



# 2023 Referendum Issues as of February 16, 2023

\*The following referendum issues represent the 10 items the OHSAA Board of Directors has approved for a membership vote as of February 16, 2023. The member school principals will vote on these issues between May 1-15, 2023. Additional issues are expected to be added at the March Board Meeting. Prior to the vote, all issues will be explained in a public platform at the upcoming Athletic Discussion Meetings in April 2023 (dates TBA).

NOTE: All issue numbers (1C, 1B, 2B, etc.) are subject to change pending approval of additional items at future meetings.

## CONSTITUTION (1)

### ISSUE 1C – MODIFY ARTICLE 6-1-9

If passed, effective August 1, 2023.

Initial Review-12/01/2022

Approved for Referendum- 01/12/2023

6-1-9 The Executive Director's Office may temporarily suspend the strict compliance to specific Constitution Articles, Bylaws, and/or Sports Regulations if the non-compliance is district/school-wide; is a direct and proximate result of a natural disaster, a national/state emergency, or a force majeure; the COVID-19 pandemic and the resulting State of Ohio Executive and Department Orders, and provided that such suspension remains consistent with the underlying purpose of the Article, Bylaw or Sports Regulation being suspended. ~~The aforementioned authority granted to the Executive Director's Office shall cease as of August 1, 2023, unless the Board of Directors extends this authority for an additional year.~~

### COMMENTS:

1. This Constitution Article was implemented during the spring of 2020 to address the Covid-19 pandemic (2020-21, 2021-22, 2022-23) and is set to expire at the start of the 2023-24 school year unless an additional extension is approved by the membership.
2. This Article has been used very sparingly over the course of the past 2½ years. The two most noteworthy instances being 1) to waive the scholarship bylaw for the 2020-21 school year and 2) to reuse the tournament divisions from the 2020-21 school year for the 2021-22 school year.
3. The E.D.'s Office believes there is value in retaining this concept of suspending strict compliance with certain regulations but only because of unforeseeable and unavoidable events similar to what we just experienced with the Covid-19 pandemic.
4. There is new additional language clarifying that the authority granted within this Article is only available for application for an entire district and/or an entire school, not on an individual student basis.
5. An example of when the E.D.'s Office could see the proposed language being used:
  - a. When Dayton was struck by the tornados a few years ago. If its buildings were destroyed and the district had trouble getting their students the necessary 5-credits to be eligible, the proposed language could allow the E.D.'s Office the ability to waive that academic standard for those surrounding districts who needed the relief during that time.

## BYLAWS (9)

### ISSUE 1B – ADD EXCEPTION TO BYLAW 4-3-1

If passed, **effective May 16, 2023.**

Initial Review- 01/12/2023

Approved for Referendum- 02/16/2023

4-3-1 All students participating in a school-sponsored sport must be enrolled in and attending full-time in accordance with all duly adopted Board of Education or similar governing board policies of that school.

**EXCEPTION 8: A student enrolled in an OHSAA member public school that does not sponsor a TEAM sport in which the student desires to participate may petition their Superintendent, using the OHSAA prescribed form, to play that sport for a public school located in a bordering public district pursuant to that bordering district's duly adopted Board of Education resolution for ALL TEAM sports which must be executed prior to June 30 for the school year commencing in that calendar year. Such a resolution must be on file with the OHSAA and the non-enrolled student is not permitted to commence any participation with the team until approved by the Executive Director's Office. If no school which borders the district offers the team sport, or if an applicable Board of Education does not approve a non-enrolled policy in accordance with this exception, then the student simply does not have a participation opportunity in that sport. Participation opportunities within a district with multiple high schools shall be governed by the applicable OHSAA business rules for non-enrolled students.**

**If the student is enrolled in a school within a multi-high school public school district that does not offer a TEAM sport in which the student desires to participate, then the student must first petition to play that sport for a different public school located within the district, using the required form, pursuant to that district's duly adopted Board of Education resolution which must be approved for ALL TEAM sports and be executed prior to June 30 for the school year commencing in that calendar year. Such a resolution must be on file with the OHSAA and the non-enrolled student is not permitted to commence any participation with the team until approved by the Executive Director's Office. Assignment of these students shall be governed by the applicable OHSAA business rules for non-enrolled students. If no school within the multi-high school district sponsors the sport in which the student desires a participation opportunity, or if the multi-high school district's Board of Education does not approve a non-enrolled policy in accordance with this exception, only then is the student permitted to utilize the process outlined in paragraph one of this exception.**

**For purposes of this bylaw, "TEAM sports" include baseball, boys and girls basketball, field hockey, football, ice hockey, boys and girls lacrosse, boys and girls soccer, softball, boys and girls tennis, and boys and girls volleyball.**

**NOTE 1: Students who utilize this exception shall only be approved to play TEAM sports for ONE school at which they are not enrolled during any given school year. Therefore, diligence should be given when selecting which neighboring district is being petitioned to participate in any given sport(s) (i.e. does the school sponsor all TEAM sports in which the student desires a participation opportunity). Students utilizing this exception shall also only be permitted to participate in sports at one school during any given sports season (i.e. fall, winter, spring).**

