



Ohio High School Athletic Association
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Guidance for 2020-2021–High School Principals and Athletic Administrators

Bylaw 4-7-2 – Transfer Bylaw Review

Exception #1 – Parents’ Bona Fide Move into a New Public School District

The OHSAA receives more inquiries about the **transfer bylaw** than any other aspect of eligibility. Unfortunately, we perhaps should receive more, as invariably an administrator has made his/her own call that later results in forfeiture or worse. Reach out when in doubt!

NOTE: Students who change high schools (transfer) are reminded that they must meet all eligibility standards found in Bylaw 4. This includes meeting the out of state residency bylaw 4-6-2, which requires a student to have a parent (biological or adoptive) residing in Ohio or to meet one of the exceptions to that residency bylaw.

4-7-2 A student is considered to have transferred whenever a.) enrollment is changed from one school to another school and the student attends a new school, or b.) enrollment is changed from one school to become home schooled, or c.) the student participates in a practice, scrimmage or contest with a school-sponsored squad of a school in which the student has not been enrolled and attending, or d) the participation opportunities afforded a student pursuant to state law change. Notwithstanding (c) and (d) above, if a non-enrolled student’s participation is pursuant to O.R.C. §§ 3313.5311 (Ohio non-public school students) or 3313.537 (Ohio community/STEM school students), the non-enrolled student’s participation opportunity shall transfer back and forth to the non-public school or Community/STEM school in which the student is enrolled without transfer consequences. If the non-public school or Community/STEM school ever sponsors the sport/sports in which the non-enrolled student wishes to participate, the student’s participation opportunity shall also be transferred back to the school of attendance without consequence. Furthermore, any in-season changes in the participation opportunities that may be afforded by state law shall be subject to Bylaw 4-7-3.

If a student transfers at any time after commencing the ninth-grade year, the student shall be eligible, insofar as transfer is concerned, ONLY until 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. The transfer consequence shall remain in effect until the one-year anniversary of the date of enrollment in the school to which the student transferred, at which time the student is no longer considered a transfer student. For purposes of the transfer bylaws, a student will be considered as having commenced the ninth grade year by either attending five or more days of school as a ninth grader or by establishing eligibility at a school by having participated in a contest. Furthermore, the term “participated in a contest” for purposes of the transfer bylaw means to have played at least one play in a scrimmage, preview/jamboree, Foundation game or regular season/ tournament game or contest.

After the first 50% of the maximum allowable varsity regular season contests have been competed (regardless of the participation level of the student), **the student shall then become INELIGIBLE for the remainder of the regular season contests at all levels. Furthermore, the student shall also remain ineligible to participate in the OHSAA sponsored tournament(s) in those respective sports until the one-year anniversary of the student’s date of enrollment. A student who did not participate in an OHSAA recognized sport in the 12 months immediately preceding the transfer is not subject to the consequence of this transfer bylaw.**

Notwithstanding the above, if a student transfers during the season of a sport in which he or she has participated in a regular season contest, and if Bylaw 4-7-3 requires that the student is ineligible for participation in the remainder of the contests in that sports season, the student shall remain ineligible for the remainder of all regular season contests, as well as the OHSAA tournament, in that sport at the school into which the student has transferred. Furthermore, the student shall finish fulfilling his/her transfer consequence, for ONLY that sport in which the mid-season transfer occurred, at the commencement of the sport season during the next school year. This consequence requires that the student shall remain ineligible for all preseason contests (scrimmages, preview/jamboree, Foundation

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games) and all regular season contests until the total number of varsity regular season contests missed (including those missed during the previous season) equals 50 percent of the maximum allowable varsity regular season contests in that sport.

Note: ORC 3313.5312 (Ohio home educated students) has been intentionally left out of the exclusions of subpart (b) addressing students participating in programs where they are not enrolled. Once a home-educated student, in accordance with state law, participates with a school sponsored squad of a school in which the student is not enrolled, the student's eligibility is established at that school. Participating on any other schools' sponsored squad will be considered a transfer for which the balance of this bylaw and its exception would be applicable.

