education's Web Site at < <http://www.cde.ca.gov/iasa>>. You may also contact Leanne Wheeler, Education Programs Consultant, at 916-657-2871.

Definitions

According to the McKinney-Vento Homeless Assistance Act, the definition of homeless children and youth means an individual who lacks a fixed, regular, and adequate nighttime residence. These definitions also include children and youth who are living with a friend, relative or someone else because they lost their home or can't afford housing; children and youth who are staying in a motel or hotel due to lack of adequate alternative accommodations; children and youth who are living in an emergency or transitional shelter or a domestic violence shelter, and many other situations.

Academic Achievement

It is the policy of Congress that students in homeless situations should have access to the education and other services they need to ensure that they have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

Liaisons

Every LEA must designate an appropriate staff person as a local educational agency liaison for students in homeless situations. State coordinators and LEAs must inform school personnel, service providers, and advocates who work with families in homeless situations of the duties of the liaison.

Liaisons must ensure that:

- Children and youth in homeless situations are identified by school personnel and through coordination activities with other entities and agencies;
- Children and youth enroll in, and have full and equal opportunity to succeed in, the schools of the LEA;
- Families, children, and youth receive educational services for which they are eligible, including Head Start, Even Start, and pre-school programs administered by the LEA, and referrals to health, mental health, dental, and other appropriate services;
- Parents or guardians are informed of educational and related opportunities available to their children, and are provided with meaningful opportunities to participate in the education of their children;
- Public notice of the educational rights of students in homeless situations is disseminated where children and youth receive services under the Act (such as schools, family shelters, and soup kitchens);
- Enrollment disputes are mediated in accordance with the Enrollment Disputes section;
- Parents and guardians, and unaccompanied youth, are fully informed of all transportation services, including to the school of origin, and are assisted in accessing transportation services; and,
- Collaboration and coordination with state coordinators and community and school personnel responsible for the provision of education and related services to children and youth in homeless situations.

School Selection

Local Educational Agencies (LEAs) must, to the extent feasible, keep students in homeless situations in their school of origin (defined as the school attended when permanently housed, or the school in which they were last enrolled), unless it is against the parent or guardian's wishes.

Students can stay in their school of origin the entire time they are homeless, and until the end of any academic year in which they move into permanent housing.

Students may also choose to enroll in any public school that students living in the same attendance area are eligible to attend.

If a student is sent to a school other than the school of origin or the school requested by a parent/guardian, the LEA must provide a written explanation of its decision and the right to appeal, whether or not the parent/guardian disputes the placement.

Homeless liaisons must help unaccompanied youth (youth who are not in the physical custody of a parent or guardian) choose and enroll in a school, after considering the youth's wishes, and provide youth with notice of their right to appeal an enrollment choice that goes against their wishes.

Enrollment

LEAs must immediately enroll students in homeless situations, even if they do not have required documents, such as school records, medical records, proof of residency, or other documents. The term "enroll" is defined as attending classes and participating fully in school activities.

Enrolling schools must obtain school records from the previous school, and students must be enrolled in school while records are obtained. If a student does not have immunizations or immunization or medical records, the liaison must immediately assist in obtaining them, and the student must be enrolled in school in the interim.

States and LEAs must develop, review and revise their policies to remove barriers to the enrollment and retention of children and youth in homeless situations.

Dispute Resolution

Whenever a dispute arises, the student must be immediately admitted to the school of choice while the dispute is being resolved.

A written explanation of the school's decision must be provided if a parent, guardian or unaccompanied youth disputes a school placement or enrollment decision.

The school must refer the student, parent or guardian to the local liaison to carry out the dispute resolution process as expeditiously as possible.

Liaisons must ensure that this provision is followed for unaccompanied youth.

Transportation

At a parent or guardian's request, homeless students must be provided with transportation to and from their school of origin. For unaccompanied youth, transportation to and from the school of origin must be provided at the liaison's request. If the student's temporary residence and the school of origin are in the same LEA, that LEA must provide transportation. If the student is living outside the school of origin's LEA, the LEA where the student is living and the school of origin's LEA must determine how to divide the responsibility and cost of providing transportation, or they must share the responsibility and cost equally.

In addition to providing transportation to the school of origin, LEAs must provide students in homeless situations with transportation services comparable to those provided to other students.

Segregation

It is the policy of the Congress that homelessness alone is not sufficient reason to separate students from the mainstream school environment.

States that receive McKinney-Vento Act assistance are prohibited from segregating homeless students in separate schools, separate programs within schools, or separate settings within schools, except:

- States that have separate schools operated in FY2000 in a "covered county" are excluded from the prohibition, and are eligible to receive McKinney funds, providing

that the covered schools, and the LEAs that the homeless children enrolled in the covered schools are eligible to attend, meet the requirements specified for them in the Act (Covered counties are Orange County, CA; San Diego County, CA; San Joaquin County, CA; and Maricopa County, AZ).

- If McKinney-Vento services are provided on school grounds, schools must not provide services in settings within a school that segregate homeless children and youth from other children and youth, except as is necessary for short periods of time for health and safety emergencies, or to provide temporary, special, and supplementary services.
- SEAs and LEAs must adopt policies and practices to ensure that homeless children and youth are not segregated or stigmatized on the basis of their status as homeless.
- Services provided with McKinney-Vento Act funds must not replace the regular academic program and must be designed to expand upon or improve services provided as part of the school's regular academic program.

Statewide Activities

The Office of State Coordinator must provide technical assistance, in coordination with local liaisons, to all LEAs in order to ensure compliance with the following LEA requirements: school choice/placement; best interest determination; enrollment; enrollment disputes; records; comparable services; coordination; local liaison duties; review and revision of policies; and the prohibition on segregation.

Thank you for your attention to the education of homeless children and youth. If you have any questions about the contents of this letter, please contact Leanne Wheeler, Education Programs Consultant, at (916) 657-2871.

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Updated June 26, 2002

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Office of the Attorney General
State of California

*1 Opinion No. 01-316
November 19, 2001

THE HONORABLE HELEN MACLEOD THOMSON
MEMBER OF THE STATE ASSEMBLY

THE HONORABLE HELEN MACLEOD THOMSON, MEMBER OF THE STATE ASSEMBLY, has requested an opinion on the following questions

1. May a school district deny all applications for pupil admissions that are based upon a parent's employment within the district where the reason for the denial is that the district's school facilities are overcrowded at the relevant grade level?
2. May a school district that has admitted an elementary school pupil based upon a parent's employment within the district deny the pupil continued attendance at a school within the district because of overcrowded school facilities at the relevant grade level?
3. May a school district deny all applications for interdistrict attendance agreements that are based upon the child care needs of the pupil where the reason for the denial is that the district's school facilities are overcrowded at the relevant grade level?
4. May a school district that has entered into an interdistrict attendance agreement based upon the child care needs of the pupil deny the pupil continued attendance at a school within the district because of overcrowded school facilities at the relevant grade level?

