



Humboldt County Board of Education

Interdistrict Attendance Appeal Handbook

**To assist parents/guardians, students, and
school districts in understanding the
interdistrict attendance appeal process**

Humboldt County Board of Education Interdistrict Attendance Appeal Handbook

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INTRODUCTION

The Humboldt County Board of Education has prepared this handbook to provide direction and information to parents/guardians and students who wish to appeal a school district's failure to approve a request for an interdistrict transfer. It is also provided as a tool for school districts to assist them in preparing for an appeal hearing.

The Humboldt County Board of Education is committed to an objective review and consideration of appeals for students denied interdistrict attendance agreements from local school districts.

The Humboldt County Board of Education encourages parents/guardians and districts to have dialogue regarding the original request and the failure to grant the transfer, and to use the county appeal process as a last resort.

Interdistrict transfer requests and appeals are governed by California's Education Code as well as the school district's board policies and administrative regulations and Humboldt County's Office of Education board policies and administrative regulations.

Parents/guardians and/or students have the right to review student records at the school district, request and receive student records within five (5) business days' of a request, and the right to consult with and engage the services of an advocate or an attorney at their own expense. Parents/guardians are strongly encouraged to attend the hearing to ensure that the Board is well-informed prior to making its decision.

When a parent/guardian files an appeal due to a district's failure to grant an interdistrict attendance request, the school district should take all steps to ensure that they are represented at the appeal hearing by the Superintendent or an informed administrative designee empowered to make commitments and decisions on behalf of the district.

It is hoped that this handbook is a useful tool in understanding the interdistrict attendance appeal process.

GROUNDINGS FOR INTERDISTRICT ATTENDANCE APPEALS

Humboldt County Board of Education Authority

The Humboldt County Board of Education is required to hear appeals when a school district has rejected or failed to respond to a parent/guardian's interdistrict attendance request. The Humboldt County Board of Education will determine whether to grant or deny an interdistrict attendance request after reviewing the relevant facts from the parent/guardian, student, and local school district(s) involved.

Limitations on Humboldt County Board of Education Authority

There are limits on what is appropriate for Humboldt County Board of Education to decide upon such appeals. For example, the Board has no authority to:

1. Determine the specific school within the school district where the student will be enrolled. This authority is reserved for the school district of attendance, after the Humboldt County Board of Education has made its final decision;
2. Review a school district's determination of residency;
3. Review a school district's denial of an interdistrict transfer request by a student under consideration for expulsion or who has been expelled [Ed. Code 46601(c)(5)];
4. Review a denial of an intradistrict transfer between schools within the same district [Ed. Code 35160.5(b)];
5. Resolve a dispute regarding whether a student required a specific placement in order to receive an offer of a free appropriate public education under special education laws. Such a dispute should be handled by the district of residence through special education procedures [20 U.S. Code 1415(f); Ed. Code 56505]. However, a parent/guardian of a student with disabilities is entitled to apply for an interdistrict transfer to the same extent a parent of a child without disabilities is permitted to apply;
6. Review a school district's determination regarding the validity or invalidity of a caregiver affidavit [Ed. Code 48204(a)(5) and Family Code 6550, et seq.]; or
7. Review a denied application where the denying district is a District of Choice [Ed. Code 48300 et. seq].

Humboldt County Board of Education Authority in Appeals Involving Two Counties

If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the school district denying a permit, shall have jurisdiction for purposes of an appeal. If both school districts deny a permit, the county board of education having jurisdiction over the school district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of education of the other county that shall provide adequate opportunity for the school district under its jurisdiction to be heard on the matter before making a decision. If the two county boards of education do not then concur, the pupil's appeal shall be denied. [Ed. Code 46601 (c)(4)].

Actions the Humboldt County Board of Education May Take

The Humboldt County Board of Education's review of the appeal may result in:

1. Granting the interdistrict attendance appeal and enrolling the student in the requested school district;
2. Denying the appeal and ordering the student to return to the school district of residence; or,
3. In rare cases, remanding the case to the local school district for further consideration of new evidence or new grounds for the request for interdistrict attendance.

FILING A REQUEST FOR AN APPEAL HEARING

An appeal hearing must be requested within thirty (30) calendar days of when the request for interdistrict attendance was denied by the school district, or deemed denied due to a failure of action. Before a request for an appeal hearing is filed, the parent/guardian must check the policies of the school district that denied the request for interdistrict transfer to see if there is any type of internal appeal procedure (i.e. decisions by the district superintendent may be appealed to the school district governing board), that internal district process must be exhausted before an appeal is filed with the Humboldt County Board of Education.

