

SAN MATEO COUNTY BOARD OF EDUCATION

Regular Meeting
March 2, 2011
7:00 p.m.

Board Rooms A and B
101 Twin Dolphin Drive
Redwood City, California

A G E N D A

1. CALL TO ORDER

2. APPROVAL OF AGENDA

3. PERSONS WISHING TO ADDRESS THE BOARD, DELEGATIONS AND PETITIONS

4. APPROVAL OF MINUTES OF FEBRUARY 16, 2011, REGULAR MEETING

5. CONSENT AGENDA

Board action to approve the following item is taken with one motion to "approve the consent agenda," which is not debatable and which requires a unanimous vote for passage. If any member of the Board, the Superintendent, or any member of the Public so requests, any item shall be removed from this section and placed in the regular order of business. The action indicated is deemed to have been considered in full, and action taken by the Board as worded therein.

- a. Adopt Joint Resolution No. 11-5 Recognizing March 31 as Cesar Chavez Day of Service and Learning
- b. Adopt Board Resolution No. 11-6 Implementing Board Policy 9214

6. OFFICE OF THE SUPERINTENDENT

- a. Superintendent's Comments

7. BOARD MEMBERS

- a. Discuss and/or Act on Legislation
- b. Receive Report on Changes in the Law Regarding Interdistrict Transfers
- c. Study Session: Review and Discuss Expulsion Appeals
- d. Board Member Comments

8. ADJOURNMENT

NEXT REGULAR MEETING: MARCH 16, 2011

UNAPPROVED**MINUTES OF THE SAN MATEO COUNTY BOARD OF EDUCATION**

Meeting Date: February 16, 2011

Meeting Location: Board Rooms A and B
101 Twin Dolphin Drive
Redwood City, California

Board Members Present: Susan Alvaro, Jim Cannon, Rhonda Ceccato,
Beverly Gerard, Rod Hsiao (arrived at 7:30 p.m.),
Ted Lempert, Memo Morantes

Staff Officials Present: Anne E. Campbell, Secretary
Marcia Serpa-Garcia, Executive Assistant

Other Staff Present: Peter Burchyns, Karen Philip, Glenn Siegel,
Gary Waddell, Sue Wieser

1. CALL TO ORDER

Board President Alvaro called the meeting to order at 7:00 p.m., and noted that the meeting was being taped.

2. APPROVAL OF AGENDA

After a motion by Mr. Morantes and a second by Ms. Gerard, the Board approved the February 16, 2011, agenda as presented by a vote of six in favor (Alvaro, Cannon, Ceccato, Gerard, Lempert, Morantes), none opposed and one absent (Hsiao arrived at 7:30 p.m.).

3. EMPLOYEE OF THE MONTH

Ms. Alvaro introduced the February 2011 Employee of the Month, Vanessa Teater, Health Care Specialist, Outdoor Education Program, Instructional Services Division. Ms. Alvaro congratulated Ms. Teater on behalf of the Board and the Superintendent and presented her with a clock and a check.

4. PERSONS WISHING TO ADDRESS THE BOARD, DELEGATIONS AND PETITIONS

There were no persons wishing to address the Board.

5. APPROVAL OF MINUTES OF FEBRUARY 2, 2011, REGULAR MEETING

After a motion by Ms. Gerard and a second by Ms. Ceccato, the Board approved the February 2, 2011, regular meeting minutes as presented by a vote of six in favor (Alvaro, Cannon, Ceccato, Gerard, Lempert, Morantes), none opposed and one absent (Hsiao).

6. CONSENT AGENDA

After a motion by Ms. Gerard and a second by Mr. Morantes, the Board approved the Consent Agenda as presented by a vote of six in favor (Alvaro, Cannon, Ceccato, Gerard, Lempert, Morantes), none opposed and one absent (Hsiao), taking action to:

- a. Receive Staffing Reports
- b. Adopt Joint Resolution No. 11-2 Recognizing the Week of the School Administrator
- c. Adopt Joint Resolution No. 11-3 Honoring Dianne Talarico on Her Retirement

7. STUDENT SERVICES DIVISION

- a. Authorize Duties and Responsibilities for Three New Classified Positions

After a motion by Ms. Ceccato and a second by Ms. Gerard, the Board voted to authorize the Duties and Responsibilities for Three New Classified Positions by a vote of six in favor (Alvaro, Cannon, Ceccato, Gerard, Lempert, Morantes), none opposed and one absent (Hsiao).

8. INSTRUCTIONAL SERVICES DIVISION

- a. Ratify Submission of Project: Early Childhood Language Development Institute

After a motion by Mr. Lempert and a second by Ms. Gerard, the Board voted to ratify submission of a grant proposal to the San Francisco Foundation for the project: Early Childhood Language Development Institute as presented by a vote of six in favor (Alvaro, Cannon, Ceccato, Gerard, Lempert, Morantes), none opposed and one absent (Hsiao).

- b. Receive Report on Science, Technology, Engineering and Math (STEM) Initiative

Associate Superintendent Gary Waddell provided a PowerPoint presentation on the development of the County Office of Education's new Center for Science, Technology, Engineering and Math (STEM). He began by noting that the current model of schooling emerged in the industrial age but that the shifting paradigm for the digital age requires new ways of educating students to become problem-solvers, innovators and inventors who can think critically.

INSTRUCTIONAL SERVICES DIVISION (continued)

Dr. Waddell emphasized the importance of STEM content in the 21st Century and provided data that showed students in both California and the United States perform poorly in reading, math and science when compared to students in other countries. He also highlighted the need to support teachers as they address the challenge of improving student performance. The focus of the new STEM Center will be professional development in STEM content and pedagogy that helps teachers engage, educate and inspire 21st century learners.

Dr. Waddell stated that the STEM Center will be located on the first floor of the County Office and he reviewed the planning process in which his staff members have been engaged for several months; this process has included input from district staff on their needs and which services will be of most value to them. The planning phase is scheduled to be completed by Summer 2011 and the launch phase will begin by Fall 2011. Dr. Waddell then answered questions from the Board.

9. OFFICE OF THE SUPERINTENDENT

a. Superintendent's Comments

Ms. Campbell reported that on Friday, February 11, an underground water pipe broke outside the back of the County Office, flooding the lawn and parking lot and also causing water to enter the cafeteria, the Pine, Oak, Laurel and Eucalyptus Conference Rooms and the micro-technicians' work area.

Ms. Campbell stated that the necessary repairs had begun that same evening, were continuing and were scheduled to be completed within the next few workdays. These include: repair of the pipes; returning the fire alarm and fire sprinkler systems to full operational status; cleaning or replacement of damaged flooring; etc.

Ms. Campbell assured the Board that the building had been inspected and approved for re-opening prior to making the decision to open for business on Monday, February 14. She thanked all the staff who provided excellent assistance during the weekend and particularly acknowledged the efforts of Kamran Fahimi, Computer Network Technician, Margie Gustafson, Administrator of Internal Business Services, Jeanne Bencharsky, Facilities Services Manager, and Custodians Mario Garibay, John Schneider and Michael Rachal.

Ms. Campbell thanked all the staff and outside groups that had meetings scheduled in the affected conference rooms for their understanding, flexibility and willingness to change their meeting venues.

