



## **Student Eligibility Guidance for High School Principals and Athletic Administrators**

### **Transfer Bylaw Guidance**

#### **Bylaw 4-7-2, Exception 1 – Parents’ Bona Fide Move into a New Public School District**

This document will focus on Bylaw 4-7-2, Exception 1. For guidance on the full text of Bylaw 4-7-2, please visit <https://ohsaaweb.blob.core.windows.net/files/Eligibility/4-7-2Guidance.pdf>. Exception 1 reads as follows:

*If it is determined that one or more of the exceptions that follow represents an event which creates the need to transfer, i.e., creates a cause and effect relationship, then one or more of the following exceptions may apply:*

*EXCEPTION 1: If a student is compelled to transfer to another high school as a result of a bona fide legal change of residence made by BOTH PARENTS (biological, adoptive or stepparents) from one public school district into another public school district, whether from outside the state of Ohio or within Ohio, the Executive Director’s Office, in its sole discretion, may waive all or part of the period of ineligibility for one or more sport/sport seasons at:*

- (a) the public high school in which the new residence is physically located (or any school to which the student is placed and enrolled in a multiple high school district) or;*
- (b) any non-public high school if family’s new residences is at least 15 miles from their former residence, as determined by the most direct route when using google maps or other such navigational system, or;*
- (c) any high school, public or non-public, if the new residence into which the family has moved is more than 80 miles from the residence from which the family moved, as determined by the most direct route when using google maps or other such navigational system, or;*

*The requirement that “both parents” make the move may be waived by the Executive Director’s Office if the marriage of the parents has been or is in the process of being legally terminated or if the parents were never married. In addition, the Executive Director’s Office, in its sole discretion, may extend conditional eligibility for up to 90 days immediately following the date of the student’s transfer in cases where parents are making a bona fide move into a residence that is more than 80 miles from their former residence, and there are extenuating circumstances that are presented which prevent one of the parents from making the move immediately. This 90-day conditional provision may be extended for up to 90 more days ONLY in the case of medical or military obligations that prevent one of the parents from making the move at the same time as the other parent.*

*If the person(s) making the bona fide move is not the biological or adoptive parent or stepparent of the student, the school administrator must disclose the custodial relationship, provide the court ordered documents and advise as to the whereabouts of the student’s biological or adoptive parents.*

*An Affidavit of Bona Fide Residence in the form requested by the Executive Director’s Office, must be submitted along with any request for the application of this exception. Please refer to Bylaw 4-1-2 concerning eligibility established via falsified information.*

*Note 1: Please refer to Bylaw 4-6-1 for a definition of bona fide residence. Also, the student and the student’s parents must reside in this new residence for a period of one year from the date on which this exception was applied to a given student in order to maintain eligibility at the school into which the student’s transfer has been*



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*approved. The school district will have a continuing duty to monitor compliance with the residency requirements during this one year period.*

*Note 2: If, as a result of a bona fide change of residence of the student's parents, a student transfers and is permitted a participation opportunity at a member school where he or she is not enrolled, in accordance with Bylaw 4-3-1 exceptions #4 and/or 6, the Executive Director's Office may apply this exception 1 to restore full eligibility in regard to transfer/ change of participation opportunity*

Until a student is declared eligible by the Executive Director's Office in accordance with this exception, they shall be ineligible for all OHSAA tournaments in those sports in which the student participated during the 12 months immediately preceding this transfer. In addition, the student shall be ineligible for all contests at all levels AFTER the first 50% of the maximum allowable varsity regular season contests have been competed in those sports in which the student participated during the 12 months immediately preceding this transfer.

## Items to note within the language of exception 1:

- The exception refers to "public school district."
  - o These districts are defined by the Ohio State Board of Education and have identifiable boundaries.
  - o The bona fide move into a new public school district triggers the following choices for where a student may utilize this exception:
    - The **public high school** located within the new public school district of residence.
      - This may also be used for any public high school into which the student is placed by the district if the move is into a public school district that contains multiple high schools.
    - Any **non-public high school** provided the move in question is at least 15 miles from their former residence.
      - This is a new requirement for the 2022-23 school year.
      - Mileage between the two residences will be determined using the most direct route through Google Maps or other such navigational systems.
    - Any **high school** if the new residence is **more than 80 miles** from the former residence so long as the enrollment is contemporaneous with the move.
      - Mileage between the two residences will be determined using the most direct route through Google Maps or other such navigational systems.
- The exception requires BOTH PARENTS to make the move in order for the exception to apply.
  - o If only one parent moves:
    - If the parents were never married, this exception is applicable only if the parent moving has legal custody of the student (custody documentation may be requested).
    - If the parents were/are married, legal documentation must be produced that shows the marriage of the parents has been or is in the process of being terminated.
    - This exception refers to biological, adoptive AND stepparents. Therefore, if the biological parent is married to a stepparent and they are the only parent "moving," the same evidence of legal termination of the marriage will be required.