CONCLUSIONS

1. A school district may deny all applications for pupil admissions that are based upon a parent's employment within the district where the reason for the denial is that the district's school facilities are overcrowded at the relevant grade level.
2. A school district that has admitted an elementary school pupil on the basis of a parent's employment within the district may not deny the pupil continued

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attendance at a school within the district because of overcrowded school facilities at the relevant grade level.

3. A school district may deny all applications for interdistrict attendance agreements that are based upon the child care needs of the pupil where the reason for the denial is that the district's school facilities are overcrowded at the relevant grade level.

4. A school district that has entered into an interdistrict transfer agreement based upon the child care needs of the pupil may not deny the pupil continued attendance at a school within the district because of overcrowded school facilities at the relevant grade level.

ANALYSIS

The questions presented for analysis concern the authority of a school district, when it has overcrowded school facilities, to deny attendance at its schools by pupils who reside outside the boundaries of the district. The two situations considered involve pupils whose parents are employed within the district and pupils who have child care needs within the district.

Normally, a child is required to attend school in the district in which the residence of either a parent or guardian is located. (Educ. Code, § 48200.) [FN1] However, section 48204 provides

"Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following

*2 "(b) A pupil for whom interdistrict attendance has been approved pursuant to [sections 46600-46611].

"(f) An elementary school pupil, one or both of whose parents, or whose legal guardian, is employed within the boundaries of that school district.

"(1) Nothing in this subdivision requires the school district within which the pupil's parents or guardians are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

"(4) Any district governing board prohibiting a transfer pursuant to paragraph (1), (2), or (3) shall identify, and communicate in writing to the pupil's parent or guardian, the specific reasons for that determination and shall ensure that the determination, and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

"(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, or where the pupil's legal guardian is employed, the pupil shall not have to reapply in the next school year to attend a school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive.

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While subdivision (f) of section 48204 allows for the admission of a pupil based upon a parent's employment, subdivision (b) of the statute allows for admission based upon the child care needs of the pupil by its reference to sections 46600-46611. [FN2] Subdivision (a) of section 46600 provides

"The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the districts. The agreement may provide for the admission to a district other than the district of residence of a pupil who requests a permit to attend a school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission.

"The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied.

"... The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the district of attendance."

Section 46601.5 additionally states

"(a) The governing boards of any two school districts that have been requested by a pupil's parent or legal guardian to enter into an agreement for the interdistrict attendance pursuant to Section 46600 shall, in considering that request, give consideration to the child care needs of the pupil.

*3 "(b) The governing board of any school district that has entered into an agreement for the interdistrict attendance of a pupil based on that pupil's child care needs shall allow that pupil to remain continuously enrolled in the school district of choice if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (f) of Section 48204.

"(c) The governing board of any high school district whose feeder elementary school has entered into an agreement with another school district for the interdistrict attendance of a pupil based on that pupil's child care needs shall allow that pupil to continue to attend school through the 12th grade in the same district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (f) of Section 48204.

1. Admission Requests Based Upon Parental Employment

The first question to be resolved is whether a school district may deny all applications for pupil admissions that are based upon a parent's employment within the district if the reason for the denial is the existence of overcrowding in the district's schools at the relevant grade level. We conclude that it may.

As quoted above, subdivision (f)(1) of section 48204 governs our discussion. It allows a school district to deny pupil admissions requested on the basis of parental employment except as particularly specified or on the basis "of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration." Does classroom overcrowding constitute an "arbitrary consideration" for purposes of the statute? If not, a district may deny the requests for admission on such basis.

We believe that the existence of overcrowded school facilities cannot be viewed

as an "arbitrary" consideration for a school district. "Arbitrary" generally means "arising from unrestrained exercise of the will, caprice, or personal preference." (Webster's 3d New Internat. Dict. (1971) p. 110.) [FN3] Unlike the specific examples of an arbitrary consideration given in subdivision (f)(1) of section 48204, overcrowded school facilities are directly related to the ultimate mission of the school district to provide quality educational opportunities for all students who attend its schools. In contrast, each of the specific factors listed in subdivision (f)(1) pertains to attributes or characteristics of the individual pupil who seeks admission or those of his or her family. Classroom overcrowding is not a consideration that is personal to the applicant or the applicant's family. [FN4]

We conclude in answer to the first question that a school district may deny all applications for pupil admissions that are based upon a parent's employment within the district where the reason for the denial is that the district's school facilities are overcrowded at the relevant grade level.

2. Continued Attendance of a Pupil Admitted Based Upon Parental Employment

*4 The second question concerns a student who has been admitted to an elementary school on the basis of a parent's employment within the district. May the pupil's continued attendance be denied by the school district due to its school facilities being overcrowded at the relevant grade level? We conclude that continued attendance may not be denied due to a lack of classrooms.

As quoted above, subdivision (f)(7) of section 48204 controls our analysis. Conditions (1) through (6) of subdivision (f) refer to the initial transfer and admission of the pupil due to parental employment. Once admitted in compliance with those conditions, subdivision (f)(7) requires that the child be treated like any other child residing within the district, assuming the parent maintains employment within the district. "[T]he pupil shall not have to reapply in the next school year to attend a school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses...." (§ 48204, subd. (f)(7).)

When subdivision (f)(7) of section 48204 was amended in 1994 (Stats. 1994, ch. 1262, § 1) to add the language in question, the committee reports concerning the proposed legislation described the Legislature's intent as follows the legislation "would provide that a pupil whose parent or guardian is employed in a given school district may continue to attend school in that district through the twelfth grade" (Assem. Com. on Education, Rep. on Assem. Bill No. 2768 (1993-1994 Reg. Sess.) as amended April 4, 1994, p. 1), and "[t]his bill provides that a pupil whose parent or guardian is employed in a given school district may continue to attend school in that district through the twelfth grade" (Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 2768 (1993-1994 Reg. Sess.) as amended August 27, 1994, p. 2).

Once admitted, therefore, a pupil of a parent who is employed within the school district's area may continue to attend the schools of the district through the

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twelfth grade "if the parent or guardian so chooses." (§ 48204, subd. (f)(7).) Of course, the admission of a pupil for reasons of parental employment is only available for "[a]n elementary school pupil." (§ 48204, subd. (f).) The subdivision has no application to school districts that do not maintain an elementary school. Moreover, not all school districts maintaining elementary schools also provide grade levels beyond the sixth grade. Subdivision (f)(7) of section 48204 allows "the pupil to attend school through the 12th grade" only when the particular school district has already admitted the pupil for parental employment reasons and maintains grades beyond the elementary school level. Finally, the pupil is "deemed" to be a resident of the school district due to the parental employment. If parental employment within the school district ceases, the "deemed" residence ceases as well.

