

BYLAW 6. TRANSFER RULE- DOMESTIC STUDENTS

Sec. 1) Domestic Student Transfer

Any student who has been enrolled in grades nine (9) through twelve (12) and has participated in any varsity contest in any sport at any school following enrollment in grade nine (9) and who then transfers schools shall be ineligible for interscholastic athletics at any level in any sport for one year from the date of enrollment in the new school.

The Ruling Officer and Commissioner have discretion (but are not required) to waive the period of ineligibility set forth above if one or more of the following exceptions in Section 2 has been met. Determinations of whether a student shall be granted a waiver pursuant to this rule shall be based on the circumstances existing as of the date of enrollment at the new school.

Sec. 2) Discretionary Exceptions for Waiver

a) **BONA FIDE CHANGE IN RESIDENCE-** The period of ineligibility may be waived if there has been a bona fide change in residence by the parents and student that precedes a student's change of schools.

For purposes of this bylaw, a bonafide change of residence means the moving of the permanent residence of the entire family of the student and the student's parents from one school district or defined school attendance area into another school district or defined school attendance area prior to a change in enrollment of the student. A student who becomes emancipated does not have a bona fide change of residence by virtue of his or her emancipation and change of residence for purposes of this bylaw.

b) **DIVORCE-** The KHSAA shall not recognize a legal separation as grounds for waiver of the provisions of this bylaw. The period of ineligibility may be waived in the event of a dissolution of marriage (i.e. a final and legally binding divorce decree from a court of competent jurisdiction) of the parents and a change in the residence of the student pursuant to a court order granting custody of the child to one of the parents with whom the student shall reside. In the event joint custody is awarded to both parents, for purposes of this bylaw, the student shall initially be eligible where either parent resides.

The eligibility of a student may be restored one-time if, after establishing eligibility and complying with the initial court order granting joint custody, a student relocates to permanently reside with the other custodial parent. The grant of eligibility shall only apply to the member school in which the residence of the custodial parent is located. After this one time move by the student to the other custodial parent all subsequent moves between parents shall require a period of ineligibility of one year.

c) **CHANGE OF CUSTODY-** The KHSAA shall not recognize guardianship or similar arrangements made, for purposes of this bylaw. The period of ineligibility may be waived if it is shown that custody of the student has been taken from one or both parents and given to the other parent or a third person by a court of competent jurisdiction and under circumstances indicating: (1) the parent(s) are unfit or (2) the court finds that the health and welfare of the student would be better served by the change in custody.

d) **DEATH-** The period of ineligibility may be waived in the event the death of one or both of the student's custodial parents creates the circumstances that the transfer to another secondary school is deemed appropriate.

e) **BOARDING SCHOOLS-** The period of ineligibility may be waived on a one-time basis for students entering a boarding school on a full time basis as a boarding school student.

f) **NON ATHLETIC PARTICIPATION FOR AN ENTIRE SCHOOL YEAR-** The period of ineligibility may be waived in the event that the transferring student did not participate in an interscholastic contest at any level in any sport while enrolled in grades nine through twelve at the sending school during the entire academic school year immediately preceding the change in schools.

g) **REASSIGNMENT BY BOARD OF EDUCATION-** The period of ineligibility may be waived if the student has changed schools through a properly documented reassignment of the Board of Education to another school. To meet this exception for a reassignment, reasons for the assignment may include the

closing or opening of a school due to consolidation, merger, opening of a new school, or another type or opening or closing or assignment through KRS 158.6455 or other applicable adopted regulation. That assignment may be to the public school district should a private, parochial or independent school close.

h) **TRANSFER FROM NON-MEMBER SCHOOL –** The period of ineligibility may be waived for a student transferring from a non-member school located in Kentucky whose athletic participation has been limited primarily to other non-member schools.

i) **MILITARY ASSIGNMENT-** The period of ineligibility may be waived for a student transferring in a situation where documentation is presented to verify that the change in education and living arrangements is directly related to an order from any branch of the United States military service, including the reserve components.