**NOTE 2: Once a Superintendent signs the applicable form granting permission for a student to participate under the provisions of this exception, that action will signify the school's acknowledgement that it is not offering the sport in question. If the school ultimately offers the sport after approving a student(s) to play elsewhere, the school may participate in contests during the regular season but shall not be permitted to enter the OHSAA tournament. Furthermore, the student(s) who was formerly approved to play elsewhere shall be permitted to conclude participation in that sport through the remainder of that respective season.**

**NOTE 3: If a school participates in a contest (scrimmage, preview/jamboree, Foundation game or regular season) but ultimately ceases sponsorship of the program during that season, that team's participation in the contest shall constitute the school "sponsoring the sport" that year and remove its students' ability to utilize this exception elsewhere during that same season. Additionally, this exception shall not be used for students desiring to participate at a different competition level at a school at which they are not enrolled. If a school sponsors a sport at any level (varsity, JV, freshman), then that will remove a student's ability to try and request to utilize this exception.**

**NOTE 4: If a member school is geographically situated within Lake Erie and does not physically touch any other district, that school shall be considered to be "bordering" all other districts which physically touch Lake Erie, for which the application of this exception may be applied with applicable Superintendent/BOE permission.**

**NOTE 5: This bylaw has no application for any OHSAA sports other than those listed above. Please visit OHSAA.org for more information regarding individual sports not offered at a specific school.**

**IF PASSED: Add Exception 8 Students to Tier 1 Group for Competitive Balance Sports**

2-2-4 For public member schools, Factors shall be assigned as follows:

—Tier 0 – the student and at least one legal custodian currently reside within the school district/designated/assigned attendance zone (unless the student is participating as a non-enrolled student at the member high school in accordance with state law).

—Tier 1 – the student and at least one legal custodian currently reside outside the school district but the student has been continuously enrolled in the district since the beginning of 7th grade OR 2) the student, who is attending a school in a multiple-high school district, and at least one legal custodian currently reside outside the school's designated/assigned attendance zone but still live within the school district OR 3) the student is participating as a non-enrolled student at the member high school in accordance with state law or the student is participating on a J1 Visa.

—Tier 2 – the student and at least one legal custodian currently reside outside the school district and/or designated/assigned attendance zone and the student has not been continuously enrolled in the district since 7th grade OR 2) the student is participating as a non-enrolled student at the member high school in accordance with **Bylaw 4-3-1, Exception 8.**

**IF PASSED: Modify Definition of Transfer within 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 vice versa, 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), **or if the student is participating as a non-enrolled student in accordance with Bylaw 4-3-1, Exception 8,** the non-enrolled student's participation opportunity shall transfer back **and forth between** to the non-public school or Community/STEM school **the student's school of enrollment and the public school at which they are afforded a participation opportunity** in which the student is enrolled without transfer consequences **based on sports offered at the school of enrollment.** If the non-public school or Community/STEM school **of attendance** 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.

**COMMENTS:**

1. The proposed modification is a second attempt at language which was rejected during the 2022 referendum process by a vote of 393-406 (13 votes), while 14 schools abstained from voting.

**2. The language changes which are different than the referendum proposal from last year are highlighted in blue, and include:**

- a. The rule now requires approval from both 1) the Superintendent of the public member school that the student attends and 2) the BOE/Superintendent of the school where the student is desiring a participation opportunity.
  - b. The addition of “must first” within the multi-HS paragraph guidance makes it clearer that students within a multi-HS district are required to first explore options for athletic participation within their own district. They are only permitted to participate in a school outside their district of enrollment if 1) their district does not offer the sport or 2) their district does not have a policy permitted such non-enrolled participation or 3) their Supt. agrees to permit them to utilize the option outlined in paragraph one.
  - c. Though Tennis is not a “team sport” by OHSAA definition, feedback was obtained that the scheduling aspects of tennis are more aligned to team sports, and it is difficult for a school to schedule a match with only one person from another school who their coach also trains. As such, tennis is being added to list of “team sports” for only this bylaw, in order to allow these students to join the team of a neighboring school.
  - d. The new NOTE 1 prevents a student from being approved to play sports at numerous different schools in different districts.
  - e. The new NOTE 2 and 3 address some logistical issues to clarify situations where a school is uncertain about whether or not they will be electing to offer a sport or not.
  - f. The new NOTE 4 addresses member schools which do not touch any other districts.
  - g. The new NOTE 5 simply reinforces that this exception will only be applied for those teams sports listed above and the guidance will provide instructions on how to provide participation opportunities for individual sports like Gymnastics, Wrestling, S&D, etc..
  - h. These students will be coded as Tier 2 Non-Enrolled and add 7 to a team’s roster count in all CB sports, except football which would add 3.
3. The proposed exception is being put forth because under ORC 3313.5311, students attending a non-public school are permitted to play at their local residential school. Conversely, students who attend a traditional public school are not permitted to participate in a sport elsewhere if the school they currently attend does not offer the sport.
  4. The proposed language would provide interscholastic participation opportunities to students who would otherwise not have it at the school they attend. It would provide more participation opportunities for students, especially for those who attend smaller schools that don’t offer as many sports.
  5. The proposed language only applies to team sports. This will allow for the majority of students to be captured in Competitive Balance counts to increase applicable divisional placement numbers. The team sports where the participation will not be captured is Field Hockey, Ice Hockey, Lacrosse, Tennis and Boys Volleyball.
  6. Not extending this exception to individual sports encourages schools to sponsor the sport and hire a different school’s coach to provide the participation opportunity for students. It is not feasible for schools to hire a different school’s coach in a team sport, in the majority of instances.
  7. If passed, the proposed language would only apply to a student actually enrolled at the public school which does not offer the sport. It would not be applicable for students attending a non-public school who plays sports at their residential district but whose residential district school did not offer the sport. That student is not enrolled in the public school so the proposed exception would not apply to that student.
  8. The proposed language addressing Board of Education resolution would allow for any district to deny such participation by a non-enrolled public student and “protect” itself against some of the concerns outlined below. A district will either have to allow participation from all bordering districts, or no bordering districts. A BOE will not be allowed to permit participation from some bordering district and deny it for other bordering districts. It’s all or nothing.
  9. Requiring BOE resolution for ALL sports, as opposed to a sport by sport basis, safeguards against districts only allowing the kids with high athletic abilities to come play and help certain sports teams. If the participation is being extended to one student, it must be extended to all students who are eligible to utilize the exception.
  10. Similarly, the proposed language requiring BOE resolution prior to June 30 forces districts to make an informed, intentional decision about whether or not to permit such non-enrolled participation during the upcoming year. It cannot make the decision to implement the policy in the middle of the year when a skilled athlete who attends a neighboring

