



### **36.15(3) GENERAL TRANSFER RULE:**

A student who transfers from a school in another state or country or from one member or associate member school to another member or associate member school, shall be ineligible to compete in interscholastic athletics for a period of 90 consecutive school days, as defined in 281-Subrule 12.1(256), exclusive of summer enrollment, unless one of the exceptions listed in paragraph 36.15(3) "a" applies. The period of ineligibility applies only to varsity level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) The student will become eligible at 4:00 PM on the 90<sup>th</sup> day. In ruling upon the eligibility of transfer students, the executive board shall consider the factors motivating student changes in residency. Unless otherwise provided in these rules, a student intending to establish residency must show that the student is physically present in the district for the purpose of making a home and **not solely for school or athletic purposes.**

a. Exceptions. The Executive Officer or Executive Board shall consider and apply the following exceptions in formally or informally ruling upon the eligibility of a transfer student and may make eligibility contingent upon proof that the student has been in attendance in the new school for at least ten school days:

(1) Upon contemporaneous change in parental residence, a student is immediately eligible if the student transfers to the new district of residence or to an accredited nonpublic member or associate member school located in the new school district of residence. In addition, if with a contemporaneous change in parental residence, the student had attended an accredited nonpublic member or associate member school immediately prior to the change in parental residence, the student may have immediate eligibility if the student transfers to another accredited nonpublic member or associate member school.

(2) If the student is attending in a school district as a result of a whole-grade sharing agreement between the student's resident district and the new school district of attendance, the student is immediately eligible.

(3) A student who has attended high school in a district other than where the student's parent(s) resides, and who subsequently returns to live with the student's parent(s) becomes immediately eligible in the parent's resident district.

(4) Pursuant to Iowa Code Section 256.46, a student whose residence changes due to any of the following circumstances is immediately eligible provided the student meets all other eligibility requirements in these rules and those set by the school of attendance:

1. Adoption.
2. Placement in foster or shelter care.
3. Participation in a foreign exchange program recognized by the school of attendance.
4. Placement in a juvenile correction facility.
5. Participation in a substance abuse program.
6. Participation in a mental health program.

7. Court decree that the student is a ward of the state or of the court.

8. The child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship, or pursuant to other court-ordered decree or order of custody.

(5) A transfer student who attends in a member or associate member school or school that is a party to a cooperative student participation agreement, as defined in rule 36.20(280), with the member or associate member school the student previously attended is immediately eligible in the new district to compete in those interscholastic athletic activities covered by the cooperative agreement.

(6) Any student whose parents change district of residence but who remains in the original district without interruption in attendance continues to be eligible in the member or associate member school of attendance.

(7) A special education student whose attendance center changes due to a change in placement agreed to by the district of residence is eligible in either the resident district or the district of attendance, but not both.

(8) A student who is found by the attending district to be a homeless child or youth as defined in rule 281-33.2(256).

(9) In any transfer situation not provided for elsewhere in this chapter, the Executive Board shall exercise its administrative authority to make any eligibility ruling which it deems to be fair and reasonable. The Executive Board shall consider the motivating factors for the student transfer. The determination shall be made in writing with the reasons for the determination clearly delineated.

*b.* In ruling upon the transfer of students who have been emancipated by marriage or have reached the age of majority, the Executive Board shall consider all circumstances with regard to the transfer to determine if it is principally for school or athletic purposes, in which case participation shall not be approved.

*c.* A student who participates in the name of a member or associate member school during the summer following eighth grade is ineligible to participate in the name of another member or associate member school in the first 90 consecutive school days of ninth grade unless a change of residence has occurred after the student began participating in the summer.

*d.* A school district that has more than one high school in its district shall set its own eligibility policies regarding intradistrict transfers.

