

BYLAW 6. TRANSFER RULE- CITIZENS OF THE U.S. OR U.S. TERRITORIES

Sec. 1) DOMESTIC STUDENT TRANSFER

- a) 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 while maintaining permanent residence in the United States or a United States territory 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 last participation in varsity interscholastic athletics.
- b) 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.
- c) A student awaiting a ruling regarding eligibility shall not be eligible to compete, including practice, during the periods defined by Bylaw 23.

Sec. 2) DISCRETIONARY EXCEPTIONS FOR WAIVER

- a) **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 of opening or closing or assignment through KRS 158.6455 or other applicable adopted regulation. In the case of a school closing or consolidation, such assignment may be to the public school district should a private, parochial or independent school close. For a multiple school district reallocating students to existing schools in a revised manner (redistricting), the exception shall be valid only on the first day of school for the student body following implementation of the redistricting plan, and does not apply before or after that date due to optional choices offered by the district.

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

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

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

- c) **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. Special verification may be requested including documentation of a Permanent Change of Station or Change of Duty Status. This may also include the case where the transfer is made necessary by implementation of the Interstate Compact on Education Opportunity for Military Children.

- d) **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 bona fide change of residence means the uninterrupted moving of the permanent residence of the entire family unit of the student as composed when the student was eligible at the sending school (including one or both parents if at that residence) 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. To be considered bona fide, the change must remain uninterrupted for the entire period during which the student would have been ineligible if the exception was not applied. 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 satisfying this exception.

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

- e) **DIVORCE-** 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) or properly recorded legal separation (i.e. a legally binding separation 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.

The grant of this waiver shall only apply to the member school in the school district in which the residence of the custodial parent is located.

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

- f) **CHANGE IN SOLE 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.

The grant of this waiver shall only apply to the member school in the school district in which the residence of the custodial parent is located.

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

- g) **CHANGE IN JOINT CUSTODY -** 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 this waiver shall only apply to the member school in the school district 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.

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

- h) **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.

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

- i) **BOARDING SCHOOLS-** The period of ineligibility may be waived for a student entering a boarding school on a full-time basis as a boarding school student, or a student returning from a boarding school to the school attended immediately prior to enrollment in the boarding school; where attendance in the boarding school was required by order of the court or by recommendation of the principal of the school attended immediately prior to attendance at the boarding school.

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 fifty (50) percent of the full-time student body for each of the last four years.

A boarding school must have appropriate dormitory facilities to house, feed and provide general living accommodations for boarding students, and must have properly trained supervisory personnel on duty at all times.

A boarding school must be recognized as a boarding school in its own literature and must be verified by the Kentucky Department

of Education and/or the Southern Association of Colleges and Schools.

A boarding student, to qualify for the exception, must spend at least an average of five (5) days per week living and boarding on campus while school is in session. 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.

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.

The Ruling Officer is required to have verification that the move to or from the boarding school is by order of the Principal (sending) or a court of competent jurisdiction in order for this exception to apply.

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

- j) **CESSATION OF SCHOOL PROGRAM-** The period of ineligibility may be waived in the event of a school remaining open but notifying the Association in writing that it is discontinuing its varsity participation in an Association sponsored sport (regular and postseason) in which the student had previously participated after enrolling in grade nine (9).

Sec. 3) SPECIFIC RESTRICTIONS FOR DENIAL OF WAIVER FOR THOSE SATISFYING DISCRETIONARY WAIVER PROVISION(S) IN SECTION 2

A waiver of the period of ineligibility is not required to be granted for those students satisfying one of the exceptions in Sec 2:

- a) If the satisfying of one of the exceptions is used or manipulated for the purpose of gaining athletic eligibility;
- b) If the change in schools is to nullify or circumvent implementation of Board of Education, School Based Decision Making or school imposed policy which would have resulted in the student's ineligibility at the sending school in accordance with KHSAA Bylaws or Competition Rules;
- c) 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; or
- d) If the change in schools is motivated in whole or part by a desire to participate in athletics at the new school, including:
 - (1) If a student participates on a school team that is coached by a coach associated in that same sport at a high school, and the student then transfers to the member school where the coach is employed (paid or volunteer at any level); or
 - (2) If a student participates on a nonschool (i.e. AAU, American Legion, club settings, summer program, etc.) team that is affiliated with or coached by a coach associated in that same sport at a member school and the student then transfers to the member school where a coach is employed (paid or volunteer at any level).