*5 We conclude in answer to the second question that a school district that has admitted an elementary school pupil on the basis of a parent's employment within the district may not deny the pupil continued attendance at a school within the district because of overcrowded school facilities at the relevant grade level.

3. Interdistrict Attendance Agreements Based Upon Child Care Needs

The third question to be resolved concerns the language of section 48204, subdivision (b), which allows a pupil to be deemed a resident of a school district under an interdistrict attendance agreement based upon the child care needs of the pupil. May a school district deny all applications for such agreements that are based upon child care needs if the reason for the denial is a lack of classroom space? We conclude that it may.

The key statute controlling our analysis is section 46601.5, quoted above, which is incorporated by reference in section 48204, subdivision (b). When a pupil's parent requests approval of an interdistrict attendance agreement, the district "shall, in considering that request, give consideration to the child care needs of the pupil." (§ 46601.5, subd. (a).)

Nothing in section 46601.5 requires a school district to enter into an interdistrict attendance agreement if the district does not have the classroom space for the pupil. Just as requests for transfers based upon parental employment may be denied due to a lack of classroom facilities, so also may execution of an interdistrict attendance agreement be denied for such reason. A school district is not required to provide classrooms for pupils who do not reside in the district even though they may have child care needs within the district. A lack of school facilities is a justifiable reason for a denial of any and all interdistrict attendance agreement requests.

We conclude in answer to the third question that a school district may deny all applications for interdistrict attendance agreements that are based upon the child care needs of the pupil where the reason for the rejection is that the district's school facilities are overcrowded at the relevant grade level.

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4. Continued Attendance of a Pupil Admitted Based Upon Child Care Needs

The final question to be considered concerns a pupil who has been admitted by a school district under an interdistrict attendance agreement based upon the child care needs of the pupil. May the district, due to the existence of overcrowded school facilities, deny the pupil continued attendance at its schools? We conclude that it may not.

As with pupils who attend a school based upon parental employment, pupils who attend a school based upon their child care needs are deemed to be residents of the school district. (§ 48204.) While the child care needs remain, the pupil may continue to attend as a "deemed" resident of the district.

However, a slight distinction has been drawn by the Legislature between parental employment situations and child care needs situations with respect to continued attendance of those previously admitted. As discussed in answer to the second question, admission based upon parental employment obligates only the school district that initially admitted the pupil; that district must accept continued attendance through the twelfth grade, if available, for those whose parent remains employed within the district. Admission based upon child care needs, however, not only obligates the district that admitted the pupil (§ 46601.5, subd. (b)), but also "any high school district whose feeder elementary school has entered into an agreement...." (§ 46601.5, subd. (c)). As long as the pupil continues to require child care, such high school district "shall allow that pupil to continue to attend school through the 12th grade...." (Ibid.)

*6 While it is true that an interdistrict attendance "agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied" (§ 46600, subd. (a)), we do not believe that school districts may contract away their statutory responsibilities. Rather, the terms of each agreement must be consistent with those mandatory duties of a district that are specified by the Legislature. In this manner, the related statutes may be read together and harmonized. [FN5]

Our construction of section 48204 and the statutes it references provides some degree of consistency in the legislation regarding parental employment and child care needs outside the district of residence. The needs of the parents in both situations are essentially the same, and the needs of the pupils in establishing and maintaining continuity in their educational programs are substantially similar. We recognize that not all the language of these statutes, particularly the phrase "subject to paragraphs (1) to (6), inclusive, of subdivision (f) of Section 48204," may have significant meaning under our interpretation. However, we believe our interpretation provides "a practical construction" that does "not readily imply an unreasonable legislative purpose." (See California Correctional Peace Officers Assn. v. State Personnel Bd. (1995) 10 Cal.4th 1133, 1147.)

We conclude in answer to the fourth question that a school district that has entered into an interdistrict attendance agreement based upon the child care needs of the pupil may not deny continued attendance at a school within the district because of overcrowded school facilities at the relevant grade level.

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Bill Lockyer

Attorney General

Gregory L. Gonot

Deputy Attorney General

[FN1]. All references hereafter to the Education Code are by section number only.

[FN2]. The scope of this opinion is limited to a discussion of section 48204, subdivisions (b) and (f).

[FN3]. In construing a statute, we are to effectuate the Legislature's purposes by giving the words "the meaning they bear in ordinary use." (Wilcox v. Birtwhistle (1999) 21 Cal.4th 973, 977.)

[FN4]. "[W]hen a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with the specific enumeration." (Norfolk & Western R. Co. v. Train Dispatchers (1991) 499 U.S. 117, 129 [111 S.Ct. 1156, 1163, 113 L.Ed.2d 95, 107].) This is a restatement of the rule attributed to Lord Tenterden, i.e., ejusdem generis: " ' "[W]here general words follow the enumeration of particular classes of persons or things, the general words will be construed as applicable only to persons or things of the same general nature or class as those enumerated." ' " (Harris v. Capital Growth Investors XIV (1991) 52 Cal.3d 1142, 1160.)

[FN5]. A well recognized principle of statutory construction is that " '[words must be construed in context, and statutes must be harmonized, both internally and with each other, to the extent possible.' " (Woods v. Young (1991) 53 Cal.3d 315, 323.)

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END OF DOCUMENT

H

Briefs and Other Related Documents

Court of Appeal, Fourth District, Division 3,
California.

Donald Bruce CRAWFORD, Plaintiff and
Appellant,
v.

HUNTINGTON BEACH UNION HIGH SCHOOL
DISTRICT et al., Defendants and Respondents.

No. G028752.

May 31, 2002.

Review Denied Aug. 28, 2002.

Taxpayer brought action against school district contending the racial and ethnic balancing component of the district's open-transfer policy violated the State Constitution. The Superior Court, Orange County, No. 814334, Sheila Fell, Temporary Judge, granted district's motion for summary judgment. Taxpayer appealed. The Court of Appeal, Sills, P.J., held that: (1) the racial and ethnic balancing portion of district's policy as applied to the school violated State Constitution's prohibition against discrimination or preferential treatment on the basis of race in operation of public education, and (2) and balancing component of the Education Code governing open enrollments also violated the State Constitution.

Reversed with directions.

West Headnotes

[1] Schools ⇨13(14)

345k13(14) Most Cited Cases

Racial and ethnic balancing portion of school

district's open-transfer policy violated State Constitution's prohibition against discrimination or preferential treatment on the basis of race in operation of public education, and to the extent the balancing was required by the balancing component of the Education Code section governing open enrollments, that section violated the State Constitution as well; the policy mandated a one-for-one same race exchange in and out of a high school which had a "white" student population of approximately 16%, thus creating different transfer criteria for students solely on the basis of their race. West's Ann.Cal. Const. Art. 1, § 31; West's Ann.Cal.Educ.Code § 35160.5.