Ms. Campbell reported that with Board President Alvaro she attended the meeting on February 4 that Assemblymember Jerry Hill convened to address state budget issues. Assemblymember Hill stated that he was optimistic that the Governor's proposed initiatives would be placed on the June ballot and be approved by the voters. Issues that were highlighted included the need for

OFFICE OF THE SUPERINTENDENT (continued)

clarity on Redevelopment Agency (RDA) funding, the status of AB 3632 and the impact of the deferrals of funding to school districts.

Ms. Campbell said she and Vice President Hsiao attended Senator Simitian's Education Forum on February 5, at which Senator Simitian expressed cautious optimism about the ballot initiatives but also stated that if these initiatives fail K-14 education could lose about \$5 billion or \$800/student. Senator Simitian noted that a trailer bill would be needed to provide details about how the RDA funding would be reallocated if the Governor's proposal is approved.

Senator Simitian also discussed the Transitional Kindergarten Bill and noted he is again sponsoring legislation for allowing parcel taxes to be approved by 55% of the voters.

Senator Simitian recommended that people: 1) communicate with their legislators about the need to get the initiatives on the June ballot; and 2) inform the public about what will happen if the measures do not pass.

Ms. Campbell reported on the February 16 Management Seminar at which managers reviewed the County Office's strategic goals and budget development process, and then rode in a bus to the College of San Mateo to see the film "Race to Nowhere." She thanked President Alvaro for joining the group at the showing of the film, which presents a stark look at the pressures and stresses experienced by students, parents and schools. Ms. Campbell thanked Transportation Manager Cynthia Flynn for arranging for the bus and recommended that Board Members see the film. Ms. Campbell also said that follow-up meetings with Management Task Force groups generated considerable discussion about the film and helped managers to get to know each other better.

Ms. Campbell informed the Board that Tania Magania, a teacher at the Community School in Redwood City, will receive an award from the Cleo Eulau Center in recognition of her excellent teaching. The award will be presented at the Forget Me Not Breakfast on April 13, and Ms. Campbell said she hoped that Board Members would be able to attend to honor Ms. Magania for her skills and commitment.

Ms. Campbell said that she attended the PTA Founders Day Luncheon on February 15 at Dominic's at Oyster Point. She thanked Mr. Cannon and Mr. Morantes for attending and noted that the California PTA was founded 114 years ago and the 17th District PTA has been in existence for 84 years. Ms. Campbell reported that PTA State President Jo Loss gave brief remarks on the importance of the PTA, that Judy Sleeth was honored for her work with Art in Action and that 2011 San Mateo County Teacher of the Year Rachel Andres of Menlo Atherton High School in the Sequoia Union High School District made inspiring remarks about the success that her students in the Advancement Via Individual Determination (AVID) program have had in becoming the first in their families to attend college.

Ms. Campbell reported that the County Office had partnered with Congresswoman Jackie Speier's Office on a Valentines for Vets program in which thousands of students made

OFFICE OF THE SUPERINTENDENT (continued)

Valentines cards that were delivered to veterans in local hospitals. Ms. Campbell thanked the schools and classrooms that participated and also thanked Peter Burchyns, Special Advisor to the Board and Superintendent, for his help in coordinating the event.

Ms. Campbell reminded the Board that the Zap the Gap Conference is coming on February 28. She acknowledged the hard work of Dr. Waddell and Curriculum Services Administrator Lori Musso in planning the event and congratulated them for their success in securing outstanding presenters who include Pedro Noguera, Albert Gonzales and David Foster. She noted that registration is at capacity.

Ms. Campbell concluded by stating that the tentative Board Agenda for March 2 includes a study session on appeals.

b. Receive Report on Peninsula Partnership Leadership Council (PPLC) – April Summit

Ms. Campbell announced that the Peninsula Partnership Leadership Council (PPLC) will host “Destination 2025: Mapping the Course for Our Kids” on April 2 at the San Mateo County Event Center, at which Angela Glover Blackwell, Founder and Chief Executive Officer of PolicyLink, will be the keynote speaker. She said that this Summit is intended to bring together community leaders, parents and youth to chart a path for turning the vision of the Bill of Rights for Children and Youth into reality. It will focus on three goals: 1) all San Mateo County children will be proficient readers by the end of the third grade; 2) all San Mateo County children will weigh within the healthy weight range for their age; and 3) all San Mateo County youth will have a sense of hope and resiliency so they can thrive as they mature into adulthood. Ms. Campbell invited the Board Members to attend this Summit and then answered questions from the Board.

c. Receive Report on State Budget Proposals and Their Potential Impact on the County Office of Education

Ms. Campbell provided a PowerPoint presentation on the Governor’s 2011-2012 budget proposal, which included the following key points:

- The current budget situation is unparalleled, unprecedented and unpredictable.
- The 18-month shortfall of \$25.4 billion is the largest deficit ever faced by a California Governor.
- The Governor’s proposed solution balances expenditures reductions and revenue enhancements to eliminate the deficit and would realign responsibilities and funding from the state to the local level.
- Redevelopment Agencies would be phased out.
- In recognition of cuts over the past three years (over \$18 billion or \$1,900 per student), the intent is to avoid further cuts to K-12 education.
- Proposition 98 funding would drop by \$2 billion and \$9 billion of deferrals would be implemented for K-12 education in 2011-2012.

OFFICE OF THE SUPERINTENDENT (continued)

- The Governor's proposal includes two ballot measures. The first extends temporary revenue enhancements for five years and the second diverts \$1 billion of Proposition 10 funds to support Medi-Cal services for children through age five.
- The ballot measures will require a two-thirds vote of the legislature to be placed on the June ballot and then a simple majority of the June voters to pass.
- The Governor's key message is to maintain the status quo (keep the current taxes – but no new taxes).
- If the ballot measure fails, Proposition 98 would be reduced by \$2.3 billion (\$349 per student).
- A worse case scenario in which K-12 funding were reduced by \$5 billion (40% of the remaining deficit) would result in a loss of \$800 per student.
- The impact on the County Office is difficult to estimate but if the ballot measures fail the reduction to the County Office general fund is estimated at 5%.
- California's state budget in 2000 was \$78 billion; if it had grown commensurate with population and Consumer Price Index (CPI) increases it would now be \$118 billion but the 2010 budget is 27% lower – \$86.5 billion.

Superintendent Campbell called upon Deputy Superintendent Karen Philip to discuss the Court and Community Schools program.

Ms. Philip reported that the Court Schools Program has a projected deficit of \$689,000. During the 2010-2011 school year, the County Office has worked towards reducing this deficit by not replacing positions that have become vacant. However, eliminating this deficit for 2011-2012 presents a significant challenge. Ms. Philip has been meeting with the Program Managers in order to develop plans for resolving this shortfall for the coming school year.

The Community Schools Program has a less significant shortfall and the school districts have been advised of the added costs per diem for the 2011-2012 school year. Districts have indicated that they value the program and will continue to refer students to it although some districts may reduce the numbers of referrals.

Ms. Campbell showed data indicating that California is in the very bottom of the nation when compared to other states on annual per pupil expenditures, on ratios of class size, librarians, counselors and administrators. She concluded her budget presentation by recommending that: 1) legislators place the measures on the June ballot; and 2) we inform the general public about what will happen if the measures fail.