The following chart describes in detail the 50% consequence which shall be applied to any transfer student who has participated in a sport at ANY high school in the 12 months immediately preceding the transfer and does not meet an exception to a transfer bylaw.

Maximum Allowable Contests in All OHSAA-recognized Sports and Formula for Determining Eligibility under the 50% Transfer Consequence

Sport	Maximum # of Contests as adopted by the OHSAA Board of Directors	Transfer Student <u>BECOMES INELIGIBLE AT VARSITY:</u>
Baseball	27 Games	Game 15
Basketball (Boys and Girls)	22 Games	Game 12
Bowling	24 Matches	Match 13
Cross Country (Boys and Girls)	16 Meets	Meet 9
Field Hockey	16 Games	Game 9
Football	10 Games	Game 6
Golf	20 Matches	Match 11
Gymnastics	14 Meets	Meet 8
Ice Hockey	35 Games	Game 19
Lacrosse	18 Games	Game 10
Soccer (Boys and Girls)	16 Games	Game 9
Softball	27 Games	Game 15
Swimming and Diving (Boys and Girls)	16 Meets	Meet 9
Tennis (Boys and Girls)	22 Contests	Contest 12
Track and Field (Boys and Girls)	16 Meets	Meet 9
Volleyball	22 Matches	Match 12
Wrestling	20 Points/16 points (for those schools that do not field teams – 6 or fewer weight classes)	Point 11/9

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Please note, each participation change will be considered a transfer.

In the event of a student transfer, no ruling is required from the Executive Director's Office, and no paperwork is necessary if that student's transfer does not meet an exception to the transfer bylaw or if the student did not participate in any OHSAA recognized sport at any high school in the 12 months immediately preceding the transfer into the new high school. Understanding that basic rule is fundamental to dealing with transfer students.

Of course, in our society today, students do indeed change schools for various reasons. The member schools have identified a few transfer scenarios that they recognize should be exempted from the general transfer bylaw. To deal with those limited scenarios our member schools have adopted **12 exceptions (2 have been stricken by legislative action)**, one of which MAY apply to a student who changes high schools.

The use of the word MAY is instructive since not all transfer students can meet one of these exceptions and for each of these exceptions (unless no ruling is required as in exception 3), the transfer student is ELIGIBLE, insofar as transfer is concerned, for all pre-season contests and up through the first 50% of the maximum allowable varsity regular season contests. The period of INELIGIBILITY begins at the second 50% of the maximum allowable varsity regular season contests and continues through the OHSAA tournament OR until ruled eligible by the Executive Director's Office. For a student to avail herself/himself of one of these exceptions, action on the part of the member school administrator as well as the OHSAA staff is required. The purpose of this series on the Transfer Bylaw is to provide guidance as to the required action on each of the exceptions, if applicable.

This bylaw requires the administrator to determine the following:

1. Is the student a transfer student? In other words, did the student change schools/participation opportunity after establishing eligibility by attending five or more days of school as a 9th grader or by participating in a high school contest? If the answer is NO, then the transfer consequence is not applicable, and the student is fully eligible insofar as this bylaw is concerned. If the answer is YES, proceed to step #2.
2. Did the student play an OHSAA sport at ANY high school in the 12 months immediately preceding the date of transfer into the new high school? Get this information in writing from an administrator at the previous school or schools. If the answer is NO, the student is fully eligible insofar as transfer is concerned for that respective sport at the new school and no paperwork or ruling is necessary. (Please note that if a student transfers back to a school in which they were previously enrolled, then their "lookback" review could include participation that took place at the same high school where they are now desiring a participation opportunity). If the answer is YES, then please proceed to step #3.
3. If the answer to both #1 and #2 is YES, then does the student meet one of the 12 enumerated exceptions to this bylaw? If the answer is YES, the student meets an exception, then paperwork will be required, and the school administrator must seek a formal ruling from the OHSAA. The student may commence participation and is eligible, insofar as transfer is concerned, for all contests until the second 50% of the maximum allowable regular season varsity contests begin. Once the student is ruled eligible in accordance with an exception, the transfer eligibility is restored for as long as the student maintains enrollment and attendance at that school. If the answer is NO, the student does not meet the requirements of an exception, the student may commence participation and is eligible, insofar as transfer is concerned, for all contests until the second 50% of the maximum allowable varsity regular season contests begin. At that point, the student becomes ineligible for the second 50% of those contests AND the OHSAA tournament in that respective sport. In such a situation, no paperwork or ruling is required from the OHSAA. The student simply participates until the ineligibility commences as prescribed within the transfer bylaw.