school reaches out and wants to play a sport during the upcoming sports season. The June 30 date aligns with the Board Resolution Cards deadline so this discussion can be had during the time of membership renewal.

11. The proposed language requires students within a multi-HS district to explore participation opportunities within the district first. If no school within the district sponsors the sport, or if the BOE does not adopt the resolution, only then would the student be permitted to explore neighboring district participation opportunities, subject to those respective district's BOE decisions.
12. The two "If Passed" items will only be necessary if the Issue passes. They are editorial changes which impact other bylaws.
  - a. These students would be coded as **Tier 2 Non-Enrolled** for Competitive Balance sports.
  - b. These students would not be subject to a transfer consequence if they elected to utilize this exception to play sports elsewhere and then come back to their school of attendance to play sports which the school does offer. This concept is the same as non-public school students who are permitted to go back and forth between their school of attendance and their residential public school in accordance with state law.
13. Though the effective date of this proposed issue is May 16, 2023, the actual participation of non-enrolled students will not begin until the 2023-24 school year. If passed, the Resolution must be executed between May 16-June 30, 2023 for implementation during the 2023-24 school year.
14. The obvious benefit of the proposed language is that it provides additional participation opportunities for students. Of a spring 2022 survey of OHSAA principals with 295 responses, principals identified several issues as concerns with this type of proposal. The full survey results outlining the concerns from the 2022 survey can be located here: <https://ohsaaweb.blob.core.windows.net/files/SchoolResources/refvote/2022PrincipalSurvey.pdf>

## ISSUE 2B – ADD LANGUAGE TO BYLAW 4-5-6

If passed, effective August 1, 2023.

Initial Review-10/26/2022

Approved for Referendum- 12/01/22, **Updated 2/6/23**

4-5-6 Any student who is **or would have been** subject to a penalty or consequences for violations of a school's Board adopted Code of Conduct (Student, Athletic) shall be declared ineligible in the event the student transfers to another school before the penalty or consequence has been fully served. Once the terms of the penalty or consequence have been fully served at the new school, **or once one full calendar year has passed since the date of first attendance at the new school, whichever comes first**, then the student is permitted to regain their athletic eligibility, **at the discretion of the new school**, assuming they are eligible in all other respects. It is the responsibility of an administrator at the new school **former school** to inquire from the **alert an** administrator at the student's former **new** school of any violation of this nature that would affect the student's eligibility in interscholastic athletics and the duration of the suspension for that violation.

### COMMENTS:

1. The first proposed edit "*or would have been*" will prevent a student from being able to transfer to a new school simply to avoid a code of conduct violation at their former school that potentially might not have been administered yet (i.e. an alcohol violation discovered over the summer but the student transfers prior to the start of the school year before the penalty can be officially administered).
2. The Executive Director's Office is concerned about an indefinite code of conduct penalty administered at one school being enforced for the duration of the student's career at all OHSAA member high schools.
3. If a student is suspended for athletic participation for the remainder of their career at one school and elects to transfer to a different school to play sports, the E.D.'s Office recommendation is to hold the student out of athletic participation for a minimum of one calendar year from the date of first attendance. However, after one calendar year has passed, the E.D.'s Office believes it should be at the discretion of the new school to determine if/when the student may regain access to the participation in interscholastic athletics.