A parent/guardian may initiate the appeal hearing by completing and filing a **“Request for Interdistrict Attendance Appeal Hearing”** form, which is provided at the end of this handbook. Please read this entire handbook before completing the form. It is especially recommended that the section “Facts That Will Be Considered” be read thoroughly. The form must be completed legibly, signed, and returned within 30 calendar days of the district’s failure to approve the request. The district’s timeline for approving such requests may be set forth in its board policies or administrative regulations. The form can be delivered in person or by placing it in the mail to the following address:

**Humboldt County Office of Education
Attn: Humboldt County Superintendent of Schools
901 Myrtle Ave.
Eureka, CA 95502**

The completed appeal hearing request form should be accompanied by:

1. A copy of the original Request for Interdistrict Transfer form and supporting documents submitted with it;
2. A copy of any letters from the district of residence regarding the request;
3. A copy of any letters from the school district that did not grant the request; and
4. Any additional written statement or documentation that is pertinent to the request.

The Humboldt County Board of Education will accept a date-stamped copy of the Request for Interdistrict Transfer form filed with the school district as evidence that district procedures have been complied with in the event the district fails to act on the original request within the required timelines.

The reasons for an appeal hearing request must be the same as those stated on the original Request for Interdistrict Transfer form. If the reasons on the appeal hearing request are substantially different, the parent/guardian may be asked to reapply for an interdistrict transfer or the matter may be remanded back to the district.

Lori Breyer, Coordinator of School Support & Accountability at the Humboldt County Superintendent of Schools, can be contacted at (707) 445-7019 for any questions regarding the appeal hearing process.

SETTING THE APPEAL HEARING DATE

Humboldt County Superintendent of Schools' Office Will Verify Information

After receiving an appeal hearing request, the Humboldt County Superintendent of Schools' office will review the information submitted and may seek to verify certain information before an appeal hearing date is scheduled. The Humboldt County Superintendent of Schools will verify whether the student is subject to expulsion. Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

The Humboldt County Superintendent of Schools' office will also check to see if any appeal processes in the school district have been exhausted. If the district's appeal channels have not been followed, the parent/guardian will be asked to complete the district appeal process before going forward.

The Humboldt County Superintendent of Schools' office will review the case to determine that all timelines have been honored prior to setting a hearing.

Misinformation and/or falsification of information may lead to rejection of an appeal.

Timelines for Hearing

If the written appeal hearing request is complete and appropriately filed at the Humboldt County Superintendent of Schools office within proper timelines, the Humboldt County Superintendent of Schools and the Humboldt County Board of Education President will place the matter on the Humboldt's County Office of Education's Board agenda for a regular or special meeting to be held no later than thirty (30) calendar days following the effective date the appeal was filed. The Humboldt County Board of Education may extend this thirty (30) day period an additional five calendar days for good cause [Ed. Code 46601(c)(2)(B)]. The Humboldt County Superintendent of Schools has discretion to approve a request for postponement filed by the parent/guardian or by the school district for good cause provided the written request is received at least seven (7) calendar days prior to the appeal hearing date, except in an emergency. A postponement by the party who filed the appeal hearing request extends the timeline for the Humboldt County Board of Education to make a decision.

Notification of Hearing Date

The Humboldt County Superintendent of Schools office will notify the parent/guardian and the school district(s) involved in writing of the date, time, and place of the appeal hearing.

PREPARING FOR THE APPEAL HEARING

Written Statement or Documentation

After the appeal hearing request is received, the parent/guardian and district will be invited to provide a written statement and/or additional documentation that they would like the Humboldt County Board of Education to consider. Prior to the hearing, the district will be provided a copy of information submitted by the parent/guardian and the parent /guardian will be provided a copy of information submitted by the district.

Additional Documentation

Documentation is helpful when presenting information to the Humboldt County Board of Education. Evidence is most effective when it is provided in writing, related to the issue at hand and is the type of evidence upon which reasonable persons can rely in the conduct of serious affairs. Some examples of additional documentary evidence are:

- Professional recommendations by doctors, educators, psychologists, or others.
- Verification of transportation or childcare providers, employment, teachers, or others.
- Brochures or written information about special programs in the school district or community of requested attendance.

Cumulative File

The Humboldt County Superintendent of Schools office may request a copy of the student's cumulative file from the student's current school of attendance to have available at the hearing for review by the Humboldt County Board of Education. The Humboldt County Board of Education will only review such records with parent/guardian permission.