#### **256.46 INELIGIBLE TRANSFER STUDENTS:**

The state board shall adopt rules that permit a child who does not meet the residence requirements for participation in extracurricular interscholastic contests or competitions sponsored or administered by an organization as defined in Section 280.13 to participate in the contests or competitions immediately if the child is duly enrolled in a school, is otherwise eligible to participate, and meets one of the following circumstances or similar circumstance: the child has been adopted; the child is placed under foster or shelter care; the child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship, or pursuant to other court-ordered decree or order of custody; the child is a foreign exchange student, unless undue influence was exerted to place the child for primarily athletic purposes; the child has been placed in a juvenile correctional facility; the child is a ward of the court or the state; the child is a participant in a substance abuse or mental health program; or the child is enrolled in an accredited nonpublic high school because the child's district of residence has entered into a whole grade sharing agreement for the pupil's grade with another district. The rules shall permit a child who is otherwise eligible to participate, but who does not meet one of the foregoing or similar

circumstances relating to residence requirements, to participate at any level of competition other than the varsity level. For purposes of this section and section 282.18, “varsity” means the highest level of competition offered by one school or school district against the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.

**GENERAL TRANSFER RULE**  
**ATHLETIC ELIGIBILITY**  
**(IS THE STUDENT ELIGIBLE AS A RESULT OF A CHANGE IN RESIDENCE?)**

Iowa Administrative Code (“IAC” or “Code”) Section 281-36.15(3), the general transfer rule ( the “General Transfer Rule” or “Rule”) provides that a student who transfers is ineligible for a period of 90 school days unless one of the listed exceptions applies. Subsection a(1) of this Code section provides for an exception to the General Transfer Rule in cases of contemporaneous change in parental residence. If this occurs, the student is immediately eligible.

The General Transfer Rule itself is concerned not just with the residence of the student, but a “change” in the residence. This contemplates that the residency will change from one to another district. The Iowa Code defines a “resident” for purposes of determining when a child is “physically present in a district, whose residence has not been established in another district.” Again, this clearly implies that there can be only one residence. Interpreting the term “residence” to allow for multiple residences would render the General Transfer Rule meaningless and this is not permitted as a tenant of statutory construction. One cannot interpret a part of statute in such a manner so as to render another part, and certainly the statute as a whole, meaningless. Even with these seemingly clear requirements, proving residency for purposes of eligibility is not so clear-cut. Because there can only be one residence, the IHSAA must determine that the family in fact has only one residence. Inquiry must be made as to what was the disposition or impending disposition of the former residence. Next, the Rule requires that the student be in the district for the purpose of “making a home.” Again, this specific language should not be disregarded. The Code did not simply require the student to be living in the district. As such, the IHSAA must consider the various indicia of a residence being a home. These indicia should include, but not necessarily limited to: 1) voter registration; 2) driver’s licenses; 3) homestead tax credit election; 4) nature of property rights in the district, lease versus ownership, long term lease or month to month; 5) removal of personal property to the new residence. Is the student physically present in the district for the purpose of making a home?

The General Transfer Rule also provides that in order to prove residency, the student must show that he or she is “physically present in the district for the purpose of making a home and not solely for school or athletic purposes.” Again, under basic tenants of statutory construction, one must give meaning to all of the provisions, terms and words. Clearly, the phrase “not solely” indicates that school and athletics can be a factor in making the home within the district. However, “not solely” does require that there be another reason for changing the residence and becoming immediately eligible for athletics. Given these provisions and the language used, in order for a transfer to fall within the exception and become immediately eligible, the following must be determined:

1. Is the student physically present in the district for the purpose of making it his home? Is there evidence the student and his family are indeed physically present (e.g. rental agreement, purchase agreement, etc.)
2. Is this home a change in the parents' residence? (e.g., see above. Is there evidence the family has only one residence?)
3. Was the change in the residence for some purpose other than school or athletic purposes? (e.g. is there evidence indicating a reason for the change in residence other than school or athletic reasons?) Bottom line...don't let a student participate solely because he lists an address in your district. Verify the information indicated above to ensure the student and his parents (or custodial parent in the case of a split family) have indeed completed a bona fide change in residence into your district before he is allowed to participate at the varsity level.