4. Under the current language, mistakes made at one school can essentially render a student ineligible for any further participation at any other OHSAA member school for the duration of their enrollment in high school.
5. A student who plays at their new school when they would have otherwise been ineligible under a code of conduct violation at their former school would be participating as an ineligible student. As such, any contests in which that ineligible student participates would need to be forfeited. This concept is true regardless of whether the proposed language passes or not. **The proposed changes to the last sentence, if passed, would now require the sending school to alert the receiving school of any pending Code of Conduct violations.**

**ISSUE 3B – MODIFY BYLAW 4-7-2, TRANSFER**

**If passed, effective August 1, 2023.**

**Initial Review-01/12/2023**

**Approved for Referendum- 02/16/2023**

4-7-2 **Definition of Transfer:** 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 vice versa, or c.) the student participates in a practice, scrimmage or contest in an OHSAA recognized sport 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 (b) above, if a student is enrolled in a school located in his/her residential district and withdraws from the school for home education pursuant to division (A)(2) of O.R.C. §§ 3321.04, or vice versa, such a student shall not be considered a transfer student subject to the provisions of this section.** 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 between** to the non-public school or Community/STEM school **the student's school of enrollment and the public school at which they are afforded a participation opportunity** in which the student is enrolled without transfer consequences **based on sports offered at the school of enrollment.** 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.

**Transfer Consequence:** If a student transfers at any time after commencing the ninth-grade year, the student 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. 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. 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.

**Midseason Transfers:** 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 (or at the school where the student is now permitted a participation opportunity). Furthermore, the student shall finish fulfilling his/her transfer consequence, for ONLY that sport in which the mid-season transfer occurred, at the start of the sport season during the next school year. unless an exception can be met to restore eligibility for the next sport season. This consequence requires that the student shall remain ineligible for all preseason contests (scrimmages, preview/jamboree, Foundation 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 regular season contests in that sport.

Note 1: 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 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.

**Note 2: Whenever a student is considered a transfer, as defined in Bylaw 4-7-2, but is permitted a participation opportunity at a member school at which they are not enrolled in accordance with ORC 3313.5311, 3313.5323 or 3313.537, it is the responsibility of the member school where the student is participating to submit any applicable paperwork to waive the transfer consequence outlined above.**

**\*\*Conversely, if a student is considered a transfer but utilizes Bylaw 4-3-1, Exception 8 to participate in a sport at a school within a neighboring district, it shall be the responsibility of the school to which the student has enrolled/transferred to submit any applicable paperwork to waive the transfer consequence outlined above.**

Note 2~~3~~: The Executive Director's Office, in its sole discretion, is authorized to make certain equitable adjustments to the period of REGULAR SEASON ineligibility in cases when a student, through no fault of the athlete, is subject to documented, extenuating circumstances which prevent him/her from competing during all or part of the first 50% of the maximum allowable regular season contests in a sport. However, no such approval shall ever permit a student-athlete a participation opportunity in the OHSAA postseason tournament of a sport in which they are ineligible. If such an adjustment is granted, 1) the student must be physically attending the school at the start of the season for such an adjustment to be considered and 2) the student will only be eligible for those contests outlined in the Executive Director's Office's approval, which will never exceed 50% of the maximum allowable regular season contests regardless of whether the student participates in those contests. It is the sole responsibility of the school to which the student transfers to ensure a student granted such an adjustment participates only during the appropriate contests outlined in the Executive Director's Office's approval.

#### COMMENTS:

1. The first proposed modification adds titles to each of the paragraphs to the transfer bylaw to assist those attempting to find applicable transfer regulations.
2. The second proposed modification removes the application of the transfer consequence for a student who is attending the school located in his/her residential district and obtains approval from the Superintendent for home education, or for the student who was under home instruction and elects to come back to their local residential school. Since Covid, the Executive Director's Office has seen an increase of students taking advantage of home instruction. Since the district Supt. is still ultimately charged with the responsibility to ensure the student is being properly educated, and since home education situations do not have ANY interscholastic sports opportunities, we believe this modification more accurately reflects the intention of the transfer regulations.
  - a. The reason definition (b) was not struck entirely is because, under the proposed language, the transfer consequence would still apply to a student who was open enrolled elsewhere or who attended a non-public school and elected to change to home education under 3321.04. Such a change would alter the entity responsible for the child's education, as well as likely shift their participation opportunity to a different school. As such, the E.D. Office believes these students should still be subject to a transfer consequence and all the applicable exceptions.
3. The third proposed modification clarifies that students who are participating at their local public school in accordance with state law may transfer their participation opportunity back and forth between schools in between sports seasons (based on sports offered) without any transfer consequence. The current language only addresses what happens if the non-public/community/STEM school ever ends up sponsoring the sport in question.