10. **BOARD MEMBERS**

a. **Discuss and/or Act on Legislation**

There was no report on Legislation.

BOARD MEMBERS (continued)

- b. Discuss and/or Act on Joint Resolution No. 11-4 In Support of Placing a Measure on the June 2011 State Ballot to Provide for a Five-Year Revenue Extension to Protect Our Schools and Students and Make Education a Priority in California

After discussion by the Board, there was a motion by Mr. Hsiao and a second by Mr. Morantes, and the Board voted unanimously to adopt Joint Resolution No. 11-4 In Support of Placing a Measure on the June 2011 State Ballot to Provide for a Five-Year Revenue Extension to Protect Our Schools and Students and Make Education a Priority in California.

- c. Discuss and/or Cast Ballot for Beverly J. Gerard as the 2011 Region V County Representative to the California School Boards Association Delegate Assembly

After a motion by Ms. Ceccato and a second by Mr. Cannon, the Board voted unanimously to cast its ballot for Beverly J. Gerard as the 2011 Region V County Representative to the California School Boards Association Delegate Assembly.

- d. Board Member Comments

Mr. Lempert

Mr. Lempert commented that he appreciated Dr. Waddell's presentation on the Science, Technology, Engineering and Math (STEM) Center that the County Office is working on and thinks that this is very exciting.

Ms. Ceccato

Ms. Ceccato thanked Ms. Campbell and Ms. Philip for their presentations regarding the budget, and also thanked Dr. Waddell for the presentation he made on the STEM Center Project.

Mr. Morantes

Mr. Morantes thanked Kamran Fahimi for his quick thinking when the water pipe broke at the County Office.

Mr. Morantes reported that he attended the 2-1-1 Event and appreciated the closing comments made by Labor Council Executive Secretary/Treasurer Shelly Kessler.

Mr. Morantes reported that he attended the 17th District PTA Founders' Day Luncheon and expressed his appreciation of the teachers in San Mateo County. He said that the speech given by Rachel Andres was very moving, and that Ms. Campbell did an excellent job representing the County Office.

Mr. Morantes thanked the County Office staff who gave presentations earlier in the meeting and said that they were very informative.

BOARD MEMBERS (continued)

Mr. Cannon

Mr. Cannon shared a story about water damage that happened eight years ago at the Burlingame Library and said that the County Office was very fortunate to have had Mr. Fahimi and the other staff who took care of the problem before it became much worse; he thanked them for their hard work.

Mr. Cannon thanked Ms. Campbell, Ms. Philip and Dr. Waddell for the excellent reports they made.

Mr. Cannon reported that he attended the 2-1-1 Event with Mr. Morantes and Deputy Superintendent Karen Philip.

Mr. Cannon reported that he attended the 17th District PTA Luncheon with Mr. Morantes and commended Ms. Campbell on the remarks she made at the event.

Ms. Gerard

Ms. Gerard commented that the reports given during the meeting were very informative and thanked the staff for being so responsive to the Board's requests for information. She said that the budget report allowed her to understand the issues and what the County Office needs to attend to in the upcoming months.

Ms. Gerard reported that she and Elizabeth Parker, Trustee of the Orange County Board of Education, will be teaching training classes for recently elected Board Members throughout the State of California on behalf of the California County Boards of Education (CCBE).

Ms. Gerard reported that she is a member of the CCBE Audit Committee and recently participated in that Committee's first meeting.

Ms. Gerard announced that she will have to miss one or more meetings beginning in March due to surgery.

Mr. Hsiao

Mr. Hsiao apologized for being late to the meeting.

Mr. Hsiao said that he is very excited about the STEM Center planned for the County Office and that he looks forward to the opening.

Mr. Hsiao reported that he attended Senator Simitian's discussion about the budget and thought it was very informative and will help the Board and the County Office as they move forward in advocacy efforts.

BOARD MEMBERS (continued)

Mr. Hsiao said that when Ms. Campbell sent an e-mail to the Board about the emergency water damage at the County Office he was grateful that Mr. Fahimi was swift to act, thereby sparing the County Office the potential for much greater damages.

Mr. Hsiao thanked Ms. Campbell for the PowerPoint presentation she made on the California State Budget and said that it can be difficult to crystallize very complex issues.

Ms. Alvaro

Ms. Alvaro said that the presentations made during the meeting were very good and thanked Ms. Campbell for the presentation she made on the budget.

Ms. Alvaro reported that she attended Assemblymember Jerry Hill's Roundtable Discussion on California's budget on February 4 along with Ms. Campbell and said that it also was very informative. She said that since many district superintendents were in attendance she and Ms. Campbell were able to learn about the local districts' concerns, which can be different than the County Office's issues. Ms. Alvaro said that Ms. Campbell was also able to advocate for preschool funding, which was very helpful.

Ms. Alvaro reported that she attended the screening of "Race to Nowhere" and thanked Ms. Campbell for the invitation and the opportunity to share this experience with the County Office management team.

Ms. Alvaro announced that the March 2 Board meeting will provide the Board with an opportunity to get an update on new laws concerning appeals and study the Board's policies and regulations concerning Interdistrict Attendance Appeals and Expulsion Appeals.

Ms. Alvaro wished Ms. Gerard the very best with her impending surgery and said that she hopes Ms. Gerard will be back soon.

11. **ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 9:02 p.m.

Anne E. Campbell, Secretary
msg

JOINT RESOLUTION NO. 11-5

**SAN MATEO COUNTY BOARD OF EDUCATION
AND
SAN MATEO COUNTY SUPERINTENDENT OF SCHOOLS
IN RECOGNITION OF
CESAR CHAVEZ DAY OF SERVICE AND LEARNING**

Whereas, Cesar Estrada Chavez was born in Yuma, Arizona on March 31, 1927; and

Whereas, Cesar Chavez dedicated himself to improving the working conditions of farm workers; and

Whereas, in 1962, Cesar Chavez became one of the founders of the National Farm Workers Union which is now the United Farm Workers; and

Whereas, Cesar Chavez became nationally recognized for teaching nonviolence while leading activities in the interest of labor and civil rights; and

Whereas, Cesar Chavez led by example, giving of himself to help others; and

Whereas, in 2000 the California Legislature enacted Senate Bill 984 creating Cesar Chavez Day of Service and Learning in California;

Now, Therefore Be It Resolved that in recognition of his service and accomplishments, the San Mateo County Board of Education and the County Superintendent of Schools hereby observe March 31, 2011, as Cesar Chavez Day of Service and Learning and encourage public schools throughout San Mateo County to conduct appropriate activities in observation thereof.

**SAN MATEO COUNTY
SUPERINTENDENT OF SCHOOLS**

**SAN MATEO COUNTY
BOARD OF EDUCATION**

Passed and Adopted on this
Second Day of March 2011

President

BOARD RESOLUTION NO. 11-6

**SAN MATEO COUNTY BOARD OF EDUCATION
STATE OF CALIFORNIA**

IMPLEMENTING BOARD POLICY 9214

WHEREAS, California Education Code Section 1090 provides for compensation for members of county boards of education based on attendance at Board meetings; and

WHEREAS, California Education Code Section 1090 (d) and Board Policy 9214 provide that a member may be paid for a Board meeting when the member is absent if the Board, by resolution, finds that at the time of the meeting said Board member is performing services outside the meeting on behalf of the Board, or is ill, or is on jury duty or that the Board member's absence is due to a hardship deemed acceptable by the Board;

NOW THEREFORE BE IT RESOLVED that Beverly Gerard, having given notice of anticipated absence due to illness, shall be compensated pursuant to the provisions of BP 9214 for any meeting that she will miss due to this illness.