[2] Constitutional Law ⇨220(4)

92k220(4) Most Cited Cases

Federal equal protection clause prohibits a school district from acting to segregate schools. U.S.C.A. Const.Amend. 14.

[3] Constitutional Law ⇨220(4)

92k220(4) Most Cited Cases

Federal equal protection clause does not require the implementation of a proactive program of school integration. U.S.C.A. Const.Amend. 14.

[4] Constitutional Law ⇨220(4)

92k220(4) Most Cited Cases

Racial isolation or imbalance in public schools that is not the result of segregative intent does not require a racially discriminatory desegregation plan to comply with federal equal protection clause. U.S.C.A. Const.Amend. 14.

[5] Constitutional Law ⇨220(4)

92k220(4) Most Cited Cases

Racial balancing of public schools cannot be the objective of a federal court unless the balancing is shown to be necessary, under federal equal protection clause, to correct the effects of

government action of a racist character. U.S.C.A. Const.Amend. 14.

[6] Constitutional Law ⇐12

92k12 Most Cited Cases

Where two constitutional provisions conflict, the one that was enacted later in time controls.

West Codenotes

Unconstitutional as Applied

West's Ann.Cal.Educ. Code § 35160.5.

****97** Appeal from a judgment of the Superior Court of California, County of Orange, Sheila B. Fell, Temporary Judge. [FN*] Reversed with directions.

FN* Pursuant to California Constitution, article VI, section 21.

***1276** Pacific Legal Foundation, Sharon L. Browne, Sacramento, and Stephen R. McCutcheon, Jr., for Plaintiff and Appellant.

Rutan & Tucker, David C. Larsen and Terence J. Gallagher, Costa Mesa, for Defendant and Respondent Huntington Beach Union High School District.

Linda A. Catatic, General Counsel, Marsha A. Bedwell, Assistant General Counsel, and Joanne Lowe, Deputy General Counsel, for Defendant and Respondent California Department of Education.

***1277** Munger, Tolles & Olson, Vilma S. Martinez, Allison B. Stein, and Henry H. Gonzalez, Los Angeles, Amicus Curiae for the Educational Legal Alliance of the California School Boards Association on behalf of Defendants and Respondents.

OPINION

SILLS, P.J.

Donald Bruce Crawford sued the Huntington Beach Union High School District and the California Department of Education (collectively the District unless the context indicates otherwise), contending the racial and ethnic balancing component of the District's open-transfer policy violates Proposition 209 (Cal. Const., art. I, § 31). He appeals the judgment entered after the trial court denied his motion for summary judgment and granted the District's. We agree with his contention on appeal—that the policy violates Proposition 209. Accordingly, we reverse the judgment.

I

The Transfer Policy

The District has an open transfer policy for all its high schools. The open-transfer policy has a "racial and ethnic balance" component as required by section 35160.5 of the state Education Code. This statute dictates that "school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans." [FN1]

FN1. Education Code section 35160.5 provides in pertinent part: "[T]he governing board of each school district ... shall, as a condition for the receipt of school apportionments from the state school fund, adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district.... The policy shall include all of the following elements: (A) It shall provide that the parents or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans."

There are six high schools in the District, but the only high school affected by the one-for-one same race exchange policy, that is, has been declared "ethnically isolated," is Westminster High School. The District has employed a private firm, Davis Demographics, to do demographic studies for it. This private firm uses, in the language of the firm's owner, Gregory Davis, *1278 in a declaration in the record, "District data from student records of names, addresses, schools of attendance, and ethnicity," which has been "stored in a computer program which can be utilized to generate statistical information based on race relative to each high school and its established geographic attendance area."

The actual tables supplied by Davis Demographics for Westminster High School **98 put every student into one of the following categories: (1) "American Indian or Alaska Native;" (2) the Asian sub-categories of (a) "Japanese," (b) "Korean," (c) "Chinese," (d) "Vietnamese," (e) "Laotian" and (f) "Other Asian"; (3) "Hawaiian/Pacific Islander"; (4) "Filipino"; (5) "Mexican American Chicano Span. Surn.;" (6) "Black Negroid Afro American"; and (7) "Total White Students." [FN2]

FN2. The "total Whites" category includes students who are classified as "Egyptian/Iranian/Lebanese."

To prevent an "inappropriate" racial and ethnic balance, the District restricts transfers to and from Westminster High School. If you are White and you live inside the high school's attendance area, you cannot transfer out unless another White student is willing to transfer in and take your place. If you are non-White and you live outside the high school's attendance area, you cannot transfer in unless another non-White student is willing to transfer out and you take that student's place.

Demographic studies calculated that, for the 1999-2000 academic year, the school's make-up was roughly four-tenths Vietnamese (41.1 percent, total Asian is 45.2 percent), three-tenths "Mexican American Chicano Spanish Surname" (30.5 percent), and one-sixth "White" (15.9 percent).

Crawford, a taxpayer in the District, brought this action in September 1999 to challenge the constitutionality of the one-for-one same race exchange policy under Proposition 209. Crawford and the District both brought motions for summary judgment. The District's motion largely relied on several pre-Proposition 209 cases decided under the state equal protection clause.

In mid-December 2000, the trial court granted the District's motion and denied Crawford's. In a brief minute-order, it ruled that the District's transfer policy was not prohibited under Proposition 209 and "promotes a non-segregated public education." The formal order granting the District's motion stated that the court had considered the Supreme Court's recent opinion in *1279*Hi-Voltage Wire Works, Inc. v. City of San Jose* (2000) 24 Cal.4th 537, 101 Cal.Rptr.2d 653, 12 P.3d 1068 and that the case "had no application" to the "pending dispute."

II California Law

Crawford contends the trial court erred in granting the District's summary judgment motion. He contends the racial balancing component of the District's open enrollment program violates Proposition 209. We agree.

The voters adopted Proposition 209 in the November 1996 general election. The initiative measure added section 31 to article I of the California Constitution, which states in relevant part: "(a) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."

In *Hi-Voltage, supra*, 24 Cal.4th 537, 101 Cal.Rptr.2d 653, 12 P.3d 1068, the California Supreme Court applied a common and plain meaning approach to the words "discriminate against, or grant preferential treatment to" as used in Proposition 209. As of this writing, the only other published decision to substantively consider a challenge to a government program under

Proposition 209 is ****99** *Connerly v. State Personnel Board* (2001) 92 Cal.App.4th 16, 112 Cal.Rptr.2d 5. *Connerly* involved challenges to several state government affirmative action programs, all of which were held to contravene Proposition 209.