4. The proposed language outlined in Note 2 clarifies which school is required to submit transfer exception paperwork when dealing with non-enrolled transfer student situations. **\*\*The last sentence of the new Note 2 will only apply should Issue 1B pass.**

**ISSUE 4B – MODIFY EXCEPTION 5, TRANSFER BACK TO SAME SYSTEM OF NON-PUBLIC EDUCATION  
If passed, effective August 1, 2023.**

**Initial Review- 01/12/2023**

**Approved for Referendum- 02/16/2023**

EXCEPTION 5: A student may return to non-public education and have his/her eligibility restored at the discretion of the Executive Director's Office provided the following conditions are met:

- a) the student had been continuously enrolled in **a school within** the same system of non-public education **as the school into which the student is transferring** (e.g., Catholic Conference of Ohio, Ohio Association of International Schools, Association of Christian Schools International or other category as denoted by the State Department of Education) beginning in the 4th grade and continuing consecutively through the entire eighth grade and;
- b) the student has not attended more than one other high school during the course of their high school enrollment and;
- c) the student returns to the same system of non-public education prior to the **student commencing his/her first day of their senior year** ~~start of the student's junior year~~ and;
- d) the student can demonstrate to the satisfaction of the Executive Director's Office that the transfer is not occurring/not taking place for athletic reasons.

Furthermore, if the student commences attendance at any high school within the same system of non-public education then breaks enrollment for a period of time at a school located outside the same system of non-public education, this exception will only be available for use back to the same high school at which the student was previously enrolled, provided the aforementioned criteria are all met. **Additionally, the Executive Director's Office may waive the timeline requirement of criteria (c) only if 1) the student transfers back to the same non-public high school in which they were previously enrolled and 2) the transfer back occurs within the same school year in which the student withdrew from that non-public high school and 3) the student did not participate in a practice, scrimmage or contest in any sport(s) at another school during the time they were withdrawn from the non-public high school.**

**COMMENTS:**

1. This exception was approved by the membership during the 2022 referendum cycle. The proposed modification to criteria (c) is being offered as a recommendation from the OHSAA Appeals Panel.
2. During the 2022-23 school year, the OHSAA Appeals Panel heard an appeal for a student who left their non-public school at the start of their junior year due to a financial hardship, but the parent was able to secure a different job and the student came back to the same school 3 months later. Because the current language requires the transfer to take place prior to *"the start of the student's junior year,"* this student's application was denied even though they met all other criteria of the bylaw (i.e. attended Catholic school since 4th grade, etc.).
3. The new proposed language to criteria (c) still does not allow application if a transfer is made during a student's senior year.
4. The proposed sentence at the end would allow the E.D. Office to consider application for a senior but only if the student came back to the same high school to which they have ALWAYS been enrolled, and it also would only apply if the student did not play any other sports at the other school when they left.
5. The proposed language was initially proposed to mirror Exception 9, which does not have any timeline restrictions on the transfer.
6. The modification to criteria (a) is simply editorial to clarify what schools are being considered when reviewing the "system of education."



**ISSUE 5B – AMEND BYLAW 4-7-2 EXCEPTION 9, NOTE 2**

**If passed, effective May 16, 2023.**

**Initial Review-10/26/2022**

**Approved for Referendum- 12/01/22**

EXCEPTION 9: If, as a result of a transfer/transfer of participation opportunity to a public high school located in the public school district within which the student’s residential parent/legal custodian has resided for a minimum of one year, the Executive Director’s Office may waive all or part of the period of ineligibility for one or more of the sport/sport seasons. This exception may be used regardless of whether the student is transferring from a public or nonpublic school but cannot be applied to transfers to and from high schools within a multiple high school district/system. (See Bylaws 4-7-4, 4-7-6 and 4-7-7 for the transfer rules which apply to intra-district or system transfers; See Note 1 below for transfers into a multiple high school district.) This Exception may be used only once during a student’s four years of high school eligibility.

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Note 2: A non-public student whose parents live in two different public school districts may have the option under this bylaw to transfer to the public high school in either public school district in which the student’s parents reside provided the student has never established eligibility at a public school in a district in which a custodial parent resides.

**Note 3:** ~~Conversely, Exception 9 cannot be used to transfer from the public high school of the district in which one parent resides to the public high school of the district in which the other parent resides in a split-family situation. If a student establishes his/her eligibility at a public high school located within the district of one legal custodian and subsequently transfers to another public high school in a different district of a different legal custodian, the original school of enrollment shall remain the student’s “residential district school” for the purposes of this exception until the student has been attending the new school for one calendar year. After one calendar year, the student will have reestablished his/her “residential district school” for the purposes of this exception and is no longer permitted to use this exception to transfer back to his/her original school using this exception. Conversely, a non-public student whose parents live in two different public school districts may have the option under this bylaw to transfer to the public high school in either public school district in which the student’s parents reside provided the student has never established eligibility at a public school in a district in which a custodial parent resides.~~

[\*\*Concept retained, but language moved to first part of Note 2.]

