



Ohio High School Athletic Association
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Guidance for 2014-2015—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 eligibility in terms of the **transfer bylaw** than any other aspect of eligibility. The basic transfer bylaw is quite simple. If a student transfers at any time after the fifth day of the student’s ninth grade year or after having established eligibility by playing in a contest (scrimmage, preview/**jamboree, Foundation game** or regular season/tournament contests) until the one year anniversary of the date or enrollment in the school to which the student transferred, the student shall be ineligible **for all contests (including all scrimmages, preview/jamboree/Foundation game)** until **after** the first 50% of the maximum allowable regular season contests in those sports in which the student participated during the twelve months immediately preceding the transfer **have been competed.**

Note #1 –For the purposes of this bylaw, a student is considered to have participated in a sport if he/she has entered, if for only one play, a scrimmage or contests at any level of competition/contests (e.g. freshman, junior varsity and varsity).

Note #2 – If a student transfers during the season of a sport in which he or she has participated, and Bylaw 4-7-3 requires that the student is ineligible for participation in the remainder of the contests in that sports season, at the commencement of that sport during the next school year, the student remains ineligible for the pre-season contests (scrimmages, preview/jamboree, Foundation game) and up to 50% of the regular season contests in that sport. The total number of regular season contests for which the student will be ineligible is a function of the number of regular season contests in which he or she was ineligible in accordance with 4-7-3.

In the event of a student transfer, no ruling is required from the Commissioner’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 sport in the previous 12 months. 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 **seven (7) exceptions**, 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 **INELIGIBLE** until ruled eligible by the Commissioner’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 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 legal change of 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 Commissioner' Office may waive all or part of the 50% period of ineligibility for one or more sport/sport seasons.* The requirement that “both parents” make the move may be waived by the Commissioner’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 Commissioner’s Office, in its sole discretion, may extend conditional eligibility for up to 90 days 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.**

An Affidavit of Bona Fide Residence in the form requested by the Commissioner’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 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. 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 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 will now require 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.**

This exception also addresses a bona fide move of one parent and allows the Commissioner’s Office to waive the requirement that both parents make the move if the marriage of those parents has been 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 legal action 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 to move their residence.**

If you have a student(s) seeking eligibility under this provision for the 2014-2015 school year, please follow these steps:

1. **Arrange for a conference** with both parents, if applicable, 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. Remember that this exception may be used to transfer a student's eligibility to either a public school in a new district or ANY non-public school. During this conference, it would be helpful to ascertain if it is the 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 from the former spouse.** 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 Commissioner's office some discretion when the move is from a 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 ruling in the event that both parents are not moving.
2. **Insure 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.**
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 and a utility bill, that are referenced in the affidavit. **These documents must display the new address for those parents.** 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 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. 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 #3, the current resident address, and #10, 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.** 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.
7. **Note that item #12 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 #15.** 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 shall result in the student's continued ineligibility.

9. **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 school representative**, please send the document to the OHSAA to the attention of Lauren Prochaska. **PLEASE DO NOT SEND THIS DOCUMENT UNTIL ALL INFORMATION HAS BEEN VERIFIED AND THE RESIDENCY CHECKED.**
10. **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.
11. **Please remember that students who are seeking eligibility under this exception are ineligible** until 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.
12. **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.**
13. **Click here to retrieve the revised Affidavit of Bona Fide Residence** <http://www.ohsaa.org/eligibility/forms/Affidavit-BonaFideResidence.pdf> and **please dispose of all outdated forms.**
14. **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 prior to the start of school.
15. **Parents moving in from outside Ohio and 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.
16. **NOTE: In the event that the entire family, including both parents, has not completed the move into an Ohio residence, the Commissioner'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 be rescinded immediately, and if the student did participate in any contests, the school shall be subject to penalties including but not limited to forfeiture of all contests in which the student participated.**
17. **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 Accurint searches which reveal the likeliness of one's residence and may even send a private investigator at our discretion.

Please feel free to contact Debbie Moore or Roxanne Price if you have any questions!