

# KHSAA Presentation

## -2023-2024



# KHSAA Staff – 2023-2024

- ▶ Julian Tackett, Commissioner
- ▶ Chad Collins, General Counsel
- ▶ Darren Bilberry, Assistant Commissioner and Ruling Officer for Bylaw 6
- ▶ Butch Cope, Associate Commissioner
- ▶ Jeremy Ison, Administrative Support for General Counsel Collins



# KHSAA

- ▶ IS NOT: Established as An Enforcement Agency, though KHSAA does apply penalties through Bylaw 27 for violations
- ▶ IS NOT: An entity with Subpoena Power (limited by distance and not applicable statewide) or investigative license
- ▶ IS NOT: Able to swear witnesses and testimony (except for KRS Chapter 13B hearings and sworn depositions)
- ▶ IS: An association of member schools
- ▶ IS: A service entity for its member schools, providing insurance, communications and resources/tools for managing an athletic program, and managing all high school championships



# KHSAA

- ▶ IS: Funded by Dues (Pays for Insurance); Tournament Receipts from State Only and Sponsorships
- ▶ IS NOT: Funded by early round tournament receipts (as are most states) or any tax funding
- ▶ IS: The designated agency who, on behalf of KDE, handles athletics in the member schools
- ▶ IS: Its' collective 290 member schools NOT a specific school and not its' staff



# KHSAA

- ▶ The Kentucky High School Athletic Association was organized in 1917 and is the agency designated by the Kentucky Department of Education to manage high school athletics in the Commonwealth.
- ▶ The Association is a voluntary nonprofit 501(c)3 organization made up of 290 member schools, both public and non-public.
- ▶ The KHSAA awards 229 state championships to 59 teams and 178 individuals in 13 sports and six sport-activities, funds catastrophic insurance coverage for its more than 109,000 rostered member school student-athletes, provides coaching education and sports safety programs for more than 12,000 coaches and licenses and facilitates the distribution of training material for over 4,000 contest officials.



# Authority

- ▶ KRS 156.070 (2) requires the Kentucky Board of Education (KBE) to manage and control the common schools, including interscholastic athletics in the schools, and authorizes the KBE to designate an agency to manage athletics.
- ▶ The KHSAA is the designated agency of the Kentucky Board of Education as per Kentucky Administrative Regulation 702 KAR 7:065.
- ▶ This administrative regulation annually designates an agent for high school athletics; establishes the financial planning and review processes for the agent; and incorporates by reference the bylaws, procedures and rules of the agent.
- ▶ By definition, KHSAA is regulatory agency (develops regulations for approval) but is not enforcement agency

# Bylaw 6. Transfer Rule- Citizens Of The U.S. And D.C. And Other Students Previously Enrolled In Member Schools

- ▶ Sec. 1) Domestic Student Transfer
- ▶ Sec. 2) Discretionary Exceptions for Waiver
- ▶ Sec. 3) Specific Restrictions for Denial of Waiver for Those Satisfying Discretionary Waiver Provisions in Sec. 2
- ▶ Sec. 4) Other Transferring Student Restrictions and Procedures
- ▶ Sec. 5) Penalty

# Bylaw 6. Transfer Rule- Citizens Of The U.S. And D.C. And Other Students Previously Enrolled In Member Schools

## Sec. 2) Discretionary Exceptions for Waiver (Exceptions)

- ▶ a. Reassignment By Board of Education (\*)
- ▶ b. Transfer from NonMember School (\*)
- ▶ c. Military Assignment (\*)
- ▶ d. Bona Fide Change in Residence
- ▶ e. Divorce
- ▶ f. Change in Sole or Court-Ordered Custody
- ▶ g. Change in Joint Custody
- ▶ h. Death of Parent
- ▶ i. Boarding School
- ▶ j. Cessation of School Program
- ▶ k. Anti-Bullying Exception



# RED FLAGS WITHIN SPECIFIC BYLAWS

- ▶ Bylaw 6. Transfer Rule- Citizens Of The U.S. And D.C. And Other Students Previously Enrolled In Member Schools
  - ▶ Role of Sending School
  - ▶ Forms Review
  - ▶ Last Date of Participation,
  - ▶ Willingness of Sending School to Stand up and Be Heard including evidence,
  - ▶ Forms Submission, Both Schools Having All Materials
  - ▶ KHSAA Student Record Number
  - ▶ INFORMATION ON THE FRONT END

# Bylaw 7. Transfer Rule – Foreign Exchange and Other Foreign Students

- ▶ Sec. 1) Foreign Exchange Students (nondomestic)
- ▶ Sec. 2) Exception for Placement Through Approved Exchange Programs Utilizing a J-1 Education Visa
- ▶ Sec. 3) Exception for Placement Through Approved Exchange Programs Utilizing an F-1 Education Visa
- ▶ Sec. 4) Extension Of Eligibility For J-1 Or F-1 Status Placement Beyond One Year If Waiver Granted
- ▶ Sec. 5) Foreign Students (Nondomestic) Not Coming Through Exchange Programs
- ▶ Sec. 6) Discretionary Exceptions For Waiver For Foreign Students (Nondomestic) Not Coming Through Exchange Programs
- ▶ Sec. 7) Specific Restrictions Resulting in Denial of Waiver
- ▶ Sec. 8) Penalty

# RED FLAGS WITHIN SPECIFIC BYLAWS

- ▶ Bylaw 7. Transfer Rule – Foreign Exchange Students-
  - ▶ Combination of Former Bylaw 7 and 8
  - ▶ Birth Certificate Verification
  - ▶ Direct placement (sole responsibility of agency) Prohibited
  - ▶ Pay attention to living arrangements
  - ▶ Current list of approved agencies on KHSAA website for both J-1 and F-1 agencies