**SAN MATEO COUNTY
BOARD OF EDUCATION**

President

Passed and Adopted on this
Second Day of March 2011



SAN MATEO COUNTY OFFICE OF EDUCATION

Anne E. Campbell, County Superintendent of Schools

February 24, 2011

To: Anne E. Campbell, County Superintendent of Schools

From: Peter Burchyns, Special Advisor to the Board and Superintendent

Subject: Board Policies and Regulation on Appeals

Attached for the information of the Board are copies of Board Policy 5110 and the accompanying Board Regulation 5110, each of which addresses Interdistrict Appeals, and Board Policy 5160 that addresses Expulsion Appeals.

At the Board meeting on March 2, 2011, the Board may wish to refer to these during the presentation on changes in the law relating to interdistrict transfers (item 7.b) and during the Study Session on expulsion appeals (item 7.c).

Attachments (3)

Forward to the Board:

Anne E. Campbell, County Superintendent of Schools

San Mateo County Board of Education Policy

Students**BP 5110****Interdistrict Attendance Appeals**

Pursuant to Education Code Section 46601 *et seq.*, the San Mateo County Board of Education shall hear and resolve interdistrict attendance appeals.

Disposition of interdistrict attendance appeals shall be based on the following rebuttable presumptions:

1. That a pupil is normally required to attend school in the district of residence of either the parent or legal guardian.
2. That a request for attendance in a district other than the district of residence, whenever possible, should be resolved by the governing boards of the two districts involved.

The County Board is given authority by law to adopt rules and regulations establishing procedures for interdistrict attendance appeals. In an effort to make such legal procedures understandable to parents, guardians, students and school districts, the County Board has reviewed and adopted the contents of the "Interdistrict Attendance Appeal Handbook" dated 05/07/08. The Handbook is established as a board regulation to govern interdistrict attendance appeals filed with the County Board.

The County Board has established limits on the types of appeals it will consider regarding interdistrict attendance agreements. These limitations are set forth in detail in Board Regulation 5110: Interdistrict Attendance Appeal Handbook.

Although the law allows total discretion by the County Board to determine whether to grant or deny an interdistrict attendance agreement on appeal, the County Board has adopted certain criteria to guide its decision. The County Board believes that it is the responsibility of the person filing the appeal to provide facts that meet one or more of the criteria. Even if the parent/guardian submits such facts, the County Board may also consider any adverse impacts to the school district(s) in question and balance the competing factors. The criteria to be considered by the County Board are set forth in the Handbook.

Legal References:

Education Code 46601-46604 Interdistrict Attendance Computation
Education Code 48204 Residency requirements for school attendance

Adopted 11/10/76; Revised 01/20/82, 10/02/85, 08/21/91, 04/05/95, 09/06/06, 05/07/08

SAN MATEO COUNTY BOARD OF EDUCATION

**INTERDISTRICT ATTENDANCE
APPEAL HANDBOOK**

Board Regulation – BR 5110

Adopted SMCBE 11/10/76

Revised SMCBE 2/20/80, 4/7/82, 4/5/95, 9/6/06, 5/7/08, 11/05/08, 06/17/09, 9/2/09

**TO ASSIST PARENTS, GUARDIANS, STUDENTS
AND SCHOOL DISTRICTS IN UNDERSTANDING
THE INTERDISTRICT ATTENDANCE
APPEAL PROCESS**

SAN MATEO COUNTY BOARD OF EDUCATION
INTERDISTRICT ATTENDANCE APPEAL
HANDBOOK

<u>Contents</u>	<u>Page</u>
I. Introduction	1
II. What Is the Purpose of an Appeal?	2
III. County Board Authority in Appeals Involving Two Counties	2
IV. What Are the Actions the County Board May Take?	3
V. When May an Appeal Be Filed?	3
VI. How Does a Person Request an Interdistrict Appeal Hearing?	4
VII. What If the Appeal Is Late?	5
VIII. How Is a Request for an Interdistrict Appeal Hearing Processed?	5
IX. Preparing for the Interdistrict Appeal Hearing	6
X. What Facts Will the County Board Consider?	8
XI. Conducting the Appeal Hearing	10
XII. What Happens at the Conclusion of the Appeal Hearing?	11

Appendices

Board Policy 5110 Interdistrict Attendance Appeals

Appeal of Denial of Interdistrict Attendance

Resource List: Free or Low-Cost Legal Services in San Mateo County

INTERDISTRICT ATTENDANCE APPEAL HANDBOOK

I. Introduction

The San Mateo County Board of Education has prepared this Handbook to provide direction and information to pupils and/or their parents/guardians who wish to appeal a school district's decision not to grant an interdistrict attendance agreement, and to school districts.

This Handbook constitutes the official procedures adopted by the San Mateo County Board of Education for conducting interdistrict attendance appeals.

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

The laws on interdistrict attendance computation, interdistrict attendance agreements, and interdistrict attendance appeals found in the *California Education Code, Sections 46600-46611*, as well as the local school district's policies and administrative regulations for interdistrict attendance, also apply in these appeals. Pupils and/or their parents/guardians have the right to review pupil records at the school district, and the right to consult with and engage the services of an advocate or an attorney at their own expense.

II. What Is the Purpose of an Appeal?

The County Board of Education has legal authority to review the procedures and reasoning followed by the school district(s) after the school district(s) have rejected or failed to rule on a pupil's interdistrict attendance request. The County Board of Education will determine whether to grant or deny an interdistrict attendance agreement after reviewing the relevant facts from the pupil, parent/guardian, and local school district(s) involved.

Limitations on County Board Authority

There are limitations on the types of appeals the County Board of Education can hear. For example, the County Board has ***no authority*** to consider the following interdistrict attendance appeals or issues:

1. To determine the specific school within the school district where the pupil will be enrolled. This authority is reserved for the school district of attendance, after the County Board has made its final decision;
2. Denial of an interdistrict transfer request by a pupil under consideration for expulsion or who has been expelled [Education Code Section 46601(e)];
3. Denial of an intradistrict transfer between schools within the same district [Education Code Section 35160.5(b)];
4. A dispute over the nature of the placement of a special education pupil or the services provided to a special education pupil pursuant to state and federal laws and regulations governing the Individualized Education Plan (IEP) process. Such a dispute should be handled by the district of residence through special education procedures [Education Code Section 56505; 20 U.S. Code Section 1415(f)]; or
5. A determination by a school district regarding the validity of a caregiver affidavit [Education Code Section 48204(d) or 48204(a)(4), and Family Code Section 6550, *et seq.*].

III. County Board Authority in Appeals Involving Two Counties

If the interdistrict attendance involves school districts located in different counties, the appeal will be heard by the County Board of Education for the district denying an agreement or refusing or failing to enter into an agreement. If districts in different counties deny an agreement, or refuse or fail to enter into an agreement, the County Board of Education for the district of residence shall hear the appeal. If the appeal is granted, the County Board for the other district will be asked to agree. If the two County Boards do not then agree, the pupil's appeal shall be denied.

