

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

- a) Any student who has been enrolled in grades nine (9) through twelve (12) who transfers schools shall be ineligible for interscholastic athletics at the varsity (first team) level in that sport for a period of one year from the date of last varsity participation if such student has participated in:
 - (1) a varsity interscholastic contest (including a non-level defined prep team) in any sport at any school (including prep school) while maintaining permanent residence in the United States or a United States territory following enrollment in grade nine (9); or
 - (2) a contest representing a varsity interscholastic team (including a non-level defined prep team), subsection (1) above after being being previously granted eligibility under the provisions of Bylaw 7 or equivalent participation in another this or another state.
- 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 Sec. 2 has been met.

SEC. 2) DISCRETIONARY EXCEPTIONS FOR WAIVER

Evidence supporting the desired exception shall be presented with the original request to the Association by the member school

- 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.
 - (1) To meet this exception for a reassignment, reasons for the assignment may include the closing or opening of a school due to consolidation, merger, the opening of a new school, or another type of opening or closing or assignment through KRS 158.6455, KRS 160.040 or other applicable adopted regulation.
 - (2) 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.
 - (3) 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 the implementation of the redistricting plan and does not apply before or after that date due to optional choices offered by the district.
 - (4) Determinations of whether a student shall be granted a waiver under this exception shall be based on the circumstances existing as of the date of enrollment at the new school.
 - (5) Reassignment may include assignment due to the application of the provisions of 701 KAR 8:010 to a public charter school as defined in KRS 160.1590.
 - (6) Reassignment may include a change in transportation plan in a district with more than one high school where the local board adopts a policy permitting specific enrollment alternatives for those students no longer able to be transported.
- 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.
 - (1) Determinations of whether a student shall be granted a waiver under 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.
 - (1) 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 the 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.
 - (1) 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.
 - (2) 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.
 - (3) To be considered bona fide, the change in residence must reasonably precipitate the change in schools in that a student cannot delay transferring schools after a change in residence for an unreasonable period of time. The change in residence must clearly have a compelling impact on the need to change schools for the exception to be granted.
 - (4) A student who becomes emancipated does not have a bona fide change of residence by his or her emancipation and change of residence for purposes of satisfying this exception.
 - (5) The primary elements in determining and issuing a ruling related to a bona fide change in residence will initially be the records submitted by the two member schools (receiving and sending) and may require substantiation based on the material submitted in the matter.
 - (6) The burden of proof is on the student and family unit not having left the permanent residence of the entire family unit of the student as composed when the student was eligible at the sending school shall lie with the sending school Principal or Designated Representative.
 - (7) If requested and otherwise in compliance with Bylaw 18, the receiving school may be compelled to use its personnel and resources, trained in verification of student addresses, to address the validity of the change into the receiving school district.
 - (8) A waiver under this provision may be reversed and a new ruling issued if the family unit returns to the residence occupied while participating for the sending school prior to the tolling of the normal period of ineligibility.
 - (9) Determinations of whether a student shall be granted a waiver under 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.

- (1) 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.
 - (2) Determinations of whether a student shall be granted a waiver under 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.
- (1) 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.
 - (2) Determinations of whether a student shall be granted a waiver under 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.
- (1) 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.
 - (2) 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.
 - (3) 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.
 - (4) Determinations of whether a student shall be granted a waiver under 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.
- (1) Determinations of whether a student shall be granted a waiver under 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.
- (1) 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.
 - (2) 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.
 - (3) A boarding school must be recognized as a boarding school in its literature and must be verified by the Kentucky Department of Education or the Southern Association of Colleges and Schools.
 - (4) 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.
 - (5) 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.
 - (6) 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.
 - (7) 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 for this exception to apply.
 - (8) Determinations of whether a student shall be granted a waiver under 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 participation in an Association sponsored sport (regular and postseason) in which the student had previously participated after enrolling in grade nine (9).
- k) **ANTI-BULLYING EXCEPTION-** The period of ineligibility may be waived for a student when it is documented, at the time of the original transfer eligibility submission, that a student is a victim of bullying as defined in KRS 158.148 and in which bullying has been documented to the school district in accordance with the statute and local board of education-related regulations, and as a result of this documented harassment, intimidation or bullying, the student is compelled to transfer, provided:
- 1) The school district's and member school's anti-bullying policies and procedures have been substantially followed and complied with and a copy of which policies have been provided to the KHSAA along with the request for eligibility; and
 - 2) The school district or member school secures the appropriate releases from the student/student's parents authorizing the member school to provide a complete record of the events and circumstances on which the policies and procedures were initiated, and the member school provides such records at the time of the transfer ruling request submission including:
 - a) A specific, detailed report of the prohibited incident(s);
 - b) An outline of the procedures used to respond to and investigate the reported incident(s);
 - c) A copy of the findings that were a result of the complaint process and administrative review;
 - d) A specific, detailed disciplinary procedure for any individual found guilty of harassment, intimidation or bullying;
 - e) All reports of notification to parents or guardians of any student involvement in the incident(s); and