Sec. 3) Specific Restrictions Resulting in Denial of Waiver

Satisfying of one of the exceptions (a through i) shall not be considered valid and a waiver of the period of ineligibility shall not be granted:

a) If the change in schools is to nullify or circumvent the actions of representatives or rules of the previous school or if the student left the sending school under penalty which would have resulted in the student's ineligibility at the sending school;

b) If the satisfying of one of the exceptions occurs after the enrollment at the new school;

c) If the change in schools is motivated in whole or part by a desire to participate in athletics at the new school;

d) If the satisfying of one of the exceptions is used or manipulated for the purpose of gaining athletic eligibility; or

e) If the satisfying of one of the exceptions by the student and the parent(s) does not reasonably precipitate a transfer to the new school.

Sec. 4) Other Transferring Student Restrictions and Procedures

a) The Commissioner's office may appoint or hire a committee or investigator to conduct any inquiry or investigation concerning any issues arising under this bylaw or any other bylaw.

b) If any member school files a written objection to the factual validity of the certification before the conclusion of the period of time to which the period of ineligibility would normally apply, along with the specific, detailed basis for the objection, then a complete investigation shall be conducted by the KHSAA and a ruling shall be issued through the Commissioner's office.

c) A student enrolled in grades 4-12 who has participated in a first team game shall not be eligible to represent a second member school during that school year unless that student would qualify for a waiver of the period of ineligibility in accordance with provisions (a) through (i) above.

d) A student is ineligible for athletics in this state if he or she transfers from another state if the student was or would have become ineligible in the state from which he or she transfers.

Case BL-6-1- What is the transfer rule (Bylaw 6)?

Bylaw 6, Transfer Rule, states that any student who changes schools after enrolling in grade 9 and after participating in a varsity contest in any sport, shall be ineligible for one year from the date of enrollment at the new school. There is only limited authority to waive the period of ineligibility under the circumstances outlined in Bylaw 6 and the Due Process Procedure.

Case BL-6-2- Why is there a transfer rule?

Nearly every state has a transfer rule to protect the integrity of the interscholastic program. These rules are necessary for several reasons including, but not limited to, the following principles:

1) these rules prevent and deter transfers due to recruiting or athletic reasons;

2) these rules protect the opportunities of bona fide resident students;

3) these rules provide a fundamentally fair and equitable framework for athletic competition in an academic setting;

4) these rules provide uniform standards for all schools to follow;

5) these rules support the educational philosophy that athletics is a privilege which should not assume a dominant position in a school's program;

- 6) these rules keep the focus of educators and students on the fact that students attend schools to receive an education first, and participate in athletics second;
- 7) these rules maintain the fundamental principle that a high school student should live at home with parents or custodian in the event of parental death or incapacitation, and attend school in the school district in which they reside;
- 8) these rules reinforce the view that a family is a strong and viable unit and as such is the best place for students to live while attending high school;
- 9) these rules serve as a deterrent to students running away from, or avoiding discipline that has been imposed; and
- 10) these rules prevent manipulation of a residence change or other exception solely or primarily for the purpose of interscholastic athletics participation and serve to ensure the integrity of the rules adherence process.

Case BL-6-3- What is the procedure for requesting a ruling on a student who has transferred in to a member school?

The Receiving School is the KHSAA member school in which the student is enrolled and for which he/she is requesting eligibility. The Sending School is normally the most recent school in which this student was enrolled and participated in interscholastic athletics. However, for students who have attended multiple schools, the Sending School is the last school at which the student participated in varsity athletics after enrolling in grade nine (9). The following process will be utilized for students who transfer into KHSAA member schools following initial entry in grade 9.

- 1) The Principal or Designated Representative of the Receiving school shall initiate the process of requesting eligibility by completing KHSAA Form GE04. The Principal or Designated Representative shall adhere to all instructions and verifications contained in that form, and ensure that the form is distributed to all required parties including the receiving school; and
- 2) The Principal or Designated Representative of the Receiving School shall be responsible for submitting the form and all required documentation to the KHSAA. Upon receipt, the form will be reviewed by the Commissioner's Office and a ruling will be issued.