IV. What Are the Actions the County Board of Education May Take?

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

1. Granting the interdistrict attendance appeal and enrolling the pupil in the new school district;
2. Denying the appeal and ordering the pupil returned to the school district of residence; or
3. In rare cases, returning the case to the local school district(s) for further consideration of new evidence or new grounds for the request for interdistrict attendance.

V. When May an Appeal Be Filed?

In general, you must request an appeal hearing within thirty (30) calendar days of when your interdistrict attendance request was denied by the school district. However, sometimes the school district does not respond to your request in a timely manner or simply fails to respond at all. Listed below are three different situations and a description of when the thirty (30) calendar day timeline starts.

District Denies Request

1. In most situations, a school district will act on your interdistrict attendance request either orally or in writing. You must file your appeal with the County Board of Education within thirty (30) calendar days from the date that your request was rejected by either the school district of residence or the school district of requested attendance, or both.

District Fails to Act on Request for Next School Year

2. If you have asked for an interdistrict attendance agreement for the next school year and the school district(s) fail to respond to your request, you must wait at least thirty (30) calendar days from the date of your request to see if you get a response from either of the school districts. You must also wait fourteen (14) calendar days after both school districts' academic school year begins before the 30-calendar day filing period begins. An academic school year starts on the first day of classes in the school district.

Example: If you filed an interdistrict attendance request on July 1 and you did not hear anything from the school district(s) by July 31, you must still wait fourteen (14) calendar days into the academic year before you can file an appeal with the County Board of Education. If the academic year for both districts begins on August 15, you must file your appeal after August 29 (14 day requirement) and before September 28 (30 day requirement).

District Fails to Act on Request Filed During the School Term:

3. If you have asked for an interdistrict attendance agreement for the current school year and the school district(s) fail to respond to your request, you must wait thirty (30) calendar days from the date of your request to see if you get a response from the school district(s). If you do not get a response during that time, you have thirty (30) more days to file an appeal with the County Board of Education.

Example: If you filed an interdistrict attendance request on September 1 and you did not hear anything from the school districts by October 1, you have until October 31 to file your appeal with the County Board of Education. You could not, however, file your appeal on September 15 (too soon) or November 15 (too late).

NOTE: Before you file your appeal, you must check the policies of the local school districts to see if there is any type of internal appeal procedure (e.g., decision by the district superintendent may be appealed to the district school board). If there is an internal appeal procedure, you must use that procedure before you file an appeal with the County Board of Education. In that case, your 30-day time period for filing an appeal does not begin until the final decision is made by the district or its governing board. If a student is under an expulsion order, you may not appeal the denial of the requested district [Education Code Section 46601(e)].

VI. How Does a Person Request an Interdistrict Appeal Hearing?

The appeal process begins with completing and filing a written form called: "Appeal of Denial of Interdistrict Attendance." This form is included in the Handbook. You may deliver the form in person or by placing it in the mail to the following address:

Administrator
Child, Youth and Family Services
San Mateo County Office of Education
101 Twin Dolphin Drive
Redwood City CA 94065
Telephone: (650) 802-5314
Fax: (650) 802-5322

This form must be completed, signed, and returned within the applicable time limits (refer to pages 3 and 4). *Please complete all sections of the form legibly.*

Please read the entire Handbook before completing the form. We especially recommend that you read the section "Facts the County Board Will Consider" that begins on page 8 of this Handbook before completing the section of the form entitled, "Reason for Request for Appeal."

Your completed appeal form should be accompanied by: (1) a copy of your original request for an interdistrict transfer; (2) any letters from your district of residence regarding your request; (3) any letters from the denying district regarding your request; and (4) any other supporting documentation you want the County Board to consider.

The Board will accept a date-stamped copy of your request for an interdistrict transfer filed with the district as evidence that you have complied with district procedures in the event that the district fails to act on your original request (see pages 3 and 4).

The reason(s) for your appeal must be the same as those stated on your original request for an interdistrict transfer. If the reasons on the appeal are substantially different, you may be asked to reapply for an interdistrict transfer with your district of residence.

If you have any questions about completing the form, you may contact Dr. Sylvia Key at the San Mateo County Office of Education at (650) 802-5314.

The effective date of the appeal is the date on which the completed and signed appeal document is received by the County Superintendent of Schools.

VII. What If the Appeal Is Late?

Failure to appeal within the required time will result in denial of your appeal unless you can show “good cause for the late appeal.” The explanation of “good cause” must be filed with the appeal. An example of “good cause” would be where the parent’s appeal is mailed timely, but the parent proves that the document was lost by the U.S. Mail.

VIII. How Is a Request for an Interdistrict Appeal Hearing Processed?

County Superintendent’s Designee Will Verify Information

After receiving your appeal request, the County Superintendent’s office will review it and seek to verify certain information before a hearing date is scheduled. The County Superintendent’s office will verify whether the pupil is subject to expulsion. A parent cannot appeal the denial of an interdistrict attendance agreement if the pupil is being considered for expulsion or is currently serving an expulsion term [Education Code Section 46601(e)].

The County Superintendent’s office will also check to see if you have exhausted any appeal processes in the local school districts. If you have not used all of the local appeal options, you will be asked to complete the local appeal process before going forward with your request for an interdistrict appeal hearing before the County Board of Education.

The County Superintendent’s 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 cause rejection of an appeal.

Setting a Hearing Date

If the written appeal is complete and appropriate, the County Superintendent will place the matter on the County Board of Education’s agenda for a regular or special meeting to be held no later than thirty (30) calendar days following the effective date of the appeal. The County Board may extend this thirty (30) day period an additional five (5) calendar days for good cause [Education Code Section 46601(b)(1)]. The County Superintendent, or designee, has discretion to approve a request for postponement filed by you or by the school district for good cause

provided the request is filed in writing at least five (5) calendar days prior to the hearing date, except in an emergency. A postponement by a party extends the timeline for the County Board of Education to make a decision by no more than 21 days.

Notification of Hearing Date

The County Superintendent's office will notify you and the resident district and the desired district of the date, time, and place of the appeal hearing. Normally, the notice will be sent at least fifteen (15) calendar days before the date of the hearing. If the circumstances dictate notice of fewer than fifteen (15) calendar days, the timelines for written statement will also be adjusted.

Other Issues

After you have filed your appeal, you may also be contacted by the County Superintendent's office for the following reasons:

1. To explain your rights and the procedures for your case.
2. To request that you make certain documents available to assist the County Board of Education in making its determination.

IX. Preparing for the Interdistrict Appeal Hearing

Filing a Written Statement Is Important

The County Board recommends that the parent/guardian or a representative file a pre-hearing written statement with the County Board of Education (please submit a typewritten statement if at all possible). Any written statement must be filed *at least ten (10) calendar days prior to the date set for the hearing before the County Board of Education*. Send or deliver copies of the statement to the school district of residence *and* the school district of requested attendance when you file your written statement with the County Board of Education. You may employ an attorney or other advocate, at your expense, to prepare your written statement for the hearing. (See Resource List in Appendices.)