This first issue will focus on exception #1 – **Bona Fide Move of Parents from one public school district to a different public school district.**

This exception has been rewritten to simplify and clarify its intent. Here is the exact text of this exception:

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

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student's transfer, in cases where parents are making a bona fide move into a residence that is more than 100 miles from their former residence, and there are extenuating circumstances that are presented which prevent one of the parents from making the move immediately.

The 90-day provision may be extended 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 step-parent 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 Legal Residence in the form requested by the Executive Director's Office must be submitted along with any request for the application of this exception.

NOTE: Please refer to Bylaw 4-6-1 for a definition of bona fide legal 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 approved.** The school district will have a continuing duty to monitor compliance with the residency requirements during this one-year period. Exception 1 permits the choice of a public high school in the parents' new district of residence **(any public school in the parents' new district of residence in a multiple high school district)** or any non-public high school.

In accordance with the requirements found in Transfer Bylaw 4-7-2, Exception 1 – **Parents'** (note plural) Bona Fide Move into a New Public School District – we wish to remind you of the process you should use when you have a transfer student who, as a result of his or her parents' bona fide move into a new public school district, is compelled to change schools. In accordance with the revisions made for the 2014-15 school year, the affidavit itself now requires the parents to answer questions about the nature of their bona fide move.

Note that the exception references "public school district." These districts are defined by the Ohio State Board of Education and have identifiable boundaries. **The bona fide move of parents into a new public school district triggers the choice of either a public high school in the new school district or any non-public high school. If, however, the new residence into which the family has moved is more than 100 miles from the residence from which the family moved as determined by mapquest.com or such other navigational system as adopted by the Board of Directors at its August meeting (using the most direct route), the student shall have the option to enroll contemporaneously with this move into any public high school.**

This amendment permitting any public school choice if the move is more than 100 miles, places an added obligation on the high school into which the student is transferring. It will no doubt be more difficult to verify that the parents have indeed moved into a different public school district than the one where the high school of choice is located, but that fact does not absolve the high school from making that determination.

This exception also addresses a bona fide move of only one parent and allows the Executive Director's Office to waive the requirement that both parents make the move if the marriage of those parents has been legally terminated as in a divorce or dissolution, is in the process of termination as in a legal separation or if the parents were never married. Each of the aforementioned scenarios shall require **formal** legal action – *i.e.* the commencement of legal proceedings in a court of competent jurisdiction – and documentation to establish custody or demonstrate that no marriage ever occurred.

A critical factor in this exception is the requirement that the **transfer shall be a result of the need for the parents (note plural) to move their residence.**

Finally, if the individual (s) making the move with the student is not the parent (biological, adoptive or step) of the student, the school has the obligation to disclose this fact, provide the custodial documents and identify the whereabouts of the student's parents.

If you have a student(s) seeking eligibility under this provision for the 2020-2021 school year, please follow these steps:

1. **Arrange for a conference with both parents**, if the marriage is intact, to complete page one of the *OHSAA Affidavit of Bona Fide Residence* (ABFR) form which identifies the requirements for those parents to be able to send their child to public school tuition free as a resident of a school district. **We highly recommend that this conference be in person so that you can explain the requirements of the Affidavit to the parents. Remember that this exception may be used to transfer a student's eligibility**

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to either a public school in a new district or ANY non-public school only when those parents and their entire family are making this move into a new public school district. Too often, only the student is making a move, which will disqualify the student from using this exception.