Case BL-6-4- Is there any special documentation that needs to be sent along with the transfer request when the member school sends the request to the KHSAA?

In many cases, there will be additional material that needs to be sent, and it is dependent upon which exception to Section 2 of the Transfer Rule that the member school desires to request.

If the exception desired relates to the bonafide change of residence provisions, additional written documentation may be required to accompany the form to verify the circumstances surrounding the bonafide change which may include sales documents, contracts or rental agreements.. It may also be required that certification be presented regarding the future use of the former residence in specific cases.

If subsection (b) (Divorce) or subsection (c) (Custody change) exceptions are being requested, copies of final court orders clearly showing the need for a change in schools due to the action of the court may be required.

If subsection (e) (Boarding School) exceptions are being requested, a copy of a letter(s) from the Principal(s) or Court Order may be required to be submitted.

If subsection (g) (Reassignment by Board of Education) exceptions are being requested, copies or the adopted Board of Education policies as well as meeting minutes may be required to be submitted.

If subsection (i) (Military Assignment) is being requested, copies of the military orders may be required to be submitted.

Case BL-6-5- What is the period of ineligibility under Bylaw 6?

The period of ineligibility under Bylaw 6 is one full year of ineligibility beginning on the date of enrollment at the new school. If an ineligible student participates in interscholastic athletics during the usual period of ineligibility, however, the

KHSAA may toll the one year period of ineligibility after the anticipated expiration date in an amount of time equal to the time the student participated while ineligible.

For example, if a student participates in interscholastic athletics for six months during the usual period of ineligibility, the KHSAA may toll the period of ineligibility after the anticipated expiration date for six months. Depending on the circumstances of each case, this time might be applied immediately after the expiration of the normal one-year period of ineligibility or delayed until a particular sports season.

This interpretation is necessary, fair and reasonable because the ineligible student may have participated in and affected the outcome of games, including tournament games, that cannot be replayed and deprived properly eligible student of opportunities to participate that cannot later be restored. This interpretation of Bylaw 6 has been applied in past cases. See *Kentucky High School Athletic Ass'n v. Davis*, Ky. Ct. App., 77 S.W.3d 596, 598 (2002).

Case BL-6-6- At what point are the facts to be determined when a ruling is to be made in a Bylaw 6 case?

Determinations of whether a student shall be granted a waiver pursuant to this rule shall be based on the circumstances existing as of the date of enrollment at the new school

Case BL-6-7- When is a student enrolled at a KHSAA member school for the purposes of Bylaw 6?

A student is enrolled at a KHSAA member school when that student sits for class in the new school.

In addition, a student may be considered enrolled at a KHSAA member school when the student registers at the new school, is on the student enrollment listing of a member school, and not on the listing of another school.

In the case of enrollment during periods when classes are not being held (i.e. summer), the student may be considered to be enrolled at the new school when formal application has been made and accepted as verified by the new Principal. The student shall also at that time be officially withdrawn and off the enrollment listing of the former school.

Case BL-6-8- What is a domestic student as defined in Bylaw 6?

A domestic student is a resident of one of the fifty United States or the District of Columbia. All other persons shall be subject to the provisions of Bylaw 7, Non-Domestic students.

Case BL-6-9- What does the word "sport" as used in Bylaw 6 represent with respect to athletic participation and the applicability of Bylaw 6?

The Board of Control has directed that the provisions of Bylaw 6 that call for participation in a varsity sport as a determinant restricts application to those sports which the KHSAA sanctions. "Sport" includes baseball, basketball, cross country, football, golf, soccer, softball (fast pitch), swimming, tennis, indoor and outdoor track, volleyball and wrestling. At press time, the KHSAA does not sponsor state championships in such events as cheerleading (spirit), field hockey, badminton, bowling, lacrosse or others,

Students whose only participation in interscholastic athletics involves participation in sports or sport activities other than those listed (such as cheerleading, field hockey, lacrosse and others) are not subject to the provisions of Bylaw 6.