District Written Response

Both the district of residence and the district of desired attendance may each submit a written response statement. The school districts' statements must be filed *at least ten (10) calendar days* prior to the hearing date. The school districts shall deliver a copy to the parent and the other district no later than the date upon which the statement was filed with the County Board of Education.

Attach Documentation to Your Written Statement

Adequate documentation is helpful when presenting your case. You will find that evidence is most effective when it is provided in writing, related to the issue(s) at hand and is the type of evidence upon which reasonable persons can rely in the conduct of serious affairs. If your

written statement makes reference to documents, even documents previously submitted with your appeal, they should be attached to the written statement.

Some examples of documentary evidence include:

1. A copy of your original request for an interdistrict attendance permit or agreement and any written denial(s).
2. Documents to support your request for an interdistrict transfer. For example, when you review the factors that the County Board will consider, you will see that certain documents may support your position. Those documents could be professional recommendations by doctors, educators, psychologists, or others. Verification of participation or non-availability of childcare providers, transportation providers, teachers, or others could be helpful. Brochures or written information about special programs in the school district or community of requested attendance may be supportive evidence.

Privacy of Documents Provided

There are numerous laws that protect the release of confidential records. For example, there are certain laws regarding the privacy and confidentiality of pupil records. [See Education Code Section 49060, *et seq.*] There are also laws regarding the confidentiality of juvenile court records and medical records. If you wish to have the County Board consider material from confidential records, you may wish to consult legal counsel regarding such documents.

Multiple Appeals

Families with multiple appeals may have the appeals heard separately or as one. If you have all the appeals heard as one, there will still be a separate vote on each child, but only one written decision from the County Board of Education.

Legal Advocate at the Hearing

Although the hearing is informal, you may bring legal counsel or a legal advocate. The use of any legal counsel will be at your expense.

A Brief Verbal Presentation

The County Board of Education will primarily rely on the written information that you and the school districts provide before the hearing. However, you should be prepared to respond to any questions the County Board may have during the hearing. You will also be given an opportunity to make a brief oral presentation focusing on the factors you believe are relevant under the Board's policy for deciding interdistrict transfer appeals. If relevant to your case, you may also bring a witness or witnesses to make a statement on behalf of the pupil. Please make sure any witnesses are prepared to make a brief presentation and that the information they provide relates to the factors considered by the Board under its policy.

X. What Facts Will the County Board Consider?

In its discussion and deliberations on your appeal, the County Board of Education will consider the conditions of, and your reasons for, your request for a transfer.

In deciding whether to grant or deny an appeal, the County Board weighs the facts that support the criteria favoring a transfer against the adverse impacts presented by the school district(s). If you are unable to present sufficient evidence to justify a transfer, the County Board may rule against the appeal request without considering the school district's evidence of an adverse impact.

If you are able to submit sufficient evidence to justify a transfer, the school district will have an opportunity to rebut the evidence and submit evidence of adverse impact(s). You then have an opportunity to respond, including offering evidence as to how some or all of the adverse impacts on the school district(s) could be alleviated.

Misinformation and/or falsification of information provided by either party shall be good cause for deciding against that party.

A. Factors Which Support Granting an Appeal:

- (1) **The pupil's desire to remain in his/her school of current attendance for the balance of the semester or school year despite his/her or parent's change of residence.** The pupil's desire may be based on his or her anticipated graduation from the school of current attendance at the end of the semester or school year, or on a need for educational continuity for the remainder of the semester or school year.
- (2) **The pupil's plan to move in the near future and desire to begin the semester or school year in his or her new school district.** The pupil and his or her parent or guardian must offer written proof of their plan to move into the district of proposed attendance. Such written proof may be a rental agreement, a contract to purchase new property, or a similar document.
- (3) **The acceptance of a sibling of the pupil for attendance for the current school year by the district of requested attendance when requiring the pupils to attend different districts would cause a hardship on the family.** The pupil and/or parent must submit written documentation of the sibling's enrollment and demonstrate a hardship based upon childcare needs, transportation issues, employment location, or other significant factors.
- (4) **The pupil's psychological or physical well-being will be seriously adversely impacted by remaining in the district of residence.** Problems with a pupil's psychological or physical well-being must be supported by the written statement of a qualified medical or behavioral professional having a professional relationship with the pupil.
- (5) **A substantial danger to the pupil's health or safety exists by remaining in the district of residence.** A danger to the pupil's health or safety must be

supported by the written statement of a qualified health expert, by police reports, by school records, or by other documentation. Substantial danger based upon transportation issues may be included under this criteria.

- (6) **A specialized and specific district academic program or service in grades 7-12 is unavailable in the district of residence, and is critical to the educational well-being of the pupil, because of special circumstances.** An academic program is defined as a series of classes in a single subject or in related subjects extending over more than one (1) year in grades 7-12.
- (7) **A need to change the pupil's social environment, as recommended by juvenile authorities, such as School Attendance Review Board, county child welfare, and/or social service agency staff.** You must provide written documentation from a social services agency/staff or a law enforcement agency/staff that, due to documented cases of serious home or community issues, it is inadvisable for the pupil to remain in the school district of residence.
- (8) **A severe and demonstrated hardship, in terms of time and/or costs to the person having physical custody, will result if the pupil is required to attend the district of residence.** You should provide any relevant evidence to support your position.
- (9) **A severe and demonstrated hardship in obtaining before-school and/or after-school supervision of the pupil would result if the pupil is required to attend the district of residence.** You should provide any relevant evidence to support your position. Your written, signed statement attesting to the efforts you have made to obtain suitable supervision should be included in the evidence.
- (10) **Other exceptional or extraordinary circumstances which would weigh heavily in favor of the pupil.** For example, has the district followed its own policy? You must specify and describe the type of exceptional or extraordinary circumstance and its effect on the pupil, and provide any relevant evidence to support your position.

B. Adverse Impacts Upon District

The County Board, in its discretion, may determine that evidence provided by the affected district(s) to justify one of the adverse impacts listed below outweighs facts supporting one or more of the above criteria justifying granting the appeal.

- (1) **The negative financial impact of granting the transfer.** The impacted district(s) must provide specific written documentation and supporting evidence and detail that the pupil's transfer would place an undue hardship on the district's operations and/or resident pupils in terms of costs, reduced services or other unacceptable outcomes. A written statement, signed by the Superintendent, attesting that he or she has reviewed and verified the accuracy of the factual information submitted, should be included in the evidence.
- (2) **The pupil's demonstrated failure to meet reasonable standards relating to behavior, attendance, or diligence to studies.** 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 pupil under an interdistrict attendance agreement or on other documented evidence of behavior or attendance in the prior district of attendance.

- (3) **Overcrowding/lack of space for the pupil in the receiving district.** The district of proposed attendance must demonstrate in writing that the pupil's transfer would result in an undue hardship on the district's resident pupils in terms of overcrowding or priority for enrollment in a specific program 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.

XI. Conducting the Appeal Hearing

Hearings are conducted in closed session during regular or special San Mateo County Board of Education meetings held at the:

**SAN MATEO COUNTY OFFICE OF EDUCATION
101 Twin Dolphin Drive
Board Rooms A&B
Redwood City CA 94065**

It is the intent of the 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 special legal expertise is necessary and so that all parties have the opportunity to present their case fairly and completely. The law provides that you may have legal counsel or an advocate present if you wish. A record of the hearing will be made.