During this conference, it would be helpful to ascertain if it is the parents' move that is **compelling the student to transfer** high schools. This distinction is critical to the analysis since the rationale for this exception is that the change of residence was the factor which caused the student to transfer. **It is also important during this conference to verify that both parents are making the move or that the single parent is indeed divorced or legally separated (which means that a separation agreement has been filed with a court of proper jurisdiction) from the former spouse.** In order to maintain the integrity of this exception, it may be necessary to supply evidence of this divorce or legal separation.

If only one parent in an "intact" family is making the move, then the **presumption is that the move will not meet the conditions of this exception**, and the administrator should not continue with this process. There is an exception to this requirement that both parents make the move at the same time which does permit the Executive Director's office some discretion when the move is from residence more than 100 miles from the new residence, and there are compelling reasons why the entire family cannot make the move at the same time. Administrators must be prepared to provide this documentation for a ruling in the event that both parents are not moving.

If the individual(s) making the move with the student is NOT the student's parent (biological, adoptive or step), then this exception may not apply. The Executive Director's office will require that this relationship be disclosed on the affidavit, that the court order granting legal custody be provided, and that the whereabouts of the student's parents be disclosed.

2. **Ensure that the parents – and this means both parents (biological, adoptive or step-parents) if there has been no divorce or legal separation – understand the affirmations** expressed in the affidavit and realize that in order to maintain eligibility for their student, they must live in the new school district for at least one year from the date the transfer eligibility is approved via a formal letter-ruling from the OHSAA. **Please inform them that you will need to verify this residence before any application for eligibility can be filed with the OHSAA.**

Verification means more than just keeping a copy of the driver's license and voter registration. It means obtaining the lease for a rental and ensuring that the date of the lease coincides with the move into the district. It means obtaining the deed for the home if the parents own the home and ensuring that the date of sale coincides with the move into the district. It also means having a senior administrator or school resource officer actually check on the residence to ensure that the family has recently moved in. Having a coach drop the student off at the home DOES NOT satisfy this requirement.

3. **Instruct the parents to take the actual affidavit of bona fide residence** (pages 2 and 3 of the OHSAA form) to a notary public for completion, or you may offer the use of your school's notary service if that is an option. Keep in mind that the notary public will only seek to verify that the person taking the oath is properly identified. However, you should maintain a copy of the parents' current driver's licenses or state identifications, voter registrations and all other items, such as lease information or deed for a home that was purchased and a utility bill, that are referenced in the affidavit. **These documents must display the new address for those parents and should be consistent with a recent move in.** It is not necessary to send these documents to the OHSAA with the Affidavit, but please maintain them in your files.
4. **Please note the following on the instruction sheet (page one).** The school administrator should clearly write the name(s) of the high school student (you may use the same affidavit for all siblings), the school from which the student is transferring and the date of the transfer at the top of the page. **Note that the "Affiant" is the actual parent who will be getting the document notarized not the student.** It may be necessary to point that out to the parent. Both parents do not need to attest to the affidavit, but both must sign the instruction sheet as indicated.
5. **Please note on the actual affidavit that on items #4, the current resident address, and #14, the address from which the affiant just moved, each requires the full address including city, state, zip code and the designation of the public school district in which each residence is located (#5 and #15).** This information will help us to track the request and process it correctly.
6. **Please note the dates of vacating the old residence and moving into the new residence –** In order for this exception to be applicable, the move and the subsequent transfer to the new high school **must be within one calendar year of the date of submission of the request for approval.** Also note that the transfer should be contemporaneous with the move with the exception of completing a current school year. Please note that the student then must enroll in the new school by the beginning of the next school year.