Multiple Appeals

Families with multiple appeal hearing requests may have them heard separately or as one, at the discretion of the Humboldt County Board of Education. If all the appeals are heard as one, there will be a separate vote on each student, but only one written decision.

Legal Counsel or Advocate at the Hearing

Although the hearing is informal, the parent/guardian may bring legal counsel or an advocate. The use of any legal counsel or advocate will be at the party's own expense.

Verbal Presentation/Witnesses

The Humboldt County Board of Education will rely on the written information provided prior to the appeal hearing by the parent/guardian and the school district, as well as the verbal presentations that are made at the appeal hearing. A brief verbal presentation should be prepared which focuses on the factors that the Humboldt County Board of Education will consider during the appeal hearing. Parent/guardian may bring a witness or someone who might make a special statement on behalf of the student to the appeal hearing. Witnesses should prepare to make a brief presentation.

Conduct of the Appeal Hearing

The hearing may be conducted in closed session during a Humboldt County Board of Education meeting if the parent/guardian requests in writing a closed session seven (7) calendar days in advance of the hearing.

FACTS THAT WILL BE CONSIDERED ON APPEAL

In its discussion and deliberations on the appeal, the Humboldt County Board of Education will consider the conditions of, and reasons for, the parent/guardian's request for an interdistrict attendance transfer. In deciding whether to grant or deny a transfer, the Humboldt County Board of Education weighs the facts which support the criteria favoring a transfer against the adverse impacts presented by the school district.

The parent/guardian will have an opportunity to share with the Board their reason for the transfer and how the transfer will affect their child in a positive manner.

The school district representative will have an opportunity to share with the Board the district's reason for the refusal of the request.

Documentation from all parties supporting their respective positions regarding the appeal must be submitted by the timelines provided by the Humboldt County Superintendent of Schools' office prior to the appeal hearing. The Humboldt County Board of Education may choose to disregard supporting documentation if timelines for producing evidence are not met. If new evidence or new grounds for a request are presented at the appeal hearing, the Humboldt County Board of Education may remand the case for further consideration to the district .

Ultimately the Board will make its decision based on what they believe is in the best interest of the student.

The Humboldt County Board of Education weighs all the facts in each case and makes a decision based on the merits. Misinformation and/or falsification of information provided by either party shall be good cause for deciding against that party.

Factors Which May Support Denying an Transfer

The Humboldt County Board of Education, in its discretion, may uphold a district's decision to deny a transfer request if the district demonstrates:

1. **A negative financial impact of educating the student (district of desired attendance) or losing the student (district of residence).** In either case, the impacted district must demonstrate in writing that the student's transfer would place an undue hardship on the district operations and/or resident students in terms of costs, reduced services, or other unacceptable outcomes.
2. **The student's demonstrated failure to meet reasonable standards relating to behavior, attendance, or diligence to studies.** The demonstration of such failure by the district of proposed attendance must be based on a written explanation of the district's previous experience with the student under an interdistrict attendance agreement or on other documented evidence of behavior, achievement, diligence or attendance in the prior district of attendance.
3. **Overcrowding/lack of capacity for the student in the receiving district.** The district of proposed attendance must demonstrate that the student's transfer would result in an undue hardship on the district's resident students in terms of overcrowding or priority for enrollment in a specific program, lack of capacity in school facilities or available resources - including staff, and/or would be a violation of law, district policy, or a collective bargaining agreement regarding class sizes or facilities use.
4. **Other exceptional or extraordinary circumstances, which would weigh heavily in favor of the affected school district.** The school district must specify and describe the type of exceptional or extraordinary circumstance.

THE APPEAL HEARING

Appeal hearings are conducted during a regular or special meeting of the Humboldt County Board of Education at the following location:

**Humboldt County Office of Education
901 Myrtle Avenue
Eureka, CA 95501**

Hearings will be set as explained in the section of this handbook entitled "Setting the Appeal Hearing."

It is the intent of the Humboldt County Board of Education to conduct the hearing in a fair and sufficiently informal manner to encourage open communication and understanding of the system. The hearing will also be conducted in such a manner that no legal expertise is necessary and so that all parties have the opportunity to present their case fairly and completely. Strict rules of evidence as required in court proceedings will not be applied.

Persons to be heard will be limited to the parent/guardian, student or student representative, witnesses, representatives of the school district, and the Humboldt County Superintendent of Schools and/or designee(s) and other pertinent Humboldt County Office of Education staff. The parent/guardian may have legal counsel or an advocate present (at his or her own expense) if they wish.