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 4-8 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 of Section 2 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 at the new school for one year from the date of last varsity participation at the old 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 waiver of the period of ineligibility for a student who has transferred in to a member school?

The receiving school initiates the process using KHSAA Form GE06 and utilizing the instructions on that form.

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).

Failure of the sending school to return the form to the receiving school within fifteen (15) days will result in an administrative penalty per Bylaw 27.

Any school failing to properly certify the eligibility of a student who ultimately has an ineligible student participate or practice will be held accountable for penalty in compliance with other KHSAA bylaws.

Case BL-6-4- What special documentation needs to be sent along with the waiver request when the member school sends the request to the KHSAA?

This is dependent upon which exception to Bylaw 6 that the member school desires to request. Any and all documentation that would further detail the transfer including records shall be submitted. The transfer form (GE06) is revised annually with details about the required documentation, and is posted on the KHSAA website.

Case BL-6-5- What are the restrictions on, and expectations for, student-athletes during the normal one-year period of ineligibility?

If a student seeking a waiver of the one-year period is granted

such waiver, and the conditions change during the one year following enrollment at the new school, a new ruling may be issued. The expectation of the published exceptions is that the circumstances resulting in the waiver continue to exist for one year. It is the obligation of school personnel to monitor the facts surrounding students receiving the waiver, and report to the Association if the circumstances change in order to request a new ruling.

If an ineligible student participates in interscholastic athletics during the usual period of ineligibility, 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 students of opportunities to participate that cannot later be restored.

Case BL-6-6– 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 the case of enrollment prior to the start of the school year, 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 and the student is officially withdrawn and off the enrollment listing of the former school.

Case BL-6-7- What does the word “sport” as used in Bylaw 6 represent with respect to athletic participation and the applicability of Bylaw 6?

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 and these are separate and apart from Sports-Activities. “Sport” includes baseball, basketball, cross country, field hockey, football, golf, soccer, softball (fastpitch), swimming, tennis, indoor and outdoor track, volleyball and wrestling. This rule does not apply to students whose participation is solely in the Sport-Activities of archery, bass fishing, bowling and competitive cheer.

Case BL-6-8– Is there a link between Bylaw 6 (Transfer Rule) and Bylaw 16 (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 16 violation is determined in the case. And, the absence of a Bylaw 16 violation (recruiting) does not relate to the enforcement of Bylaw 6.

Case BL-6-9- How are magnet schools, and board selected program enrollments interpreted with regard to Bylaw 6, Sec. 2 (a)?

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, innovative, 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-6-10- How is Bylaw 6, Sec. 2(a) interpreted in the case of a school consolidating or splitting into multiple schools?

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-6-11- How is Bylaw 6 applied to out of state students, and does exception (b) 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 (g) is not available for students transferring from out of state schools. “Nonmember school located in Kentucky” in Bylaw 6, Sec. 2 (b) specifically 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 in-state schools that were not members of the KHSAA and had participated against similarly situated schools.

Case BL-6-12- What are the Boarding Schools impacted by Bylaw 6, Sec. 2 (g)?

Per the Kentucky Department of Education, the schools that are “boarding schools” and qualify for the exception as of August 15, 2015 are Oneida Baptist Institute and Red Bird Christian School.

Case BL-6-13- What does “reasonably precipitate” mean under Bylaw 6, Sec. 3 (c) and can a student delay enrolling at the receiving school if the family changes residence during the middle of a grading period?

The bona fide 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 (g)). “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. 1(a) if the change in residence occurs at a point during a credit period (semester/trimester) when the student would incur academic difficulties to transfer schools provided that the student transfers schools at the next available credit period (semester/trimester) 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.

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.