In *Hi-Voltage*, all seven members of our state's high court held that San Jose's contractor outreach program on behalf of "women and minority business enterprises" was unconstitutional under article I, section 31 of the state constitution. (*Hi Voltage, supra*, 24 Cal.4th at p. 562, 101 Cal.Rptr.2d 653, 12 P.3d 1068 ["we remain persuaded the City's Program violates section 31"]; *id.* at p. 572, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. opn. of Mosk, J.) ["despite the legitimacy and even necessity of its end, the means that the city's program employs offend section 31"]; *id.* at p. 575, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. opn. of Kennard, J.) [applying "common meaning of 'preferential,' I agree ... that the challenged program of the City of San Jose grants preferential treatment on the basis of race and sex in the operation of public contracting"]; *id.* at p. 596, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. & dis. opn. of George, C.J.) ["we must conclude that an outreach program directed to an audience on the basis of its members' race or gender constitutes a program that grants preferential treatment for purposes of article I, section 31"].)

The program considered by the high court in *Hi-Voltage* gave prospective bidders on city contracts a choice. They could, *but were not required*, to use ***1280** a certain percentage of subcontractors who were women or members of ethnic minorities. Alternatively, they merely had to document their efforts to reach out to "women and minority business enterprises" to give them the opportunity to obtain a subcontract on the program. That meant simply giving notice to at least four businesses owned by women or members of a minority ethnic group. The teeth in the second choice was that if a prospective bidder rejected a low bid from a subcontractor owned by a woman or a member of a minority ethnic group, he had to give written reasons for the rejection. (*Hi-Voltage, supra*, 24 Cal.4th at p. 542, 101 Cal.Rptr.2d 653, 12 P.3d 1068.) The program had been prompted by a study that had shown "a historical pattern of

discrimination by prime contractors against minority-owned and women-owned subcontractors ... with regard to public contracts awarded by the city." (*Id.* at p. 588, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. & dis. opn. of George, C.J.).)

In *Hi-Voltage*, the city argued that its outreach program did not involve any "overt discrimination." (*Hi-Voltage, supra*, 24 Cal.4th at p. 560, fn. 13, 101 Cal.Rptr.2d 653, 12 P.3d 1068.) The procedures were merely a device to "screen" for discrimination. (*Id.* at p. 544, 101 Cal.Rptr.2d 653, 12 P.3d 1068.) The city claimed that, operationally, the program merely expanded the pool of candidates to obtain subcontract jobs, but did "not afford preferential treatment on the basis of race or gender in the actual selection process itself." (See *id.* at p. 593, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. & dis. opn. of George, C.J.).)

Even so, the court determined that the program contravened Proposition 209. The key constitutional language of the provision is in the words "discriminate against or grant preferential treatment to." The court looked to the ordinary plain meaning of the key words. "Discriminate" means "distinctions in treatment." A "preference" means the " 'giving of priority or advantage to one person ... over others.' " (*Hi Voltage, supra*, 24 Cal.4th at pp. 559- 560, 101 Cal.Rptr.2d 653, 12 P.3d 1068; see also *id.* at p. 575, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. opn. of Kennard, J.).)

****100** Using the plain ordinary meaning of the words "discriminate" and "preference," it was clear that, while the city's outreach program might not have involved, as the city claimed, any "overt" discrimination, it was still discriminatory and preferential. The program required prospective bidders to give " 'personal attention' " to potential subcontractors owned by women and members of minority ethnic groups that was not required to be given to other businesses. (*Hi-Voltage, supra*, 24 Cal.4th at p. 544, 101 Cal.Rptr.2d 653, 12 P.3d 1068; see also *id.* at p. 590, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. & dis. opn. of George, C.J.) [agreeing that documentation component granted preferential treatment within the meaning of Proposition 209].) Requiring prospective bidders to give "special assistance and information" based on

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race or sex was enough to contravene Proposition 209. (*Id.* at p. 544, 101 Cal.Rptr.2d 653, 12 P.3d 1068.)

*1281 Moreover, as the Chief Justice pointed out, the program was also discriminatory in the incentives that it created. A prime contractor was given a "strong incentive" to grant preferential treatment to at least some prospective subcontractors owned by women or members of minority ethnic groups because it would allow the prime contractor to avoid the burdensome documentation requirements and to look good for future contracts. (See *id.* at p. 592, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. & dis. opn. of George, C. J.).)

While the court made it clear that preferential treatment based on race or gender was impermissible in light of Proposition 209, it acknowledged its holding was "necessarily limited to the form at issue here, which requires contractors to notify, solicit, and negotiate with [minority or female owned] subcontractors as well as justify rejection of their bids." (*Id.* at p. 565, 101 Cal.Rptr.2d 653, 12 P.3d 1068.) The court expressed "no opinion regarding the permissible parameters" of outreach efforts that would not offend Proposition 209. (*Ibid.*)

In *Connerly, supra*, 92 Cal.App.4th 16, 112 Cal.Rptr.2d 5 the appellate court reviewed five state government affirmative action programs. The court concluded Proposition 209 prevented the state from awarding public contracts, civil service positions, and employment promotions to "favored groups" on the basis of race or gender. (*Connerly, supra*, 92 Cal.App.4th at pp. 47-63, 112 Cal.Rptr.2d 5.) Although the court severed and upheld certain elements of the challenged programs, most notably data collection and reporting requirements, it reiterated the core idea that "racial classification is presumptively invalid, and the burden is on the government to demonstrate extraordinary justification. [Citation.]" (*Id.* at p. 36, 112 Cal.Rptr.2d 5.)

The first of the programs under review in *Connerly* was a subcontracting program under the auspices of the state lottery requiring bidders for business with

the state lottery commission to include specific plans "to utilize subcontracts with socially and economically disadvantaged small business concerns." Race, ethnic and gender classifications were incorporated into the meaning of the phrase, "socially and economically disadvantaged." (See *Connerly, supra*, 92 Cal.App.4th at pp. 47-48, 112 Cal.Rptr.2d 5.) In theory White males could be included as persons who were "socially and economically disadvantaged" as well, but there were "no definitional criteria, no application procedures, and no procedures for review." (*Id.* at p. 48, 112 Cal.Rptr.2d 5.)

The court held the program unconstitutional, because of the operational presumption of disadvantage. "Even if such procedures [allowing White males to apply] **101 were included in statute, the fact that some individuals must *1282 prove disadvantage while others are conclusively presumed to be disadvantaged based solely on race, ethnicity, and gender, established impermissible race, ethnicity, and gender classifications." (*Connerly, supra*, 92 Cal.App.4th at p. 48, 112 Cal.Rptr.2d 5, emphasis added.)