During the appeal hearing the parent/guardian, student or student representative, witnesses, and the representative of the school district will meet with the Humboldt County Board of Education. The hearing is conducted as follows:

1. There are five (5) members on the Humboldt County Board of Education; three (3) members must be present for a quorum to conduct the hearing.
2. After introduction of all parties, the Humboldt County Board of Education President, or designee, will serve as a facilitator for the hearing and will explain the procedures to be followed during the hearing.
3. The parent/guardian, student or student representative, will present the reasons for requesting that the student attend the district of requested attendance. The speaker will have a specified amount of time [normally fifteen (15) minutes] to summarize his/her position. During this time, the speaker will also respond to questions from the Board, if any.
4. The school district representative will be given the opportunity to describe its position and the action taken by the district [normally fifteen (15) minutes]. During that time, the school district representative will respond to questions from the Board, if any.
5. The parent/guardian will be given additional time to present any rebuttal information to the information presented by the school district and give any closing remarks. The school district representative will also have additional time for closing and/or response.
6. Board Members may ask questions to clarify the issues. The Board may also ask questions of the staff and/or legal counsel.
7. The Humboldt County Board of Education President, or designee, may at this time present any factual information or other consideration not already covered by others.
8. Following the hearing, the parent/guardian, student, and student representative as well as the school district representative may be excused and the Board may convene to a closed deliberation.

**STUDENTS
INTERDISTRICT ATTENDANCE APPEAL**

Exhibit 5117.1

9. When the Board President determines that deliberations are complete, they will then open the closed session and report action taken in the closed session deliberation.
10. Three of the five Board Members must vote "yes" for the appeal to be granted.

The Humboldt County Board of Education shall render a written decision within three (3) school days of the hearing. The decision of the Board will be limited to:

1. Approval of the appeal;
2. Denial of the appeal; or
3. Remanding the case back to the school district.

AFTER THE APPEAL HEARING

If the Board approves the interdistrict attendance request, the student shall be enrolled in the school district of requested attendance without delay.

If the Board denies the request, the student shall attend the school district of residence without delay.

**Humboldt County Board of Education
REQUEST FOR INTERDISTRICT ATTENDANCE APPEAL HEARING**

(Please print or type all material except signature)

[**Note:** This appeal hearing request shall be submitted to the Humboldt County Superintendent of Schools office within thirty (30) calendar days following the date of a school district's failure or refusal to enter into an agreement allowing interdistrict attendance.]

Student Name: _____ Birth Date: _____ Grade: _____

Parent(s)/Guardian(s) Name: _____

Residence Address: _____
Address City State/Zip

Residence Phone: _____ Business Phone: _____ Other Phone: _____

School District in which student lives: _____

School District student is now attending: _____

School District student desires to attend: _____

1. How many other children in the home? _____ If any, give ages: _____

2. Do they attend school in the district of residence? Yes _____ No _____

Explain, if answer to #2 is no: _____

Explain why you have requested an interdistrict attendance transfer. The information provided will be reviewed by the Humboldt County Board of Education to help them arrive at a decision regarding your appeal. Include any facts that you believe will help your appeal. You are invited to explain your request in more detail to the Board at the hearing. If you need more space, please attach a separate sheet to this form. _____

The hearing may be conducted in closed session during a Humboldt County Board of Education meeting if the parent/guardian requests in writing a closed session seven (7) calendar days in advance of the hearing.

Do you wish to have the hearing conducted in closed session? Yes No

Please attach to this form the following:

1. A copy of the original Request for Interdistrict Transfer form and attachments;
2. A copy of any letters from your district of residence regarding your request;
3. A copy of any letters from the denying district regarding your request; and
4. Any additional written statement or documentation that is pertinent to your request. If included, has this information been shared with the denying district? Yes No
5. If district of residence denial, verification district of attendance has capacity to approve.

This request is submitted in accordance with Education Code 46601 and the Humboldt County Board of Education Board Policy 5117. I understand that the Humboldt County Board of Education will rely upon the information submitted to decide my appeal. I hereby certify that I have read the Humboldt County Board of Education Interdistrict Attendance Appeal Handbook and that the information I have provided is true and correct to the best of my knowledge.

Signature of Parent/Guardian or Adult Student Filing Appeal Hearing Request _____ Date _____

Submit to:
Humboldt County Office of Education • Attn: Superintendent's Office • 901 Myrtle Ave., Eureka, CA 95501