

ASSEMBLY BILL

No. 1085

Introduced by Assembly Member Davis

February 18, 2011

An act to amend Section 46601 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1085, as introduced, Davis. School attendance: interdistrict attendance.

Existing law authorizes the governing boards of 2 or more school districts to enter into an agreement for the interdistrict attendance of pupils who are residents of the districts. If either district fails to approve the interdistrict attendance of a pupil, or in the case of the failure or refusal of the districts to enter into an agreement, existing law authorizes the person having legal custody of the pupil to appeal to the county board of education in accordance with a prescribed procedure. Existing law requires the county board of education to determine, within 30 calendar days, whether the pupil should be permitted to attend in the district in which the pupil desires to attend and the applicable period of time

This bill would instead require that, in a class 1 county, which is defined in existing law as a county with 1994–95 average daily attendance of more than 500,000, or a class 2 county, which is defined in existing law as a county with 1994–95 average daily attendance of at least 180,000 but less than 500,000, the county board of education determine whether the pupil should be permitted to attend in the district in which the pupil desires to attend and the applicable period of time within 45 schooldays rather than 30 calendar days.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 46601 of the Education Code is amended
2 to read:
3 46601. (a) If, within 30 calendar days after the person having
4 legal custody of a pupil has so requested, the governing board of
5 either school district fails to approve interdistrict attendance in the
6 current term, or, in the absence of an agreement between the
7 districts, fails or refuses to enter into an agreement, the district
8 denying the permit, or, in the absence of an agreement, the district
9 of residence, shall advise the person requesting the permit of the
10 right to appeal to the county board of education.
11 ~~If,~~
12 (b) *If,* within 14 calendar days after the commencement of
13 instruction in a new term in each of the school districts,
14 respectively, when the person having legal custody of a pupil has
15 so requested separately of each district not later than 30 calendar
16 days prior to the commencement of instruction in that term in that
17 district, the governing board of either district fails to approve
18 interdistrict attendance in that term, or, in the absence of an
19 agreement between the districts to permit that attendance, fails or
20 refuses to enter an agreement, the district denying the permit, or,
21 in the absence of an agreement, the district of residence, shall
22 advise the person requesting the permit of the right to appeal to
23 the county board of education.
24 ~~Notifying~~
25 (c) *Notifying* districts shall also, in all instances, advise persons
26 making unsuccessful requests for interdistrict attendance of all of
27 the following:
28 (a)
29 (1) The person having legal custody may appeal, within 30
30 calendar days of the failure or refusal to issue a permit, or to enter
31 into an agreement allowing the attendance, to the county board of
32 education having jurisdiction over the district of residence of the
33 parent or legal guardian or person having legal custody. Failure
34 to appeal within the required time is good cause for denial of an
35 appeal. An appeal shall be accepted only upon verification by the

1 county board’s designee that appeals within the districts have been
2 exhausted. If new evidence or grounds for the request are
3 introduced, the county board may remand the matter for further
4 consideration by the district or districts. In all other cases, the
5 appeal shall be granted or denied on its merits.

6 ~~(b)(1)~~

7 (2) (A) (i) The county board of education shall, *unless clause*
8 *(ii) is applicable*, within 30 calendar days after the appeal is filed,
9 determine whether the pupil should be permitted to attend in the
10 district in which the pupil desires to attend and the applicable
11 period of time. ~~In~~

12 (ii) *The county board of education in a class 1 or class 2 county*
13 *shall, within 45 schooldays after the appeal is filed, determine*
14 *whether the pupil should be permitted to attend in the district in*
15 *which the pupil desires to attend and the applicable period of time.*

16 (B) In the event that compliance by the county board within the
17 time requirement for determining whether the pupil should be
18 permitted to attend in the district in which the pupil desires to
19 attend is impractical, the county board or the county superintendent
20 of schools, for good cause, may extend the time period for up to
21 an additional five school days. The county shall provide adequate
22 notice to all parties of the date and time of any hearing scheduled
23 and of the opportunity to submit written statements and
24 documentation and to be heard on the matter pursuant to rules and
25 regulations adopted by the county board of education *in accordance*
26 *with this chapter*. The county board rules may provide for the
27 granting of continuances upon a showing of good cause. The
28 county board of education shall render a decision within three
29 schooldays of any hearing conducted by the board unless the person
30 who filed the appeal requests a postponement.

31 ~~(2)~~

32 (C) In a class 1 or class 2 county, the county board rules may
33 provide for any hearing pursuant to this section to be conducted
34 by a hearing officer pursuant to Chapter 14 (commencing with
35 Section 27720) of Part 3 of *Division 2 of Title 3 of the Government*
36 *Code*, or by an impartial administrative panel of three or more
37 certificated persons appointed by the county board of education.
38 *Section 27722 of the Government Code* is applicable to a hearing
39 by any impartial administrative panel and, for purposes of this
40 section, the term “hearing officer” in *Section 27722 of the*

1 *Government Code* includes an impartial administrative panel. No
2 member of the impartial administrative panel shall be a member
3 of the county board of education, nor be employed by the school
4 district of residence or the district of desired attendance. ~~The~~

5 (D) ~~The~~ definitions of “class 1 county” and “class 2 county” in
6 subdivision ~~(e)~~ (e) of Section 48919.5 apply to this section. If the
7 hearing officer is not authorized to decide whether the pupil should
8 be permitted to attend in the district in which the pupil desires to
9 attend, the county board of education, within 10 days of receiving
10 the recommended decision pursuant to subdivision (b) of Section
11 27722 of the *Government Code*, shall render a decision.

12 ~~(e)~~
13 (3) The county supervisor of attendance, or other designee of
14 the county superintendent of schools, shall investigate to determine
15 whether local remedies in the matter have been exhausted and to
16 provide any additional information deemed useful to the county
17 board in reaching a decision.

18 ~~(d)~~
19 (4) If the interdistrict attendance involves school districts located
20 in different counties, the county board of education having
21 jurisdiction over the district denying a permit, or refusing or failing
22 to enter into an agreement to allow for the issuance of a permit,
23 shall have jurisdiction for purposes of an appeal. If both districts
24 deny a permit, or refuse or fail to enter into an agreement to allow
25 for the issuance of a permit, the county board having jurisdiction
26 over the district of residence shall have jurisdiction for purposes
27 of an appeal and, upon granting a pupil’s appeal, shall seek
28 concurrence in the decision by the county board of the other county
29 which shall provide adequate opportunity for the district under its
30 jurisdiction to be heard on the matter before making a decision. If
31 the two county boards do not then concur, the pupil’s appeal shall
32 be denied.

33 ~~(e)~~
34 (5) Students who are under consideration for expulsion, or who
35 have been expelled pursuant to Sections 48915 and 48918, may
36 not appeal interdistrict attendance denials or rescissions while
37 expulsion proceedings are pending, or during the term of the
38 expulsion.

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