During your appeal hearing, you, the pupil (optional), and the representatives of the districts, will take seats at a table in front of the County Board.

The hearing is conducted as follows:

The Board will consider the appeal in closed session, unless the parent or guardian requests in writing that it be in open session. The President of the Board shall conduct the proceedings, which generally will include the following steps:

1. Introduction of all interested parties.
2. The parent or guardian, or the pupil, and/or representative of the pupil, will present their case.
3. The district of residence will be given an opportunity to describe the action taken by that district and the reasons therefore.

4. The district of desired attendance will be given an opportunity to describe the action taken by that district, if any, and the reasons therefore.
5. Members of the Board may question any of the parties to the hearing, and the staff, and consult with legal counsel, if necessary.
6. When the President deems that all parties have completed their presentations, the President shall call for a motion and the Board shall make its decision. Any motion shall require four affirmative votes for passage.

XII. What Happens at the Conclusion of the Appeal Hearing?

Following action by the County Board, a written decision incorporating the County Board's rationale will be mailed to all parties. The County Board's decision is final, and there is no process for administrative reconsideration or appeal.

If the County Board determines that the interdistrict attendance appeal should be approved, the pupil will be admitted to the school district of requested attendance without delay [Education Code Section 46602]. The County Board may order attendance in a district, but not in a specific school.

**APPENDICES TO THE
INTERDISTRICT APPEAL HANDBOOK**

Board Policy 5110 Interdistrict Attendance Appeals

Appeal of Denial of Interdistrict Attendance

Resource List: Free or Low-Cost Legal Services in San Mateo County

San Mateo County Board of Education Policy

Students

BP 5110

Interdistrict Attendance Appeals

Pursuant to Education Code Section 46601 *et seq.*, the San Mateo County Board of Education shall hear and resolve interdistrict attendance appeals.

Disposition of interdistrict attendance appeals shall be based on the following rebuttable presumptions:

1. That a pupil is normally required to attend school in the district of residence of either the parent or legal guardian.
2. That a request for attendance in a district other than the district of residence, whenever possible, should be resolved by the governing boards of the two districts involved.

The County Board is given authority by law to adopt rules and regulations establishing procedures for interdistrict attendance appeals. In an effort to make such legal procedures understandable to parents, guardians, students and school districts, the County Board has reviewed and adopted the contents of the "Interdistrict Attendance Appeal Handbook" dated 05/07/08. The Handbook is established as a board regulation to govern interdistrict attendance appeals filed with the County Board.

The County Board has established limits on the types of appeals it will consider regarding interdistrict attendance agreements. These limitations are set forth in detail in Board Regulation 5110: Interdistrict Attendance Appeal Handbook.

Although the law allows total discretion by the County Board to determine whether to grant or deny an interdistrict attendance agreement on appeal, the County Board has adopted certain criteria to guide its decision. The County Board believes that it is the responsibility of the person filing the appeal to provide facts that meet one or more of the criteria. Even if the parent/guardian submits such facts, the County Board may also consider any adverse impacts to the school district(s) in question and balance the competing factors. The criteria to be considered by the County Board are set forth in the Handbook.

Legal References:

Education Code 46601-46604 Interdistrict Attendance Computation

Education Code 48204 Residency requirements for school attendance

Adopted 11/10/76; Revised 01/20/82, 10/02/85, 08/21/91, 04/05/95, 09/06/06, 05/07/08

APPEAL OF DENIAL OF INTERDISTRICT ATTENDANCE

(Please print or type all material except signature)

In accordance with Education Code Section 46601, and the San Mateo County Board of Education Policy, BP 5110, we hereby request a hearing for the purpose of an Appeal of an Interdistrict Transfer Denial. [NOTE: this request for Appeal shall be communicated to the County Board of Education within thirty (30) calendar days following the date of denial of request for interdistrict transfer or failure of the district to enter into an agreement.]

IDENTIFYING INFORMATION

Date: _____

Name of Parent/Guardian (Appellant): _____

Address of Residence: _____

How long at this address? _____ Resident School District _____

Residence Telephone: _____ Business Telephone: _____

E-mail _____

Attorney or Representative (If Applicable): _____ Telephone: _____

I am/we are requesting that the San Mateo County Board of Education hear an appeal of the denial by _____ School District of an interdistrict attendance transfer request for my/our son(s)/daughter(s) to attend school in the _____ School District.

Student: _____ Age: _____ Grade: _____ Current School: _____

Student: _____ Age: _____ Grade: _____ Current School: _____

1. Date of Denial or Failure to Issue Interdistrict Transfer Permit: _____
2. How many other children in the home? _____ Give ages: _____
3. Do they attend school in the resident school district? Yes: _____ No: _____
4. If the answer is "no" to the question above, please explain: _____

5. Is this the first year an interdistrict attendance agreement has been requested from the district for this student? Yes: _____ No: _____
6. If an interdistrict attendance agreement was approved in prior years for the pupil(s), please indicate the first year the agreement was granted: _____ (school year, e.g., 2006-2007)
7. Pupil's grade level during the first year agreement was granted: _____

8. Reason parent requested interdistrict attendance the first year the agreement was approved:

9. Has parent been required to submit a new interdistrict attendance request each year since the first year? Yes: _____ No: _____

10. If the current request is for reasons related to childcare located within the requested district:

A. Does the pupil still receive childcare services within the boundaries of the requested district? Yes: _____ If answering "yes," please provide the name, address and telephone number of the childcare service provider:

Name/Address: _____ Telephone: _____

B. If not, when was the last year the child received childcare services within the boundaries of the requested district? _____ (year)

11. Does the pupil have any brothers or sisters who are attending school in the requested district under an interdistrict agreement? Yes: _____ No: _____

12. Explain parent's understanding of the reason(s) for denial of permit: (please attach a copy of the notice of denial from the district)

13. Reason for Request for Appeal [Note: The request for appeal *will not be accepted* without a complete statement of reasons. See Section A, pages 8 – 9 of the Appeal Handbook "Factors Which Support Granting an Appeal." Please reference, by number, the factors (1-10) that pertain to your situation. Attach additional pages if more space is needed to complete this item .]

The County Board of Education may grant a transfer to a district, but has *no authority* to determine which school the pupil would attend. **If the County Board grants a transfer to a district, then the district makes the decision about which school the pupil will attend.**

I hereby certify that: 1) I understand the limitation of the County Board's authority as stated above; and 2) all the information I have provided in this form and the attached documents is true and correct to the best of my knowledge.

Signature of Parent/Guardian Filing Appeal

Date

Please attach the following items to this "Appeal of Denial of Interdistrict Attendance":

- (1) any additional pages submitted with item #13 above, relating to the reasons for the transfer request ;
- (2) any documentation from your district of residence regarding your request;
- (3) any documentation from the denying district regarding your request; and
- (4) any other documentation that you believe is pertinent to your request.