Case BL-6-10- Is there a link between Bylaw 6 (Transfer Rule) and Bylaw 10 (Recruiting) as for the enforcement by the Association?

No. These are separate and distinct bylaws. However, it is possible that a transferring student could have a change in residence or meet another documented exception and still be ineligible if a Bylaw 10 violation is determined in the case. And, the absence of a Bylaw 10 violation (recruiting) does not relate to the enforcement of Bylaw 6.

Case BL-6-11- Is a student immediately eligible who has played interscholastic sports (varsity, grades 9-12) when he/she moves in from out of state and the family has also moved?

No, each student who changes schools after enrolling in grade

nine and representing a varsity team shall be ruled eligible in order to try-out, practice or play with / for the team.

If a student has played for an out of state school or an in-state non member school and has represented that school at the varsity level against other schools in interscholastic competition, then the student is subject to the provisions of Bylaw 6.

Case BL-6-12- What is a boarding school as defined in Bylaw 6, Sec. 2(e)?

A boarding school is defined as a school that has an enrolled resident boarding school population in the ninth through 12th grades of at least ten (10) percent of the full-time student body. A boarding school shall have appropriate dormitory facilities to house, feed and provide general living accommodations for boarding students, and shall have properly trained supervisory personnel on duty at all times.

A boarding school shall be recognized as a boarding school in its own literature and shall be verified by the Kentucky Department of Education or the Southern Association of Colleges and Schools. A boarding student, to qualify for the exception, shall spend at least an average of five (5) days per week living and boarding on campus while school is in session.

Only those schools that qualify as boarding schools as defined herein may provide any assistance for room and board to students who participate in interscholastic athletics and only if such assistance is based on financial need. In no other schools may room and board expense be included in the determination of school expenses and financial need.

Case BL-6-13- Are there restrictions on coaches or other individuals within a school being involved with students who are seeking the exception under Bylaw 6, Sec. 2(e)?

Coaches and other individuals employed by or associated with a boarding school's athletic program shall not serve as the boarding supervisor or otherwise live with boarding students in school housing.

Case BL-6-14- What verification is desired by the Ruling Officer/Hearing Officer/Commissioner when a student is seeking eligibility under Bylaw 6, Sec. 2(e)?

The Ruling Officer/Hearing Officer/Commissioner may seek verification that the move to or from the Boarding school is by directive of the Principal (sending) or an order from a court of competent jurisdiction in order for exception (e) to apply. There may also be addition evidence requested to support the request for a waiver.

Case BL-6-15- Is it required that students who have not competed for a complete school year have a transfer form completed and submitted?

Yes. Even if the school received written verification on the form that the student would qualify for exception (f) of Sec. 2 of Bylaw 6, a transfer form shall be completed.

The same is true of athletes who enroll at a receiving school and subsequently do not play during the next calendar year. Even though the rule allows for them to be eligible after one year, a transfer form shall be completed.

Case BL-6-16- How are magnet schools and board selected program enrollments interpreted with regard to Bylaw 6, Sec. 2 (g)?

The Association attempts to ensure that its regulations are not an inhibitor to a school trying a creative, magnet, and traditional or other type of special program for student or school improvement. Representatives of those local boards of education shall ensure that the listing of magnet, traditional, ROTC, and other selective, board approved and designated programs are submitted to the Commissioner's office where they will remain on file to ensure the accurate processing of such requests.

Case BL-6-17- Does Bylaw 6, Sec. 2(g) allow for automatic exception waiver of the period of ineligibility for students transferring due to the provisions of No Child Left Behind?

No, there is no specific exception enumerated within the rule. However, transfers in these situations are handled on a case

by case basis through the KHSAA Due Process Procedure by reviewing exception (g) of Bylaw 6 and documentation will be requested as to the directive from the Superintendent regarding such transfer and the specific school to which the student is assigned.