The next program reviewed by the *Connerly* court involved state contracts for professional bond services (essentially the folks who help the state sell its bonds to investors). The program operated much the same way as San Jose's government contract program did. If there was a bond service available without competitive bidding, the respective government department was required, at a minimum, to give notice to all women and minority enterprises who had listed their names with the awarding department. In short, they got "special notice of the sale." (See *Connerly, supra*, 92 Cal.App.4th at p. 51, 112 Cal.Rptr.2d 5.) And because they got special notice, the *Connerly* court held that the program contravened Proposition 209 because it involved the "selective dissemination of information" (*Ibid.*)

The third program held unconstitutional in *Connerly* involved the state civil service generally. A general statute made each governmental agency "responsible for establishing an effective affirmative action program." (*Connerly, supra*, 92 Cal.App.4th at p. 53, 112 Cal.Rptr.2d 5.) Each

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agency was supposed to establish "goals and timetables to overcome identified underutilization of minorities and women." (*Id.* at p. 55, 112 Cal.Rptr.2d 5.)

The court held that the duty imposed on "every managerial employee, from first line supervisors on up, to attempt to achieve the agency or departmental goals" of eliminating the "underutilization" was both violative of both Proposition 209 and equal protection. (*Connerly, supra*, 92 Cal.App.4th at p. 55, 112 Cal.Rptr.2d 5.) It differed from a quota or set-aside "only in degree." (*Ibid.*) It was still a "line drawn on the basis of race and gender." (*Ibid.*)

Next, *Connerly* considered an affirmative action program for the state community college system. Each community college district was required to have a plan which ensured "that district personnel participate in, and are committed to, the affirmative action employment program." (*Connerly, supra*, 92 Cal.App.4th at p. 58, 112 Cal.Rptr.2d 5, citing Ed.Code § 87102, subd. (a).) The plan included "hiring goals and timetables for its implementation" with the "goal" that by the year 2005 the community college system "work force will reflect proportionately the adult population of the state." (*Id.* at p. 59, 112 Cal.Rptr.2d 5.)

The court held that having "overall and continuing hiring goal[s]" of making a given workforce "proportionately reflect the adult population of the state" was a violation of Proposition 209. *1283(*Connerly, supra*, 92 Cal.App.4th at p. 59, 112 Cal.Rptr.2d 5.) The "goal of assuring participation by some specified percentage of a particular group merely because of its race or gender is 'discrimination for its own sake' " and contravened both Proposition 209 and the state's equal protection clause. (*Id.* at pp. 59-61, 112 Cal.Rptr.2d 5.) The program was not a mere "inclusive outreach" effort because it utilized the suspect classifications of race, gender and ethnicity. Some groups were "favored" over others, because application processes were structured so that sufficient numbers of that group would end up being hired. (See *id.* at p. 61, 112 Cal.Rptr.2d 5.)

While the *Connerly* court allowed mere data collection and reporting aspects of all the other

programs to be severed from those programs and held constitutional, **102 the reporting requirements in the community college program were "entirely bound up and intermixed with the success of the preferential hiring scheme" so that they could not be severed. Hence the community college reporting requirements were held to be unconstitutional. (*Connerly, supra*, 92 Cal.App.4th at p. 61, 112 Cal.Rptr.2d 5.)

Finally, the *Connerly* court considered one last reporting requirement, this one in connection with "participation goals" for state contracts. (*Connerly, supra*, 92 Cal.App.4th at p. 62, 112 Cal.Rptr.2d 5.) Unlike the reporting requirement for the community colleges, this data collection program could be severed from otherwise discriminatory participation goals. The reason was that it went to the Legislature's "power of inquiry." (See *Connerly, supra*, 92 Cal.App.4th at pp. 62-63, 112 Cal.Rptr.2d 5.) The fact that data is "collected and reported" to the Legislature could only be of use to that body for future consideration, it is not a "supervisory device" necessarily intertwined with a discriminatory program. (*Id.* at p. 63, 112 Cal.Rptr.2d 5.)

III Our Case

[1] The District insists *Hi-Voltage* and *Connerly* are inapplicable to the facts before us. It argues its policy is not analogous to the outreach programs addressed in those cases and characterizes the transfer policy as a permissible voluntary desegregation program that neither discriminates nor grants preferential treatment based on race. The District asserts that because "each school has the same general educational program and provides the same educational opportunities," there is no evidence that some students are "disadvantaged" by or "benefit" from the race-conscious transfer policy. (Page 31 of the District's brief.) The District further maintains the policy is simply a race-conscious program that seeks to provide students with equal educational opportunities. We do not agree.

*1284 Under the policy, White student open enrollment transfers out of the school and

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non-White student transfers into the school are limited to a one-for-one basis. The imposition of these restrictions is inconsistent with the freedom of choice that voluntary programs provide. And more importantly, the policy creates different transfer criteria for students solely on the basis of their race. A White student may not transfer from Westminster High School to a different school until a White student chooses to transfer in and fills the void. A non-White student must wait to transfer into Westminster High School until a non-White student transfers out thereby creating essentially a "non-White opening."

Referencing its history, the District asserts Proposition 209 was never intended to eliminate school integration programs. Yet, by its terms, article I, section 31 of the state Constitution, applies to public education. Subdivision (a) of section 31 plainly says that "The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of ... public education...."

The ballot materials concerning Proposition 209 were quite clear that even race-conscious "desegregation" programs could be affected by Proposition 209. The Legislative Analyst prepared an in-depth analysis. That analysis, as Chief Justice George put it, is precisely "the item in the ballot pamphlet materials that voters are most likely to have consulted ... as a reliable indicator of the proposition's meaning and effect." **103(*Hi Voltage*, *supra*, 24 Cal.4th at p. 582, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (con. & dis. opn. of George, J.)). And that analysis had told the voters that "the measure could eliminate, or cause fundamental changes to, voluntary desegregation programs run by school districts." (*Id.* at p. 584, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. & dis. opn. of George, C.J.)). The Legislative Analyst specifically noted that Proposition 209 could affect special funding for "designated 'racially isolated minority schools' that are located in areas of high proportions of racial or ethnic minorities." (*Hi-Voltage*, at p. 584, 101 Cal.Rptr.2d 653, 12 P.3d 1068 (conc. & dis. opn. of George, C.J.), quoting the Ballot Pamphlet at p. 31.)

The District emphasizes the special nature of K 12 public education and we do not underestimate the significance of quality K 12 public education. But while we appreciate the unique value and importance of education (see, e.g., *Brown v. Board of Education* (1954) 347 U.S. 483, 493, 74 S.Ct. 686, 98 L.Ed. 873 ["education is perhaps the most important function of state and local governments"]), it is clear the intention of the voters was that Proposition 209 apply to education. The district's *1285 transfer policy violates Proposition 209, and to the extent it is required by Education Code section 35160.5, the statute does as well.