**COMMENTS:**

1. The Executive Director’s Office frequently reviews and fields questions relative to the movement of students between legal custodians who live in different school districts. Since the restoration of this exception, the language has always been very clear that it *“cannot be used to transfer from the public high school of the district in which one parent resides to the public high school of the district in which the other parent resides in a split-family situation.”* However, there is sometimes confusion or pushback regarding “which” district should be considered the residential district for the purposes of exception 9, especially if a student has made multiple transfers.
2. The proposed language codifies a practice long utilized by the Executive Director’s Office outlining that once a student transfers to a new school, where a different legal custodian lives, in a different district than their original legal custodian, then once the student has maintained attendance at the new school for at least one calendar year then the student forfeits the opportunity to “go back” to their original school using this exception. Moving forward after one calendar year, the new school of attendance becomes their “residential district school” for the purposes of this exception, subject to applicable Business Rule assignments within a multi-HS district.

**ISSUE 6B – AMEND BYLAWS 4-7-6 AND 4-7-7, INTRA-DISTRICT/SYSTEM TRANSFERS**

**If passed, effective August 1, 2023.**

**Initial Review-10/26/2022**

**Approved for Referendum- 12/01/22**

*[\*\*PUBLIC SCHOOL RULE]*

4-7-6 If a student transfers between high schools within the same public school district, the student may have his/her eligibility restored by the Executive Director's Office provided the following conditions have been met:

- 1) — The student has been reassigned to the high school by ~~the school district~~ **the superintendent, or other administrative authority of that school district**, as a result of **a) redistricting, b) a material change in transportation circumstances so as to create a hardship** or **c) a specific change of academic program**, the details of which shall be clearly stipulated in writing to the Executive Director's Office; and
  - 2) — The reassignment takes place **either a) after the conclusion of the previous school year and prior to the beginning of the current school year; and the student commences enrollment and attendance on day one of the current school year; or b) at the district's semester break and the student commences enrollment and attendance on day one of the next semester;** and
  - 3) — **The superintendent, or other administrative authority of the district,** petitions the Executive Director's office for the restoration of eligibility for the student no later than 15 school days after the beginning of the school year **after the beginning of the new semester;** and
  - 4) — **The superintendent, or other administrative authority of the district, certifies that the transfer is not being done for athletic reasons; and**
  - 5) — The student becomes ineligible beginning with the second 50% of the maximum allowable varsity regular season contests until declared eligible by the Executive Director's Office under this exception.
- 5) — This bylaw will have no application for seniors who are requesting a "specific change of academic program."

**Note 1: Change in academic program requests will have no application for seniors. Furthermore, this change in academic program transfer option is shall only be available one time only during the student's high school career. A student who subsequently withdraws from the academic program to which he or she has been assigned shall be declared immediately ineligible and may be subject to sanctions in accordance with Bylaw 11.**

**Note 2: Notwithstanding condition #2, if a material change in transportation circumstances creates an immediate hardship for a family, then the school district may reassign the student at any time throughout the course of a school year and still petition the Executive Director's Office for a ruling, subject to Bylaw 4-7-3.**

Note: Students who are transferring to take advantage of the IB Diploma Program shall have junior standing and be fully enrolled in the IB Diploma Program.

Note: This exception will have no application for seniors who are requesting a "specific change of academic program."  
*[\*\*Concept retained but language moved to a different section of the bylaw.]*

*[\*\*NON-PUBLIC SCHOOL RULE]*

4-7-7 If a student transfers to a high school located within the jurisdiction of a non-public multiple high school system (e.g., Catholic Conference of Ohio, Ohio Association of Independent Schools, Association of Christian Schools International or other category as denoted by the State Department of Education) from another high school within that same system, the student may have his/her eligibility restored by the Executive Director's Office provided the following conditions have been met:

- 1) — The student has been reassigned to the high school by the superintendent or other administrative authority of that school system as a result of **a) a specific change of academic program the details of which shall be clearly stipulated in writing to the Executive Director's Office; or b) a material change in economic circumstances so as to create a hardship; or c) a material change in transportation circumstances so as to create a hardship; and**

2) — The reassignment takes place **either a)** after the conclusion of the previous school year and prior to the beginning of the current school year; and the student commences enrollment and attendance on day one of the current school year; **or b) at the district’s semester break and the student commences enrollment and attendance on day one of the next semester;** and

3) — The superintendent, or other administrative authority of the system, petitions the Executive Director’s Office for the restoration of eligibility for the student ~~verifying in detail the specific reason for the transfer in accordance with item #1 and certifying that the transfer is not for athletic reasons~~ no later than 15 school days after the beginning of the school year/**the beginning of the new semester;** and

**4) — The superintendent, or other administrative authority of the system, certifies that the transfer is not being done for athletic reasons; and**

5) — The student becomes ineligible beginning with the second 50% of the maximum allowable varsity regular season contests until declared eligible by the Executive Director’s Office under this exception.

~~5) — This bylaw will have no application for seniors who are requesting a “specific change of academic program.”~~

**Note 1: Change in academic program requests will have no application for seniors. Furthermore, this change in academic program** transfer option is **shall only be** available one time ~~only~~ during the student’s high school career. A student who subsequently withdraws from the academic program to which he or she has been assigned shall be declared immediately ineligible and may be subject to sanctions in accordance with Bylaw 11.