Case BL-6-18- How is Bylaw 6 interpreted in the case of a school consolidating or splitting into multiple schools?

The action by the local Board of Education in the opening of a new school or closing of the old schools will automatically apply the provisions of Bylaw 6, Section 2, exception (g) without forms needing to be processed by the KHSAA.

When multiple schools are consolidated within a district, the students entering the consolidated school are considered eligible at the consolidated school under this exception, provided they are eligible to attend the consolidated school per local board of education policy. Subsequent to the first day of school, the KHSAA transfer rule provisions shall apply.

In the case of a member school splitting into multiple schools within a district, the students shall be eligible at the school assigned by the board of education or the school where the student first attends within the district if such attendance and eligibility is allowed under local board of education policy. Subsequent to the first day of school, the KHSAA transfer rule provisions shall apply.

Case BL-6-19- How is Bylaw 6 applied to out of state students, and does exception (h) in Section 2 of Bylaw 6 apply to students transferring from out of state schools?

Students transferring from out of state schools are subject to the provisions of Bylaw 6 if they participated in any varsity game in any sport at any out of state school following enrolment in grade nine (9).

Exception (h) is not available for students transferring from out of state schools. "Non member school" in Bylaw 6, Sec. 2 (h) means a school located in Kentucky that is not a member of the KHSAA. This exception was passed by the KHSAA member schools in an effort to accommodate students who had been enrolled at small schools located in Kentucky that were not members of the KHSAA and had participated against similarly situated schools.

Case BL-6-20- Is there a special exception allowing for a waiver of the period of ineligibility for students transferring due to a change in military status for the custodial parent(s)?

Yes. Exception (i) in Section 2 specifically allows for eligibility to be granted in the cases where it can be documented that the change in education is directly related to an order from any branch of the United State military service, including the reserve components. Specific verification may be requested, including but documentation of a Permanent Change of Station or Change of Duty Status.

This exception may also be applicable in the case where transfer is made necessary by implementation of the Interstate Compact on Education Opportunity for Military Children.

Case BL-6-21- What does "reasonably precipitate" mean under Bylaw 6, Sec. 3 (e) and can a student delay enrolling at the receiving school if the family changes residence during the middle of a grading period?

The bonafide change of residence exception in Bylaw 6, Sec. 2(a) is not available if the change in residence by the student and the parents does not "reasonably precipitate" the transfer to the receiving school (see Sec. 3 (e)). "Reasonably precipitates" means, among other things, that a student cannot delay transferring after a change in residence for an unreasonable amount of time.

The "reasonably precipitates" provision gives the Ruling Officer/Commissioner discretion to waive the period of ineligibility under Bylaw 6, Sec. 2(a) if the change in residence occurs at a point during a grading period (semester) when the student would incur academic difficulties to transfer schools provided that the student transfers schools at the next available grade period (semester) break. A student who delays transferring until after that time will not have had a change in residence that

“reasonably precipitates” the transfer of schools.

The “reasonably precipitates” provision also gives the Ruling Officer/Commissioner discretion to waive the period of ineligibility under Bylaw 6, Sec. 2(a) if the change in schools is due to a change in military orders for the custodial parent(s) of the student-athlete as verified by the documented change in orders provided by the particular branch of service.

In addition, it should be noted the “reasonably precipitates” language also refers to the timing of the transfer as it relates to any documented exception. The rule as written and interpreted, calls for the exception being satisfied (i.e., residence change, divorce, custody action, etc.) to occur first, and thereby result in the need to change schools. The documented exceptions are not published to provide a guide for circumvention of the one-year period of ineligibility, but rather to show that there are instances where changing circumstances necessitate a change in schools.

Case BL-6-22- May a student who changes schools during a season represent a second school in the sport that year?

No, he/she is ineligible under the provisions of Bylaw 6, Section 4 (c). The Ruling Officer/Commissioner may waive the period of ineligibility only under the specific enumerated exceptions outlined in Bylaw 6, Section 2.