IV

Equal Protection Considerations

[2][3] The District proposes that the transfer policy is required under the equal protection clause of the Constitution of the United States. While there can be no question the United States constitution prohibits a school district from acting to segregate schools, there is no federal constitutional mandate necessitating the implementation of a proactive program of integration. The United States Supreme Court has made it clear that such a plan is *not required* by the federal equal protection clause.

[4] "Racial isolation" or "imbalance" that is not the result of segregative intent does not require a racially discriminatory "desegregation" plan. (*Dayton Board of Education v. Brinkman* (1977) 433 U.S. 406, 413, 97 S.Ct. 2766, 53 L.Ed.2d 851 ["The finding that the pupil population in the various Dayton schools is not homogenous, standing by itself, is not a violation of the Fourteenth Amendment in the absence of a showing that this condition resulted from intentionally segregative actions on the part of the Board."]); *Milliken v. Bradley* (1977) 433 U.S. 267, 280, fn. 14, 97 S.Ct. 2749, 53 L.Ed.2d 745 [no federal constitutional right to a "particular degree of racial balance or mixing"]; *Swann v. Charlotte-Mecklenburg Board of Education* (1971) 402 U.S. 1, 26, 91 S.Ct. 1267, 28 L.Ed.2d 554 [racial imbalances may result from innocent causes such as the population distribution of a given district]; accord, *Missouri v. Jenkins*, *supra*, 515 U.S. 70, 115 S.Ct. 2038, 132 L.Ed.2d 63 [federal court had no authority to order the state to fund

predominantly non-White school district so as to attract White students from surrounding districts, so that the non-White district would be better balanced].)

[5] The distinction between what is required by the federal equal protection clause, and what may be permitted by it, is critical in this context. The Ninth Circuit recognized in the absence of de jure segregation there is no constitutionally required obligation to order desegregation. "Racial balancing cannot be the objective of a federal court unless the balancing is shown to be necessary to correct the effects of government action of a racist character." ****104**(*Ho by Ho v. San Francisco Unified School District* (9th Cir.1998) 147 F.3d 854, 865, citing *Freeman v. Pitts* (1992) 503 U.S. 467, 474, 112 S.Ct. 1430, 118 L.Ed.2d 108.)

[6] With respect to the equal protection provisions of the California constitution, the District relies, in part, on statements from ***1286***Crawford v. Board of Education*, *supra*, 17 Cal.3d 280, 130 Cal.Rptr. 724, 551 P.2d 28; *Serrano v. Priest* (1971) 5 Cal.3d 584, 96 Cal.Rptr. 601, 487 P.2d 1241, *San Francisco Unified School Dist. v. Johnson* (1971) 3 Cal.3d 937, 92 Cal.Rptr. 309, 479 P.2d 669; and *Jackson v. Pasadena City School Dist.* (1963) 59 Cal.2d 876, 31 Cal.Rptr. 606, 382 P.2d 878 and other pre-Proposition 209 California cases. But Proposition 209 has undeniably changed the state law. It is a firmly established rule of constitutional jurisprudence that where two constitutional provisions conflict, the one that was enacted later in time controls. (*People v. Adamson* (1946) 27 Cal.2d 478, 486-487, 165 P.2d 3 [1934 constitutional amendment qualified previous inability to comment on defendant's failure to take stand]; *Slavich v. Walsh* (1947) 82 Cal.App.2d 228, 236-237, 186 P.2d 35 [resolving conflict in power of chartered cities under one constitutional provision by looking to other constitutional provisions enacted later in time].)

V

Conclusion

One can reasonably infer that in enacting Education Code section 35160.5, the California Legislature believed that unrestricted open transfer policies

might result in what the literature calls de facto segregation, or at least racial or ethnic imbalance. Yet, despite the presumed legitimacy of the Legislature's motives, we are forced to conclude that the balancing component of Education Code section 35160.5 is in contravention of the state constitution as amended by Proposition 209.

It is not our intention to suggest that there cannot be any "integration plans" under Proposition 209. We stress that an "integration plan" developed by a school board need not offend Proposition 209 if it does not discriminate or grant preferences on the basis of race or ethnicity.

Although our analysis is limited to the facts before us and we answer only the questions presented to us in this appeal, we note other courts have confronted similar issues in different factual contexts and rendered opinions. The benefits of the development of magnet schools has been cited by some courts. "Magnet schools have the advantage of encouraging voluntary movement of students within a school district in a pattern that aids desegregation on a voluntary basis...." (*Missouri v. Jenkins* (1995) 515 U.S. 70, 92, 115 S.Ct. 2038, 132 L.Ed.2d 63.) Another version of an "integration plan" described is a program which would assign only a very small geographic area for a student's home school, and fill remaining places in that school's class by an unweighted random lottery. (See *Tuttle v. Arlington County School Board* (4th Cir.1999) 195 F.3d 698, 706.)

***1287** We do not dispute the evils of segregated schools and we recognize the potential benefits of attending a racially and ethnically diverse school, but the people have spoken. California Constitution, article I, section 31 is clear in its prohibition against discrimination or preferential treatment based on race, sex, color, ethnicity or national origin. Thus, the racial balancing component of the District's open transfer policy is invalid under our state Constitution.

****105.** The judgment is reversed. The trial court is directed to enter a new order denying the District's motion for summary judgment and granting Crawford's motion for summary judgment and to enter a new judgment accordingly.

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Crawford shall recover his costs on appeal.

WE CONCUR: RYLAARSDAM, and O'LEARY,
JJ.

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Briefs and Other Related Documents (Back to top)

- 2001 WL 34133205 (Appellate Brief) Appellant's
Reply Brief (Jul. 25, 2001)Original Image of this
Document (PDF)

- 2001 WL 34155677 (Appellate Brief) Brief of
Respondent/Defendant Huntington Beach Union
High School District (Jun. 20, 2001)Original Image
of this Document (PDF)

- 2001 WL 34155680 (Appellate Brief) Appellant's
Opening Brief (Apr. 25, 2001)Original Image of
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END OF DOCUMENT

SECTION EIGHT

QUESTIONS AND ANSWERS

**QUESTIONS AND ANSWERS
ABOUT INTERDISTRICT AND INTRADISTRICT TRANSFERS
for
PARENTS**

1. Q: What is the difference between an **Intradistrict Transfer** and an **Interdistrict Transfer**?

A: An **Intradistrict Transfer** is a transfer from your home (neighborhood) school in the school district where you live to another school in the school district where you live.

An **Interdistrict Transfer** is a transfer from the school district where you live to another school district.

