

# CSBA Sample

## Board Policy

### Interdistrict Attendance

BP 5117  
Students

\*\*\*Note: The Education Code provides a number of options under which a student may attend school in a district other than the district where he/she resides. Under an "interdistrict attendance permit" or "reciprocal agreement" pursuant to Education Code 46600-46611, a student may attend school in a different district when both the district of residence and the district of proposed attendance agree (Option 1 below). Under the "school district of choice program," pursuant to Education Code 48300-48316, the Governing Board may declare the district to be a "school district of choice" willing to accept a specific number of interdistrict transfers into the district through a random selection process (Option 2 below). In order to maintain the integrity of the random selection process, it is recommended that a school district of choice not also accept transfers under the interdistrict attendance permit option except when extraordinary circumstances exist, as provided in Option 2 below. Districts that wish to use both sources of authority should consult legal counsel.\*\*\*

\*\*\*Note: In addition, Education Code 48204 authorizes a student in a participating district to be deemed a "resident" in order to attend a school in the district where his/her parent/guardian is employed (Allen bill transfer); see AR 5111.12 - Residency Based on Parent/Guardian Employment. A student attending a school identified as low achieving on the state's Open Enrollment List may transfer to a school in any other district in the state, pursuant to Education Code 48350-48361; see BP/AR 5118 - Open Enrollment Act Transfers.\*\*\*

The Governing Board recognizes that parents/guardians of students who reside in one district may, for a variety of reasons, choose to enroll their child in a school in another district.

(cf. 0520.3 - Title I Program Improvement Districts)  
(cf. 5111.12 - Residency Based on Parent/Guardian Employment)  
(cf. 5116.1 - Intradistrict Open Enrollment)  
(cf. 5118 - Open Enrollment Act Transfers)

#### OPTION 1: Interdistrict Attendance Permits

\*\*\*Note: The following section is for use by districts that have entered into an agreement with one or more other districts to accept transfers through interdistrict attendance permits pursuant to Education Code 46600-46611. Districts selecting this option should also select Option 1 in the accompanying administrative regulation.\*\*\*

The Board may enter into an agreement with any other school district, for a term not to exceed five

school years, for the interdistrict attendance of students who are residents of the districts.  
(Education Code 46600)

\*\*\*Note: Education Code 46600 requires that the interdistrict attendance agreement specify the terms and conditions under which individual permits may be granted or denied. In addition, pursuant to Education Code 46600, students who have been granted an interdistrict attendance permit must be allowed to continue to attend the school without having to reapply unless the agreement between the two districts contains specific agreed-upon standards for reapplication; see the accompanying administrative regulation. Districts also may include in the agreement their agreed-upon standards for revocation of students' interdistrict attendance. Examples of conditions that may result in revocation include falsification of information stated on the permit application, unsatisfactory attendance, continual disruption, or poor academic achievement.\*\*\*

The agreement shall specify the terms and conditions under which interdistrict attendance shall be permitted or denied. It also may contain standards agreed to by both districts for reapplication and/or revocation of the student's permit. (Education Code 46600)

\*\*\*Note: Pursuant to Education Code 46600, it is the responsibility of the attendance supervisor of the district of residence, subject to Board policies of the district of residence and terms of the agreement, to issue an individual permit verifying the district's approval of an interdistrict transfer out of the district. The permit shall become valid when endorsed by the board's designee in the district of proposed attendance.\*\*\*

Upon receiving a permit for transfer into the district that has been approved by the student's district of residence, or upon receiving a written request from the parent/guardian of a district student who wishes to enroll in another district, the Superintendent or designee shall review the request and may approve or deny the permit subject to the terms and conditions of the interdistrict attendance agreement.

## OPTION 2: School District of Choice Program

\*\*\*Note: The following section is for use by districts that elect to participate in the school district of choice program pursuant to Education Code 48300-48316. Districts selecting this option should also select Option 2 in the accompanying administrative regulation. Pursuant to Education Code 48315, the school district of choice program has been reauthorized until July 1, 2016 and any district may participate in the program. Education Code 48301 authorizes the Board to annually determine the number of student transfers that will be accepted into the district.\*\*\*

The Board has designated the district as a "school district of choice" and shall accept students who reside in other California districts who wish to attend a district school. Each year, the Superintendent or designee shall recommend to the Board the number of transfer students that the district will be able to accept and shall identify the schools, grade levels, and programs that will be able to accept these students.

