

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 Commissioner has discretion (but is 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 of 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;

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 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?

GENERAL INSTRUCTIONS FOR COMPLETION OF THE KHSAA TRANSFER FORM. TO BE COMPLETED ON ALL STUDENTS WHO DID NOT INITIALLY ENROLL AT THE KHSAA MEMBER SCHOOL IN GRADE NINE (9)

1. The Receiving School is the KHSAA member school in which the student is enrolled and for which he/she is requesting eligibility.
2. The Sending School is normally the most recent school in which this student was enrolled and participated in interscholastic athletics. For students who have attended multiple schools, this is the last school at which the student participated in varsity athletics after enrolling in grade nine (9).
3. Upon receipt, the form will be reviewed by the Commissioner's Office and a ruling will be issued.
4. For processing, allow a minimum of three (3) working days to ensure time for verification of the data and be mindful that in accordance with the Due Process Procedure, the Commissioner's Office has thirty (30) days to rule, and additional time if investigation is necessary.
5. Only the Principal or Designated Representative of a member school may inquire as to the processing status of the form. Member schools will be given information as to the proper procedure for such verification.
6. The waiver of Bylaw 6 does not in and of itself declare the student eligible. It is the responsibility of the member school to verify that the student is eligible according to all other bylaws.

SPECIFIC INSTRUCTIONS FOR THE RECEIVING SCHOOL

1. This form is for use with domestic students enrolling in a KHSAA member school and is to be processed between school administrators and may not involve parental intervention in its delivery.

2. Complete this form for any student transferring into a school who has not been continually enrolled in the receiving school since ninth grade or if the student is below grade nine (9) and has already participated in sports during the current school year.
 3. Students may not practice, scrimmage (inter or intra-school) or play in contests until being ruled eligible by the Commissioner's office if a ruling is required. Member school(s) will be penalized for such participation.
 4. Verification as to a student not having participated in varsity athletics at his/her former school SHALL be in writing (using page two of this form) and kept on file until the student graduates. No ruling is necessary if the Sending School response indicates that the student athlete has not participated in varsity athletics.
 5. The Receiving School may need to verify with multiple schools as to the participation history if the student has attended more than one high school after enrolling in grade nine.
 6. The Receiving School shall complete page two of this form if there is doubt about the student's participation at the varsity level. This can then be sent to the Sending School to verify and determine if the completion of pages four through nine are required.
 7. If the Sending School verifies that there has been no varsity participation, and the student is deemed eligible by the Receiving School according to all other bylaws, the form (page two of this form), shall be placed with the student's permanent record and no other action is necessary to allow the student to participate.
 8. If the Sending School verifies that the student has participated in varsity athletics, then the Receiving School shall complete all requested and required information on pages four through six of the form and send the form in its entirety (pages two, and four through six) to the Sending School.
 9. The Receiving School shall maintain a copy in case of problems with mail or other delivery.
 10. After receiving the information on pages two and four through six from the sending school, the Receiving School shall complete pages seven through nine of the transfer form.
 11. After signing the form, the Receiving School shall collect any additional necessary documentation (custody orders, home sale verification), and shall check the form to be sure all requested and required information has been properly completed.
 12. Once verified, the Receiving School shall submit all pages (pages four through nine) to the KHSAA for an eligibility ruling.
- SPECIFIC INSTRUCTIONS FOR THE SENDING SCHOOL
1. This form is for use with domestic students enrolling in a KHSAA member school AND IS to be processed between school administrators and may not involve parental intervention in its delivery.
 2. If a Sending School receives only page two of the form, the Sending School shall verify whether or not the student has participated at the varsity level after enrolling in grade nine, sign the form, and return it to the receiving school.
 3. If a Sending School receives the entire form (pages four through six), then the Sending School shall review the information on pages four through six of the form submitted by the Receiving School, and then complete all requested and required information on page seven through nine of the form. The Sending School representative shall then sign the appropriate lines on the form and send the form in its entirety back to the Receiving School.
 4. If desired, the Sending School shall maintain a copy in case of problems with mail or other delivery.
 5. KHSAA member schools will be penalized in accordance with Bylaw 33 for failing to return the transfer form to the Receiving School within seven (7) working days of receipt.
 6. Non-KHSAA members will be referred to the appropriate State High School Association for assistance if there is delay in the processing of this form.
 7. Member schools are reminded that the Sending School has no authority in making the eligibility determination, but must simply report the facts according to the permanent record and other verified data on the form.

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 is 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 the letters from the Principal / Court Order may be required to be submitted.

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

If a Due Process waiver due to military service 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 must 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 citizen 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?

Sport has been defined as those sports which the KHSAA sanctions and publishes a limitation of seasons. "Sport" includes baseball, basketball, cross country, football, golf, soccer, softball (fast and slow pitch), swimming, tennis, indoor and outdoor track, volleyball and wrestling.

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

Case BL-6-10- 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 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 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-6-11 – 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-6-12- 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 must 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-6-13- 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 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 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 Commissioner 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 exception (e) to apply.

Case BL-6-14 - 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 must 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 must be completed.

Case BL-6-15- 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-6-16 – 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-6-17 - 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-6-18 – 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)?

No, there is no specific exception within the rule. However, transfers in these situations are handled on a case by case basis through the KHSAA Due Process Procedure. Any 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 may have the period of ineligibility waived. Certain documentation may be requested, including but not limited to documentation of a Permanent Change of Station or Change of Duty Status.

Case BL-6-19 - What is a transfer for "athletic advantage" or other means of describing the manipulation of the school change or other exceptions within the rule?

"Athletic Advantage" among other definitions and interpretations, could include, but is not limited to, (a) seeking a superior athletic team, (b) seeking relief due to conflict with the philosophy or action of an administrator, staff or faculty member, (c) seeking a team consistent with the student's athletic ability, (d) seeking a means to nullify punitive action by the previous school or with the previous athletic association.

This provision has been further codified by action of the membership in 2004 where amendments were passed stating that even if a documented exception was met regarding a transferring student, the exception might be nullified if the transfer was motivated in whole or part by a desire to participate in athletics at the new school.

Case BL-6-20- 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 Commissioner may waive the period of ineligibility only under the specific enumerated exceptions outlined in Bylaw 6, Section 2.