RESOURCE LIST

Free or Low-Cost Legal Services in San Mateo County

Legal Aid Society of San Mateo County

www.legalaidsmc.org

The Natalie Lanam Justice Center

521 East 5th Avenue (at Delaware), San Mateo, CA 94402

Legal Assistance Hotline: (650) 558-0915

(800) 381-8898 (voice)

(650) 558-0786 (TDD)

(650) 558-0673 (fax)

Community Legal Services in East Palo Alto

www.clsepa.org

2117-B University Avenue, East Palo Alto, CA 94303

(650) 326-6440 (main)

(650) 326-9722 (fax)

San Mateo County Bar Association

Lawyer Referral Service

(650) 369-4149, press "3" at the prompt

(Small fee applies for consultation with lawyer.)

San Mateo County Board of Education Policy

Students**BP 5160**
Page 1 of 4**Expulsion Appeals**1. Purpose

In the matter of expulsions from schools in San Mateo County, the Board shall serve as the appellate body for a pupil and the pupil's parent, guardian or representative. This policy provides direction for parents, guardians and representatives of pupils expelled from school (hereinafter referred to as "appellant"), for the expelling school district (hereinafter referred to as "respondent"), and for the Board in hearing the appeal and making a decision.

2. Scope of Review

The review by the Board is limited to:

- a. whether the respondent acted without or in excess of its jurisdiction (including situations where an expulsion hearing was not commenced within the time periods prescribed by the Education Code, where an expulsion order was not based upon acts enumerated in the Education Code, or where the expulsion was based upon acts not related to school activity or attendance);
- b. whether there was a fair hearing before the respondent (in which the appellant had an opportunity to be heard and to present evidence, and in which the respondent proceeded in the manner required by law and informed the appellant of his/her rights of appeal);
- c. whether there was prejudicial abuse of discretion in the hearing (including situations where district officials did not meet procedural requirements of the Education Code, where the decision to expel was not supported by the findings prescribed in the Education Code, and where the findings were not supported by the evidence); and
- d. whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing.

Appeal before the Board is not a rehearing of the case, but rather a procedural review to determine if the process leading to the expulsion was conducted properly and fairly. The four items listed above are the only grounds for the Board to overturn an expulsion.

3. Time an Appeal May be Filed

An appellant may file an appeal of expulsion to the Board only after all possible resolution at the district level has been exhausted, and must file within thirty calendar

days after the official decision to expel the pupil was made by the respondent. Once the thirty days have passed, the Board will not hear the appeal.

4. Content of an Appeal

An appeal must contain an official transcript of the expulsion hearing and a letter of appeal. The letter of appeal may be submitted on a form provided by the Superintendent or designee and must contain the following information:

- a. Name, address and phone number of the parent or guardian and the name, address and phone number of the person, if any, representing the pupil.
- b. Name of the pupil and of the school/program and district.
- c. Date of expulsion.
- d. Grade most recently attended by the pupil.
- e. A statement of the basis for the appeal, which is based on one or more of the four items listed above as the grounds for Board consideration.

The letter/form must be accompanied by documentation (a letter of request or a proof of service) demonstrating that a transcribed copy of the complete record of the expulsion hearing conducted by the school district has been requested from the respondent. The respondent has ten days to provide appellant with a certified transcription of the hearing. Once the transcript is received, appellant must forward a copy to the Superintendent or designee. The Superintendent or designee may develop forms and/or procedures and distribute such forms and/or procedures to appellants to assist in filing appeals.

5. Time an Appeal Hearing May be Scheduled

When the Superintendent has received a complete, timely, correctly submitted appeal, an appeal hearing date is set. The hearing shall be scheduled for a regular meeting of the Board, and shall be within twenty days of receipt of the completed appeal, when practicable. If the hearing date cannot be set within twenty days, the Superintendent shall schedule the hearing as soon as practicable. Within the time allowed by law, reasonable efforts will be made to schedule the hearing at a time when a maximum number beyond the quorum of the Board will be available.

Both the appellant and the respondent shall be notified at least ten days in advance of the hearing date, and shall be provided with relevant documentation, including this policy.

6. Content of Response to an Appeal

The respondent shall be asked to present documentation related to the appeal, including:

- a. Copies of the documentation of the expulsion hearing, including copies of all correspondence in respondent's file relating to the expulsion, documentary

- evidence before the respondent, excerpts of minutes of relevant meetings, and other pertinent data;
- b. The respondent's rules and regulations dealing with expulsions; and
 - c. A statement of whether there exists relevant evidence that was excluded, or could not have been produced, at the original hearing.

The Superintendent or designee may develop forms and/or procedures and distribute such forms and/or procedures to respondents to assist in responding to appeals.

All of the materials from the appellant and from the respondent will be provided to the appellant, the respondent, and the Board for review prior to the hearing.

7. Process of an Appeal Hearing

Unless special arrangements are required, expulsion appeal hearings shall be held at regular meetings of the Board. Hearings will be held in closed session, unless, at least five days prior to the hearing, the appellant requests an open session. Whether the hearing is open or closed, a record shall be preserved of the oral proceedings of the hearing. If an audio recorder is used, those present at the hearing shall be so informed, and shall be asked to identify himself/herself by name when speaking.

The appellant and the respondent are invited to attend the hearing, but attendance is not required. Both the appellant and the respondent shall be given the opportunity to address the Board. The Board may ask questions of both the appellant and the respondent.

The President of the Board shall preside over the hearing. The order of presentation, determination of who shall represent each of the parties, and the time limits for presentation will be regulated by the President of the Board. Ordinarily, the order of presentation will be as follows:

- a. brief summary of the case by staff;
- b. remarks by appellant;
- c. remarks by respondent;
- d. any final remarks by appellant;
- e. any final remarks by respondent.

During and after such presentations, members of the Board may ask questions, which shall be limited to the scope of review.

After such presentations and questioning, the Board may leave the hearing and conduct deliberations in executive session, and may return to the hearing after such deliberations. At the conclusion of the hearing, the Board will declare the hearing closed, and will convene into open session, and will publicly announce any decision made during the hearing.

8. Decision of the Board

The Board has up to three school days to make a decision. However, a decision is usually made at the hearing. The decision of the Board will fit into one of the following four categories:

- a. Return the matter to the respondent for reconsideration of new information which was improperly excluded or could not have been produced at the original hearing, or for consideration and adoption of findings which were required but not adopted following the original hearing. The Board may order the pupil reinstated pending the respondent's reconsideration.
- b. Conduct a "de novo" hearing, consider new and original information, and render a new decision. If the Board decides to conduct a "de novo" hearing, it shall notify the appellant and the respondent of the time, date and place for such a hearing, as well as their procedural rights.
- c. Uphold the respondent's decision.
- d. Reverse the respondent's decision. If the Board reverses the expulsion, the Board will determine whether to order the respondent to expunge the record of the pupil and the records of the respondent of any references to the expulsion action.

The Board's decision becomes effective immediately and is binding upon the pupil and parent or guardian of the pupil and upon the governing board of the school. A written copy of the Board's decision shall be provided to the appellant and to the respondent within five days of the decision. The Board's decision is final and there is no further administrative appeal process.

Legal References:

Education Code 35291-35291.5 Rules and procedures on school discipline
Education Code 48900-48925 SUSPENSION OR EXPULSION

Adopted SMCBE 02/02/72; Revised 12/04/74, 03/16/77, 06/07/78, 03/17/82, 03/20/85,
05/01/91, 02/21/96, 06/17/09 [Replaces BP5160.1 and BR5160.1]