Upon receiving the Superintendent's recommendation, the Board shall determine the number of

students that will be accepted into the district through this program. This number shall be reflected in the minutes of the Board's meeting.

(cf. 9324 - Minutes and Recordings)

The Superintendent or designee shall establish a selection process which ensures that students are admitted to district schools through a random, unbiased process that prohibits evaluation of whether a student should be enrolled based upon his/her academic or athletic performance. If the number of student applications exceeds the number of transfers the Board has designated for acceptance under the program, the Superintendent or designee shall conduct a random drawing in public at a regularly scheduled Board meeting. (Education Code 48301)

\*\*\*Note: Because the school district of choice program requires a random selection process, it is recommended that participating districts not admit students through the interdistrict attendance permit process described in Option 1 above except under extraordinary circumstances. Such circumstances might include approving interdistrict attendance permits for students who are victims of an act of bullying. Such students are given priority for interdistrict attendance permits pursuant to Education Code 46600, as amended by AB 1156 (Ch. 732, Statutes of 2011); see the accompanying administrative regulation.\*\*\*

Because the district admits students in accordance with the school district of choice program, the Superintendent or designee shall not admit students based on individual interdistrict attendance permits pursuant to Education Code 46600-46611 except under extraordinary circumstances.

The Superintendent or designee shall maintain a record of requests for admittance that contains all of the following: (Education Code 48313)

1. The number of requests granted, denied, or withdrawn and, for denied requests, the reason for the denial
2. The number of students transferred out of and transferred into the district pursuant to this program
3. The race, ethnicity, gender, self-reported socio-economic status, and the district of residence for each student in item #2 above
4. The number of students in item #2 above who are classified as English learners or students with disabilities

The Superintendent or designee shall report to the Board, at a regularly scheduled meeting, the information specified in items #1-4 above. By May 15 of each year, the Superintendent or designee shall provide the same information, as well as information regarding the district's status as a school district of choice in the upcoming school year, to each geographically adjacent school district, the county office of education, the California Department of Education, and the Department of Finance. (Education Code 48313)

\*\*\*Note: Education Code 48301 requires a district of choice, at its expense, to ensure that the annual audit of district funds conducted pursuant to Education Code 41020 include a review of the district's compliance with the requirements in Education Code 48301 regarding a random, unbiased selection process and factually accurate communications to parents/guardians (see the accompanying administrative regulation for details of the communication). A summary of any audit exceptions found by the auditor must be included in the reports to the Board and other agencies. See AR 3460 - Financial Reports and Accountability for requirements pertaining to the annual audit.\*\*\*

The report to the Board and other agencies shall also include a summary of audit exceptions, if any, resulting from the compliance review of components of the district of choice program conducted as part of the annual district audit. (Education Code 48301, 48313)

#### Transportation

\*\*\*Note: The following optional section is for use by all districts and should be revised to reflect district practice. Districts are not required to provide transportation or transportation assistance to students admitted under an interdistrict attendance permit pursuant to Education Code 46600-46611 or through the school district of choice program pursuant to Education Code 48300-48316.\*\*\*

The district shall not provide transportation beyond any school attendance area. Upon request, the Superintendent or designee may authorize transportation for interdistrict transfer students to and from designated bus stops within the attendance area if space is available.