# RED FLAGS FOR BYLAWS

- ▶ BYLAWS AND CASE SITUATIONS
- ▶ Statutory Matters
- ▶ No appeals possible, regulations required to match statute
  - ▶ Bylaw 2
  - ▶ Bylaw 8
  - ▶ Bylaw 15

## Bylaw 8. Enrollment / Transfer Of Non-Resident Student (<https://ly.khsaa.org/qxnq>)

- ▶ KRS 156.070 (2) (h)
- ▶ “Unless permitted to be eligible for varsity athletics by any transfer rule, policy, or administrative regulation promulgated by the state board or any agency designated by the state board to manage interscholastic athletics, any student who transfers enrollment from a district of residence to a nonresident district under KRS 157.350(4)(b) after enrolling in grade nine (9) and participating in a varsity sport shall be ineligible to participate in interscholastic athletics for one (1) calendar year from the date of the transfer. The state board or any agency designated by the state board to manage interscholastic athletics may adopt rules, policies, and bylaws and promulgate administrative regulations necessary to carry out this paragraph. “

# RED FLAGS WITHIN SPECIFIC BYLAWS

- ▶ Bylaw 8. Enrollment / Transfer Of Non-Resident Student, Tackett \*
  - ▶ Key provision, are they a non-resident student as defined in KRS 157.350 (DPP verification key)
  - ▶ Exception to non-resident students carved out in KRS 157.350 which states – “A nonresident pupil who attends a district in which a parent of the pupil is employed. All tuition fees required of a nonresident pupil may be waived for a pupil who meets the requirements of this paragraph”
  - ▶ Meeting the parental exception DOES NOT waive Bylaw 6, it only permits the funding to follow the student as the wording in 156.070 is explicit and without waiver options
  - ▶ Note school eligibility options under Bylaw 14 DO NOT APPLY due to statute

# RED FLAGS WITHIN SPECIFIC BYLAWS

- ▶ Bylaw 8. Enrollment / Transfer Of Non-Resident Student, Tackett \*
  - ▶ Formerly HB563 (2021 implemented July 2022), amended by SB145 (2023 effective July, 2023)
  - ▶ Basic Decision Points
    - ▶ If never have been in grade 9 and played varsity, not impacted
    - ▶ If subject to Bylaw 6, must meet transfer rule exception for provision not to apply
    - ▶ If subject to Bylaw 6 and don't meet exception, one year all sports applies if out of district (per statute)

# RED FLAGS WITHIN SPECIFIC BYLAWS

- ▶ Bylaw 14. Other Eligibility Requirements and Regulations, Bridenbaugh
  - ▶ Ability to play non-varsity does not apply to Bylaw 8 (HB563 / SB145) due to statute
  - ▶ Ineligible students per Bylaws 6 and 7 may play non-varsity
  - ▶ Definition difference in ineligibility periods (last date of participation in Bylaws 6 and 7, vs. enrollment date for Bylaw 8 (HB563 / SB145))



# CASE LOAD

	2018-2019	2021-2022	2022-2023	2023-2024 As of 10/15
Requests	876	785	741	533
Ineligible	203	246	233	195
Eligible	673 (76.8%)	539 (68.7%)	508 (68.6%)	338 (63.4%)
Appeals	105	122	122	64 (10/15)
Appeals Ineligible	41	30	29	6
Appeals Eligible	64 (60.9%)	92 (67.2%)	93 (76.2%)	26 (81.2%)
Appeals Pending	n/a	n/a	n/a	32

# KRS Chapter 13B Exact vs. KHSAA Due Process Appeals

	Full KRS 13B	KHSAA Approved Due Process
KRS 13B.050 Notice	ALL parties shall receive no less than twenty (20) days notice of a hearing	ALL parties shall receive no less than twenty (20) days notice of a hearing. (KRS 13B.050) Can be waived (form provided)
KRS 13B.110 Order Issuance from HO	Recommended Order shall be issued no less than sixty (60) days of receiving a copy of the official record (following an administrative hearing)	KHSAA Due Process Procedures state Recommended Order shall be issued no more than only 30 days
KRS 13B.110 Exceptions Filed	Every party has the right to file “exceptions” to the Recommended Order within fifteen (15) days of the mailing of the Recommended Order.	Every party has the right to file “exceptions” to the Recommended Order within fifteen (15) days of the mailing of the Recommended Order. Can be waived (form provided)

# KRS Chapter 13B Exact vs. KHSAA Due Process

	Full KRS 13B	KHSAA Approved Due Process
KRS 13B.120 Final Notice	Final Order shall be issued within ninety (90) days after the Hearing Officer submits the Recommended Order.	KHSAA Due Process Procedures state Final Order shall be issued within 30 days (15 days from the deadline to file exceptions)
Total Elapsed Possible Time	185 day (6 months)	80 days (usually less 50-60)
Etc	Chapter 13B required US Mail, Certified at various stages, which is proving less and less reliable and causes communication issues	Chapter 13B required US Mail, Certified at various stages, which is proving less and less reliable and causes communication issues

# DUE PROCESS RED FLAGS

- ▶ Hearing Attendance
- ▶ Opportunities (or Lack of) for New Evidence if Don't Attend
- ▶ Do's and Don'ts and Can'ts and Won'ts
- ▶ Due Process Forms are on school site only (public tampering)
- ▶ Material only between schools, not given to families except by schools until appeal process
- ▶ Information provided at hearing is usually much greater than what is provided originally