- f) A report of the intervention strategies and remedial action the school has undertaken to assist the student and redress the complaint.
 - 3) In concurrence with KRS 158.148, this exception shall not be used for any isolated incidents or alleged incidents of bullying, nor as a means to prohibit civil exchange of opinions or debate or cultural practices protected under the state or federal Constitution where the opinion expressed does not otherwise materially or substantially disrupt the education process, nor can this exception be used in cases where there has been no contemporaneous reporting of the alleged bullying harassment or intimidation.
 - l) MINIMAL PARTICIPATION DURING PRIOR SCHOOL YEAR- The period of ineligibility may be waived for a student enrolling for the first time in grades 10 to 12 in any sport for which there has been:
 - (1) Varsity participation during the prior school year in not more than twenty percent of the allowed number of regular season varsity contests in that sport per Bylaw 23, and
 - (2) The student has not yet participated in that varsity sport after enrolling in the current grade.
 - m) REQUEST FOR DUE PROCESS EXCEPTION APPROVAL - The period of ineligibility may be waived for a student when it is documented, at the time of the original transfer eligibility submission, that based solely on the record as submitted, strict application of the applicable bylaw is unfair to the student-athlete because the circumstances creating the ineligibility are clearly beyond the control of all of the parties involved in compliance with the KHSAA Due Process Procedure adopted in compliance with KRS Chapter 13B.
- SEC. 3) SPECIFIC RESTRICTIONS FOR DENIAL OF WAIVER FOR THOSE SATISFYING DISCRETIONARY WAIVER PROVISIONS IN SEC. 2
- A waiver of the period of ineligibility is not required for a student satisfying one of the exceptions in Sec. 2 if documentation exists in the record that the transfer is motivated in whole or in part by a desire to participate in athletics at the new school.
- a) This documentation of actions occurring any time after enrollment in grade nine (9) includes, but is not limited to:
 - b) A coach employed at the receiving school, paid or volunteer at any level, or another employed individual, paid or volunteer at any level, who is acting in a coaching role, including instruction or training of any type and who, before the transfer of the student:
 - (1) Coached the student at a former school;
 - (2) Provided sport-specific instruction (paid or unpaid) without the expressed consent of the prior enrolled school;
 - (3) Coached the student on a non-school (i.e., AAU, American Legion, club settings, summer program, etc.) team;
 - (4) Provided general athletic or activities instruction, including weight training and supervised conditioning without expressed permission from the prior enrolled school; or
 - (5) Provided housing or assistance with housing.
 - c) The student in question or their family, before transferring to the new school:
 - (1) Received impermissible contacts or improper benefits as defined in Bylaw 16;
 - (2) Sought to be coached by the coach(es) at the new school;
 - (3) Expresses dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator about interscholastic athletics;
 - (4) Sought additional playing time or opportunities or had shown dissatisfaction with the amount of participation or role of participation at the former school;
 - (5) Resided with any athletic coach or any other non-relative who is a member of the school athletic or administrative staff or team member (including parents and boosters); or
 - (6) Has had all or part of the housing or residence logistics influenced, coordinated or manipulated by a member of the school athletic or administrative staff or team member (including parents and boosters);
 - d) The change in schools is to nullify or circumvent:
 - (1) Documented obligations (including financial obligations) to the sending school;
 - (2) 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 by KHSAA Bylaws or Competition Rules; or
 - (3) A conflict with the philosophy or action of an administrator, teacher, or coach relating to sports.
- 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 administrative review 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 administrative review of the original case may be conducted by the KHSAA and a new ruling shall be issued through the Commissioner's office.
 - c) 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.
- SEC. 5) PENALTY
- a) Any violation of this bylaw may have any or all penalties detailed in Bylaw 27 applied as part of the final dispensation of the matter, including a period of ineligibility.
 - b) Appeals or other considerations under this bylaw shall be considered Hearing Officer matters under the KHSAA Due Process Procedure.