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7. **Note that item #17 requires the affiant to verify that all possessions have been removed from the former residence.** In the event that this has not been accomplished, a detailed explanation must be attached.
8. **Pay attention on page two of the affidavit to the affirmation in #20.** This item requests the affiant to verify that all members of the household, including the spouse if the parents are married, all school-aged children and any other person who might be claimed as a dependent for federal tax purposes, have made the bona fide move. In the event that any members of the household did not make the move, the affiant must provide an explanation on a separate sheet of paper. Failure to complete this item and supply the information accurately will not permit the Office to make a favorable ruling.
9. **Prior to submitting any paperwork to the OHSAA, perform a check on the residence to verify that the family has indeed moved to the residence that is indicated on the affidavit. You can use this document to assist in that process:** https://ohsaa.org/Portals/0/Eligibility/4-7-2Guidance_Exc1_CHECKLIST.pdf
10. **When all three pages have been completed and checked** by either the principal or another senior administrator in the district to ensure that all questions have been answered and any documents attached, **and the residence has been independently verified by a district or senior level school administrator**, please send the **affidavit** to the OHSAA to the attention of Kristin Ronai at kronai@ohsaa.org.
11. **Upon receipt of a complete and accurate affidavit**, the OHSAA will issue a letter ruling on eligibility. A school administrator will be notified via email of an incomplete or inaccurate affidavit, and no ruling will be made until such time as a complete and accurate affidavit can be resubmitted. Such action will delay the process. If the school administrator is notified that the Affidavit is not acceptable, the parents will need to make the proper corrections or additions on a **new Affidavit** and then have the Affidavit notarized again. It is not acceptable to correct the original affidavit without having it notarized.
12. **Please remember that students who are seeking eligibility under this exception will become ineligible for the second half of the season and the OHSAA tournament** unless approved in writing by the OHSAA. We will make every effort to expedite these requests, with the appropriate paperwork, as quickly as possible, and we truly appreciate your cooperation in complying with these requirements. **However, we will not be compelled to make a ruling until we are sure that the student is compliant with the exception.**
13. **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.**

ADDITIONAL NOTES

- **Click here to retrieve the revised Affidavit of Bona Fide Residence** <https://ohsaaweb.blob.core.windows.net/files/Eligibility/forms/Affidavit-BonaFideResidence.pdf> and **please dispose of all outdated forms.**
- **Note that students enrolling in grade nine for the first time are eligible insofar as transfer is concerned** at the school where they begin attending during the first five days of the new school year or where they begin participating in contests.
- **Parents moving in from outside Ohio enrolling their student in an Ohio member high school for the first time** have the same two options as parents moving within Ohio – the public high school in the new district of residence or any non-public high school. A move of 100 miles or more provides an option to enroll in any public high school that will accept the student.
- **NOTE: In the event that the entire family, including both parents, has not completed the move into an Ohio residence, the Executive Director's Office may extend conditional eligibility for no more than 90 days, to afford the rest of the family time to make the move. If the family has not completed the move by the end of the 90 days, the student's eligibility shall not be fully restored unless the reason for the inability to complete the move is due to a military obligation or medical issues, documented by the parent. In those two situations only, the Executive Director's Office may extend the eligibility for 90 more days.**
- **Important Note about Verification:** Please be advised that the OHSAA may conduct random checks on these 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.
- **Recruiting Bylaw 4-9-4 #8 creates a "rebuttable presumption" that any transfer student (or a student who enrolls as a 9th grader) who arrives at the school where a former coach is now employed or approved to coach has been recruited. It is very important to disclose this relationship and attempt a rebuttal of this presumption at the time the student arrives at your school. You must submit formal correspondence to the OHSAA in the event that Byla4 4-9-4 #8 is triggered.**

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- **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 Debbie Moore, Roxanne Price or Kristin Ronai if you have any questions!

Please transmit Form via email to Kristin Ronai at kronai@ohsaa.org