2. Q: Do I need to apply for an **Intradistrict** or **Interdistrict Transfer** if my child needs a special day class placement in a school other than my neighborhood school or in another school district?

A: If your child needs a special day class placement in a school other than your neighborhood school or in another school district, the Individualized Education Plan (IEP) Team will determine where your child's special education needs can be met and make the appropriate arrangements.

3. Q: What do I do if I want an **Intradistrict** or **Interdistrict Transfer** for my child?

A: Call the school district office in the school district where you live and request an application and the procedures for requesting a transfer.

4. Q: What documentation will I need to support the application?

A: The application and procedures for requesting a transfer will tell you what documentation you need to provide to support the application.

5. Q: Can I apply to more than one school district at the same time?

A: Yes

6. Q: Where do I start the process for an **Interdistrict Transfer** for my child?

A: To start the process for an **Interdistrict Transfer**, you need to apply to your district of residence first. Call the school district office in the school district where you live and request an application and the procedures for requesting a transfer to another school district. Follow the procedures and submit your application to your district of residence.

7. Q: How will I know the criteria that will be used to approve or deny my application for an **Interdistrict Transfer**?

A: The procedures and/or application sent to you will include any established criteria that will be used to approve or deny your application.

8. Q: Will I be notified if my application has been approved or denied?

A: Yes, you will be notified by your district of residence if your application has been approved or denied.

9. Q: If my application for an **Interdistrict Transfer** has been approved by my district of residence, what is my next step?

A: The district of residence will notify the district you want your child to attend. You will hear directly from that district as to when the matter will be considered by that district.

10.Q: Will the school district where I want my child to go to school automatically approve the **Interdistrict Transfer** request?

A: No, the school district where you want your child to go to school will consider your application based on its policy and procedure.

11.Q: If an interdistrict permit is granted, will I be able to choose the school I want my child to attend?

A: Each school district has procedures it uses to determine which school a child will attend. You may request a specific school, but the school district will use its procedures to make the determination.

- 12.Q:** Will I be notified by the school district where I want my child to go to school if my application has been approved or denied?
- A:** Yes, you will be notified by the school district where you want your child to go to school if your application has been approved or denied.
- 13.Q:** What does conditionally approved mean?
- A:** This is a term used by school districts to indicate that approval is subject to certain limitations not known at the time of approval, such as class size limits. The term is also used when districts condition approval on behavior contracts or other individual circumstances involving the student.
- 14.Q:** If my application for an **Interdistrict Transfer** is denied by either school district, is there an appeal process?
- A:** Yes, you can appeal to the Marin County Board of Education. Call the Marin County Office of Education (499-5801) and request an application and procedures for filing an appeal.
- 15.Q:** Do I have to submit my application for an **Interdistrict Transfer** to both my district of residence and the school district where I want my child to attend school before I appeal to the Marin County Board of Education?
- A:** Yes, both school districts must act on your application for an **Interdistrict Transfer** before you can appeal to the Marin County Board of Education.
- 16.Q:** If my application for an **Interdistrict Transfer** was denied by my district of residence, can I appeal directly to the Marin County Board of Education?
- A:** No, you must submit your application to the school district where you want your child to go to school and be approved or denied before you appeal to the Marin County Board of Education.

17.Q: Can I appear before the Marin County Board of Education and present testimony and evidence to support my appeal?

A: Yes, you will be notified of the date and time the appeal will be heard and you may attend and present evidence and testimony to support your appeal. The Board will consider all evidence provided to it and render its decision in public session. The person appealing will be given an opportunity to speak regarding the appeal, as well as the representative of the school district denying the request and the representative of the other school district involved. Opportunities will also be provided for summary. If new evidence or grounds for the request are introduced, the Marin County Board of Education may remand the matter for further consideration by the school district or school districts.

18.Q: Will a representative from both school districts be invited to attend the appeal hearing? May the representatives present evidence and testimony to support the school districts' actions?

A: Yes, representatives from both the school district where you live and the school district where you want your child to go to school will be invited to attend and may present testimony and evidence at the appeal hearing.

19.Q: May I retain private legal counsel to represent me at the appeal hearing?

A: Yes, at your own expense, you may retain private legal counsel to represent you at the appeal hearing?

20.Q: May the school districts involved be represented by legal counsel?

A: Yes, the school districts may be represented by legal counsel.

21.Q: Will I be notified in writing by the Marin County Board of Education if my appeal has been approved or denied?

A: Yes, you will be notified in writing by the Marin County Board of Education if your appeal has been approved or denied.

22. Q: If there is no space available in the first grade in any of your district's schools for my interdistrict transfer student, what would your school district do if a first grader moved into your school district?

A: The law does not require the school district to accept an interdistrict transfer. For the student who moves into the school district, the school district would be obliged to provide a program.

**QUESTIONS AND ANSWERS
ABOUT INTERDISTRICT TRANSFERS
for
DISTRICT REPRESENTATIVES**

- 1. Q:** Once an employment-related **Interdistrict Transfer** is approved, is it approved through grade 12, even if the approving school district is only K-8?
- A:** Once granted, an employment related **Interdistrict Transfer** is approved through grade 12 so long as employment continues in the district, subject only to the conditions set forth in EC 48204 (b) (1)-(6).
- 2. Q:** Can a parent enroll in the district of residence if there is a pending request for another school district?
- A:** Yes.
- 3. Q:** Can the school district where employment exists require annual verification of continued employment in the school district?
- A:** Yes, the Education Code was amended to clarify this point.
- 4. Q:** When considering childcare related transfers, can the request be denied after a year or two as the child grows older?
- A:** No. So long as childcare needs continue to exist, the student may continue in attendance through grade six, subject only to the considerations set forth in Education Code 48204 (b) (1)-(6). After grade six, districts are encouraged to allow continued attendance but not required to do so. (Government Code 46601.5 (b) and (c)).
- 5. Q:** Does a school district need to send the Marin County Office of Education notification about outgoing transfers?
- A:** No, the pink copy of the incoming **Interdistrict Transfer** form contains all the information the Marin County Office of Education needs to prepare a report of incoming and outgoing transfers.

6. Q: Are parents informed that the Marin County Board of Education considers the effect the granting of an appeal would have upon the school districts concerned? Are parents informed of the factors the Board considers in granting an appeal?

A: Yes, parents receive a copy of the Marin County Board of Education policy and procedures prior to the hearing of the appeal. The president of the Marin County Board of Education reminds parents and school district representatives of the policy and procedures at the beginning of the appeal hearing.

7. Q: How does a school district determine residency?

A: Refer to Section II Guidelines for Verification of Residency and Refer to Government Code § 243, § 244 and Education Code § 4890 in the Legislation Section V.