**Note 2: Notwithstanding condition #2, if a material change in transportation circumstances creates an immediate hardship for a family, then the school system may reassign the student at any time throughout the course of a school year and still petition the Executive Director’s Office for a ruling, subject to Bylaw 4-7-3.**

~~Note: Students who are transferring to take advantage of the IB Diploma Program shall have junior standing and be fully enrolled in the IB Diploma Program.~~

~~Note: This exception will have no application for seniors who are requesting a “specific change of academic program.”  
[\*\*Concept retained but language moved to a different section of the bylaw.]~~

#### COMMENTS:

1. Bylaw 4-7-6 and 4-7-7 are the respective public and non-public intra-district/system transfer regulations...meaning these bylaws/situations are only available for students who transfer schools between the same district/system. These regulations have no application for a student who transfers between schools within different districts/systems.
2. The general concept of all the proposed changes are to make the public and non-public intra-district/system regulations and language more consistent with one another. Currently, 4-7-7 requires certification that the transfer is not being done for athletic reasons, but that same language is not also currently within 4-7-6. The first proposed change now includes that language in both bylaws.
3. The next proposed modification adds a transportation hardship to the public school bylaw, which mirrors the available option outlined in the non-public school regulation- making each bylaw have three options. Each bylaw would now have a change in academic program and transportation hardship option, and each would have one unique option for public (redistricting) and non-public (economic hardship) districts/systems.
4. The third proposed change in new Note 2 would allow for a request under the transportation hardship to be requested at any time throughout the course of a school year. The E.D.’s Office has been faced with a handful of transportation hardships which require an immediate transfer for logistical purposes (death of a family member who was in charge of transportation, etc.) and waiting for the reassignment to take place until the start of the next school year is not feasible.
5. The last proposed change would allow for the E.D.’s Office to consider change of academic program requests which occur at a semester break. The current language only allows for these to be considered when they take place in between school years. There have been numerous transfers the E.D.’s Office has had to deny the past few years

where the student and his/her family want to transfer the student at semester break to get a “head start” on the program for the next school year.

6. It should be noted that the change of academic program request is still unavailable for seniors and, if processed at the semester break, would still be subject to Bylaw 4-7-3, Midseason Transfer, and render any winter sport athlete ineligible for the rest of that winter sport season at the new school to which he/she transferred.
7. If any multi-HS district/system utilizes trimesters (none of which we are aware at the moment), the E.D.’s Office would interpret the semester transfer timing option to be available at each trimester break.

## ISSUE 7B – AMEND BYLAW 7, CONTRACTS

If passed, effective August 1, 2023.

Initial Review-12/01/2022

Approved for Referendum- 01/12/2023

### Section 1. Contracts for Athletic Contests

7-1-1 Regular season contests between two or more member schools should be memorialized in writing and signed by representatives authorized by the competing member schools. ~~Not~~ **All** disputes involving the contracts referenced herein, **including issues of anticipatory breach**, that can **not** be resolved between the member schools themselves shall be referred to the Executive Director’s office for binding resolution.

Note: As it pertains to this bylaw, electronic signatures **or other forms of electronic acceptance of a game contract** are acceptable

7-1-2 When schools come together to form a league or conference and said league or conference publishes a league or conference schedule of contests for its member schools, the league or conference schedule shall serve as a binding contract between the member schools of that league or conference in lieu of the single game contract referenced in Bylaw 7-1-1. **Unless otherwise set forth in the league/conference Constitution and/or Bylaws, a league/conference schedule becomes “published” if/when the members of the league/conference approve the schedule and/or it is documented within its official meeting minutes.**

7-1-3 All member schools of a league or conference shall adopt a Constitution and Bylaws of said league or conference which Constitution and Bylaws shall serve, among other purposes, as terms of a binding and continuing legally enforceable contract between each of the member schools of said league or conference. **As such, the Constitution and/or Bylaws shall contain provisions that address the addition of a new member school, the removal of an existing member school and the voluntary withdrawal of an existing member school and the economic consequences for a unilateral breach of game contracts.**

7-1-4 The voiding of a **signed/published** contract can only be done upon the mutual consent of the contracting schools. The decision of a school to change league or conference affiliation does not void its previous contract obligations with the league or conference and its member schools. Furthermore, all league or conference contract obligations shall take precedence over any contracts executed later in time.

7-1-5 The suspension or termination of a school’s membership in the OHSAA shall render all contracts, **including officials contracts**, voidable by schools whose membership remains in good standing with the OHSAA.

7-1-6 When a new school district is created under Sections 3311.26 and 3311.37 of the Ohio Revised Code **and therefore impacts the current league or conference schedules**, all contracts for contests and officials made by the former school districts are declared null and void and new contracts for contests and officials should be negotiated by the new school district.