#### Limits on Student Transfers Out of the District to a School District of Choice

\*\*\*Note: The following optional section is for use by all districts. Even if a district has not designated itself as a school district of choice, it has the authority pursuant to Education Code 48307 to limit the number of students transferring out of the district into other districts that have designated themselves as school districts of choice. A district with an average daily attendance (ADA) of more than 50,000 may annually limit the number of such transfers to one percent of its current year estimated ADA. A district with less than 50,000 ADA may limit the number of such transfers to three percent of its current estimated ADA and may limit the maximum number of such transfers for the duration of the program to 10 percent of the ADA for that period. In *Walnut Valley Unified School District v. Superior Court of Los Angeles County*, the appellate court held that the 10 percent cap on outbound transfers "for the duration of the program" should be based on the district's ADA over the entire life of the district of choice program (i.e., from the program's inception in 1994 until the present day).\*\*\*

\*\*\*Note: The district may revise the following paragraph to reflect the applicable percentage in Education Code 48307 based on its ADA.\*\*\*

The Superintendent or designee may limit the number of student transfers out of the district to a

school district of choice based on the percentages of average daily attendance specified in Education Code 48307.

\*\*\*Note: Education Code 48307 authorizes a district of residence that has a negative status on the most recent budget certification made by the County Superintendent of Schools to limit the number of student transfers out of the district during that fiscal year to other districts that have designated themselves as a school district of choice. In addition, when a County Superintendent has determined that the district would not meet the state's standards and criteria for fiscal stability for the subsequent fiscal year exclusively as a result of the impact of student transfers under the school district of choice program, Education Code 48307 allows the district of residence to limit the number of transfers out of the district. The limitation is based on the County Superintendent's determination of the number of additional transfers that would exclusively result in a qualified or negative fiscal certification. However, Education Code 48307 provides that these limitations do not apply to students who, prior to June 30, 2009, had already transferred out and were already attending a school district of choice.\*\*\*

In addition, transfers out of the district may be limited during a fiscal year when the County Superintendent of Schools has given the district a negative budget certification or when the County Superintendent has determined that the district will not meet the state's standards and criteria for fiscal stability in the subsequent fiscal year exclusively as a result of student transfers from this district to a school district of choice. (Education Code 48307)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

\*\*\*Note: Pursuant to Education Code 48301, the district may prohibit a transfer under the school district of choice program if the Board determines that the transfer would negatively impact a court-ordered desegregation plan, a voluntary desegregation plan, or the racial and ethnic balance of the district. In *Crawford v. Huntington Beach Union High School District*, a California appellate court held that a district's intradistrict open enrollment policy, which contained a racial and ethnic balance component as authorized by Education Code 35160.5, was unconstitutional. The court did not consider whether a policy based on a court-ordered or voluntary desegregation plan would be constitutional. According to the court, the constitutional provisions added by Proposition 209 in 1996 prohibit a district from adopting a policy containing different admission criteria on the basis of race.\*\*\*

\*\*\*Note: Although the provisions in Education Code 48301 relative to racial and ethnic balance remain in law, because of the continuing legal uncertainty, the following paragraph does not reflect those provisions of Education Code 48301. Districts that choose to deny interdistrict transfers on that basis should consult legal counsel.\*\*\*

\*\*\*Note: The following optional paragraph is for use by districts with either a court-ordered or voluntary desegregation plan.\*\*\*

The district may deny a transfer of a student out of the district to a school district of choice if the

Board determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district. (Education Code 48301)

\*\*\*Note: Pursuant to Education Code 48301, as amended by AB 306 (Ch. 771, Statutes of 2015), a district must not prohibit the transfer of a student whose parent/guardian is in active military duty.\*\*\*

A child of an active military duty parent/guardian shall not be prohibited from transferring out of the district to a school district of choice, if the other school district approves the application for transfer. (Education Code 48301)

(cf.6173.2 - Education of Children of Military Families)

#### Legal Reference:

##### EDUCATION CODE

41020 Annual district audits

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48300-48316 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act

48900 Grounds for suspension or expulsion; definition of bullying

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

52317 Regional occupational center/program, enrollment of students, interdistrict attendance

##### ATTORNEY GENERAL OPINIONS

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

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

##### COURT DECISIONS

Walnut Valley Unified School District v. the Superior Court of Los Angeles County, (2011) 192 Cal.App.4th 234

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

#### Management Resources:

##### CSBA PUBLICATIONS

Transfer Law Comparison, Fact Sheet, March 2011

##### WEB SITES

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

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

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