

Tackling the Minnesota State High School League's Transfer Eligibility Rules

Alert

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Each year, several thousand students transfer between high schools in Minnesota. Some of these transfer students participated in athletics or fine arts at their prior schools and wish to continue those endeavors at their new school. However, in many cases, students and parents may discover that upon enrollment at a new school, the student is ineligible to participate in competitions or varsity athletics based on the [Minnesota State High School League \(MSHSL\) Bylaws](#). The MSHSL Bylaws are intended to prevent unfair competition, but are archaic, ambiguous and vague. To make matters worse, MSHSL rules are frequently applied arbitrarily to the detriment of parents and students, and the cost of appealing an adverse decision is high. As such, it is prudent that parents and students understand the MSHSL rules before transferring so they can avoid an ineligibility determination and subsequent loss of their right to participate in their chosen activity.

The MSHSL promulgates rules to determine eligibility to participate in competitions. Under the student transfer rules, the MSHSL presumes that transfer students are ineligible for varsity competition unless they fall into one of five categories qualifying them for immediate eligibility:

1. **Ninth Grade Option:** A transfer student is enrolling in ninth grade for the first time.
2. **Family Residence Change:**¹ A student and their family move from one public school district to a different one.
3. **Court Ordered Residence Change:** A student's residence changes due to a child protection order placement in a foster home or a juvenile court disposition order.
4. **Divorced or Unmarried Parents:** A student changes their residence from living with one parent to another parent in a new school district.

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5. Moved from Out-of-State: A student and their family move to Minnesota from out-of-state or country.

If a student's transfer reason falls outside the five listed situations, they must wait one year to become eligible for varsity athletics. In the meantime, students are eligible to compete in non-varsity level competitions, such as junior varsity competitions, jamborees, scrimmages and practices.

In the event that a student is not immediately eligible for varsity athletics, the MSHSL provides seven different policy exceptions to regain eligibility. The exceptions vary, and include circumstances surrounding bullying, death of a parent, or completion of a licensed program to assist with chemical dependency or mental health disorders. The policy exceptions are fact intensive and should be supported with documents proving the basis for the exception.

As part of the transfer process, both schools involved in the transfer may provide input on whether the student should be immediately eligible. In many scenarios, the MSHSL staff may review the information and conduct its own parallel investigation. While the MSHSL has a great deal of discretion, it is not unfettered, and Minnesota state and federal courts have ruled against it on numerous occasions.²

With any transfer, parents and students should take proactive steps to prepare for eligibility determination questions, and documentation is key. First, parents should consider whether or not they meet the criteria for immediate transfer eligibility. If there is a bona fide residence change, parents should be prepared to show evidence of the move, including an intent to reside at their new residence for the duration of their child's enrollment at the new school. If unable to meet the criteria for immediate eligibility, parents can consider whether their child meets one of the policy exceptions. If the transfer is due to bullying, parents should document those concerns with the school prior to transferring. If the transfer is due to completion of a licensed program to treat mental health disorders or chemical dependency, then documentation related to the same should be obtained and provided as part of the transfer.

In all circumstances, parents and students should request that any communications with the MSHSL be recorded and/or written to prevent any misinterpretations concerning the MSHSL legal position. If available, parents and students should exhaust the administrative transfer eligibility rules, including any hearings, before seeking relief from the courts. It is also critical that parents and students cooperate with athletic directors, who can assist them with navigating regulatory and bureaucratic hurdles. When all else fails, contact counsel familiar with the bylaws and rules and experienced in challenging ineligibility determinations.

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The MSHSL transfer eligibility rules are complex and can be applied arbitrarily and capriciously. Parents and students can be harmed by the MSHSL's imprecise application or overly restrictive interpretation of the rules and bylaws, depriving students of precious time and opportunities to compete at the highest levels. When confronted with a potential transfer or adverse eligibility determination, seek early advice and consult with counsel familiar with the rules and bylaws and experienced in appealing adverse decisions by the MSHSL.

Stinson attorneys have experience with Minnesota State High School League's Bylaws and can help parents and students. For more information on the transfer process, please contact [Aalok Sharma](#), [Steve Schemenauer](#) or the Stinson LLP contact with whom you regularly work.

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