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- For moves over 80 miles: If the parents are still married and there are extenuating circumstances that have prevented one of the parents from making the move immediately, the Executive Director's Office may approve conditional eligibility for up to 90 days **immediately following the date of the student's transfer.**
  - This may be extended for up to 90 days more ONLY if the circumstances involve medical or military obligations.
  - The family should be prepared to provide documentation regarding the extenuating circumstances.

## **Please follow these steps to request a ruling under Exception 1:**

- School administrators should download and print the OHSAA Affidavit of Bona Fide Residence (ABFR). This document can be found here: <https://ohsaaweb.blob.core.windows.net/files/Eligibility/forms/Affidavit-BonaFideResidence.pdf>
  - This form must be **completed in its entirety** by the parent(s) of the student(s) making the transfer.
  - This form must be completed by the parent(s) in the presence of a notary.
- Arrange a meeting with the parent(s) and student(s) to review the instructions and cover page of the ABFR.
  - During this meeting, please gather the following information:
    - Which members of the household are making the move.
      - If only one parent is making the move, please review the information above to gather the correct documentation, if applicable.
      - If only the student is making the move, Exception 1 cannot be utilized. Please contact the OHSAA office if you have any questions on which, if any, exception may be utilized.
    - The reason behind the move. Please note that the move must compel the transfer; the transfer to the new school cannot be the driving force for the move.
  - During this meeting, please pay special attention to the following items on the ABFR:
    - The cover sheet contains space for both parents to sign, even if only one parent is attesting to the affidavit in the presence of a notary.
    - Items 14-19 require the collection and retention of various documents by the administrator.
      - These items do not need to be provided to the OHSAA unless specifically requested.
    - Items 26-30 may require further explanation on a separate sheet of paper.
    - Item 29 requires the affiant (parent) to verify that **all household members (spouse, school-aged children, any persons that could be claimed as a dependent for tax purposes)** have vacated the former residence.
- **Have a district or senior level school administrator verify the family is indeed living in their new residence.**
  - After your initial verification of the residence and the documentation provided, please make arrangements to check on the residence periodically as stipulated in the instructions. The family is required to live at their new residence for at least one-year. Failure to do so may result in an approval under exception 1 being rescinded.
  - Important Note about Verification: Please be advised that the OHSAA may conduct random checks on these



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claimed changes of residence. We rely on multiple resources including Accurant searches which reveal the likeliness of one's residence and may even send a private investigator at our discretion.

- Once the residence has been verified and the ABFR has been completed in its entirety, please review each of the items listed therein, sign the coversheet in the bottom right-hand corner and return the ABFR via email to Lizzy Wilson ([lwilson@ohsaa.org](mailto:lwilson@ohsaa.org)).
  - o Upon receipt of the ABFR, the OHSAA will either issue a ruling or request additional documentation based upon the information provided within the ABFR.

## **Additional Notes:**

- Students who are seeking eligibility under this exception will become ineligible for the second half of the season and the OHSAA tournament unless approved by the OHSAA. Please make every attempt to provide this paperwork prior to the midway point of the respective sports season. This will ensure a ruling is provided prior to the student becoming ineligible with regard to transfer.
- **A WORD OF CAUTION:** Too often, an Exception 1 transfer is approved based upon the information that is recorded on the affidavit and only later is it learned that some of the information recorded is not accurate. If after investigating this "newly reported" information the Executive Director's Office determines that eligibility was established due to the inaccurate or false recording of information in the affidavit, the student in question will be immediately declared ineligible – perhaps for an entire calendar year. Whether that same student's participation will cause forfeiture in the contests in which she/he participated will depend on whether the school/school administrators can demonstrate that notwithstanding their exercise of due diligence, they too were misled by this information. The level of due diligence required is determined by the reasonableness of those statements and the surrounding facts and circumstances that may call into question that reasonableness.

Please feel free to contact Kristin Ronai ([kronai@ohsaa.org](mailto:kronai@ohsaa.org)), Ronald Sayers ([rsayers@ohsaa.org](mailto:rsayers@ohsaa.org)) or Lizzy Wilson ([lwilson@ohsaa.org](mailto:lwilson@ohsaa.org)) if you have any questions!