7-1-7 If game contracts cannot be fulfilled by reason of weather, strike, force majeure or similar such circumstances, the contracting school may:

- a) Void the contract by mutual consent of the schools involved, or
- b) Attempt to reschedule the contest at a convenient time and date to all schools. If the contest in question is a varsity football contest, if the schools are unable to mutually agree to a rescheduled date to take place within 72 hours of the cancelled contest, the contract shall be considered null and void.
- c) Refer **If a) or b) cannot be met, the contracting school may refer** the matter to the Executive Director's Office for resolution

7-1-8 If a school which has entered into a **signed/published** game contract cancels or attempts to cancel a game contract without the consent of the other school, or otherwise breaches the terms of the game contract, the schools shall:

- a) Attempt to resolve their contract dispute by and between themselves; or
- b) The non-breaching school may invoke the liquidated damages clause as set forth in its game contract; or
- c) Determine the financial loss to the non-breaching school and make a financial settlement; or
- d) Refer **If a), b) or c) cannot be met, the schools shall refer** the matter to the Executive Director's Office for binding resolution. In arriving at a binding financial resolution, the Executive Director's Office shall consider the financial records (attendance, gate receipts, concession sales, others) of past games previously played to ascertain damages to the non-breaching school.

In addition to the foregoing remedies, the Executive Director's Office is authorized to sanction the breaching school with a full array of sanctions as set forth in Bylaw 11 including, but not limited to, denial of participation in the OHSAA tournament in the sport in which the contract disputed occurred.

**NOTE: The Executive Director's office will only attempt to resolve disputes of signed contracts and/or "published" league/conference schedules.**

#### **COMMENTS:**

1. The proposed modifications came about from feedback from The Suburban League (NE District). The league initially explored pursuing the matter via the petition route (Constitution Article 8-1-5), but additional conversations with the E.D. Office led to the proposed language being placed on the ballot via Board of Director's approval instead.
2. The current language in Bylaw 7-1-2 is does not clearly define the meaning of a "published schedule". Adding the new definition of "published" more clearly articulates when a league/conference schedule becomes an enforceable contract.
3. The proposed language under Bylaw 7-1-3 is being added to encourage schools to explicitly state the penalty for breaking a league/conference contract. Under current operating procedures, when the Executive Director's Office is forced to become involved with league/conference disputes it must consider a variety of factors. If schools already have a clearly defined penalty within their constitution/bylaws, it allows the league/conference to take more ownership in the enforceability of any such contract disputes and/or gives the Executive Director's a better starting point.
4. Under 7-1-8, the word "signed/published" is added to clearly define what situations the Executive Director's office will help resolve. Further, the new note helps enforce that the Executive Director's office will only attempt to resolve signed/published contracts.

**ISSUE 8B – NEW BYLAW 8-3-2, AND RENUMBER**

**If passed, effective August 1, 2023.**

**Initial Review-01/12/2023**

**Approved for Referendum- 02/16/2023**

**8-3-2 Schools have an obligation to protect the contact/personal information of an official before and after a contest. Schools shall never provide an official's contact/personal information to any person/entity without first obtaining permission by the official.**

- Renumber bylaws 8-3-2 and 8-3-3

**COMMENTS:**

1. The proposed language is being offered to prevent situations of families attempting to contact officials before and/or after the contest to try and influence the official's call (i.e. reverse an ejection after a game, etc.), or of news media outlets attempting to contact an official after the conclusion of a contest for a statement. Though officials are individual contractors, the service they are providing for member schools to ensure the continuance of interscholastic athletics should be accompanied with certain protections. Should this referendum be successful, contact/personal information of officials should never be shared.

**ISSUE 9B – AMEND BYLAW 11-1-4, PENALTIES**

**If passed, effective August 1, 2023.**

**Initial Review-10/26/2022**

**Approved for Referendum- 12/01/2022**

BYLAW 11-1-4 If a lawsuit is commenced against the OHSAA seeking to enjoin the OHSAA from enforcing any or all of its Constitution, bylaws, sports regulations, decisions of the OHSAA, and an Order from a Court of proper jurisdiction is subsequently either voluntarily vacated, or stayed, or reversed or otherwise determined by the Courts that the equitable relief sought is not or was not justified, the Executive Director may impose any one or more of the following in the interest of restitution and fairness to other member school's athletes:

- a) Require that individual or team records and performances achieved during such participation be vacated or stricken.
- b) Require that team victories be forfeited to opponent.
- c) Require that team or individual awards earned during such participation be returned to the Association.
- d) Require the return of any financial receipts realized from tournament participation.
- e) Impose a monetary penalty commensurate with the expense to the OHSAA for the litigation,
- f) Require that the ruling be imposed the immediately following school year/sports season.**

**COMMENTS:**

1. The Executive Director's Office is, on occasion, prevented from upholding a ruling due to legal intervention where a court issues a temporary restraining order (TRO) allowing an athlete/coach/member school to participate in interscholastic athletic contest(s) contrary to a ruling issued by the Executive Director's Office. If the court ultimately finds that the E.D. office was correct in its initial ruling then the proposed language would support the E.D.'s Office's decision to enforce said penalty in the next school year/sports season.
2. This practice is already in play, as Bylaw 11-1-2 provides a broad range of available penalties under "or such other penalties as the E.D.'s Office deems appropriate," but adding the proposed language to Bylaw 11-1-4 bring notice to those individuals who may want to file suit against the Association.