### **INTERPRETATION PERTAINING TO ESTABLISHING A RESIDENCY**

The Board of Control approved an interpretation relative to one aspect of the transfer rule whereby the use of discretionary consideration be given to transfer cases where information is known to be factual and, without a doubt, the family is planning to make a bona fide move. The Board of Control will assert discretionary power to rule on transfer cases that are a result of a move on the part of the parents after all of the following items have been submitted and substantiated in writing to the Iowa High School Athletic Association Office:

1. A letter from the new renter or owner verifying the previous home is sold or rented.
2. A letter of verification of purchase/rental possession of new home.
3. A letter from new/previous employer verifying move.
4. A letter from the receiving school indicating, to the best of their ability, a bona fide move has transpired.
5. Notification of the date of transfer (move).

If the move is not planned within 45 days of the time the student(s) start school (classes), the Board of Control will not honor said request.

### **EXAMPLE**

Superintendent from school X takes a new job in school Y. He is now working in school Y. He has sold his home in school X district. He bought a home in school Y district but cannot get possession until October 1. The children are going to school Y and they are driving back and forth from town X and Y each day. If the above items are confirmed and documented, there is no reason eligibility may be approved.

### **ELIGIBILITY FOR TRANSFERS**

A transfer could involve either a student who has eligibility remaining for the next school year, or one who has completed his eligibility for consecutive semesters of participation. The principal or superintendent of the receiving school must assume all responsibilities in establishing eligibility of the incoming student, as described below. Before any consideration should be given, it must be certain that the parents have made a bona fide change of residence, meaning that all of their household goods have been removed from their previous residence and transferred to their new residence; that the parents actually reside day and night in their new home; that no attempts are made in any way to circumvent the meaning of the transfer rule. For the high school student transferring, but who has not completed eight semesters of attendance, the principal or superintendent of the receiving school shall:

- a. Secure a written transcript of all high school credits.
- b. Make certain that the student is eligible in all other respects.
- c. Complete his registration for the first semester of the next year.

For the high school student transferring who has completed his 8th semester of attendance and who may or may not have graduated, the principal or superintendent of the receiving school shall:

- d. Comply with requirements a, b, and c above.

Any student involved in a transfer under the above conditions shall be ineligible in his new school district until all requirements have been fulfilled. If there is any doubt about a transfer complying with any phases of any requirement, the administrator is urged to contact your Association Office.

**Q 1:** A student transfers to a school because his parents have moved to the community in which the school is located. His scholastic and athletic records are satisfactory. May such a student be allowed to participate?

**A:** If the conditions in a, b, c, and d above have been met, the student is eligible at the close of his first day of attendance.

**Q 2:** We have a student this semester who attended school A last semester while his parents lived in school district A. During the summer, they moved into our school district. Is he eligible for interscholastic competition at our school this fall?

**A:** Yes, he is eligible.

**Q 3:** We have a student enrolled this fall who last year attended school H. He lived with his parents on a farm three miles west of the town of H. During the summer, the parents moved into a house across the road from their former home and in the same school district. The student decided to come to our school this fall. Is he eligible for athletics at our school during the present semester?

**A:** No, the student is ineligible at your school during the present semester.

**Q 4:** We have a student who entered our school this fall who had been living in California with his mother and stepfather. The whereabouts of his father are unknown. The child and his stepfather were unable to agree and the stepfather has ordered the boy out of his home. He has come to live with an uncle in our school district. Is he eligible for interscholastic athletics immediately?

**A:** The student is ineligible since there has not been a like change of residence. However, the Board of Control has the authority to rule a student eligible after considering factors as outlined in Eligibility Rule 36.15(3)"a"(8)

**Q 5:** We have a student who entered our school this fall but who attended school last semester in a neighboring town. Previous to last semester, he had been a regular student at our school. About the first of January, the parents separated and he went to live with his mother who was employed in a neighboring town. The mother's work at the present time is such that it is impossible for her to maintain a home and supervision for the child. He has returned to our town to make his home with an older brother. Is he eligible immediately?

**A:** Same as for question 4.

**Q 6:** We have a student attending our school whose parents were divorced last year. In the divorce decree, the court ordered the child to live with his mother last year in the town of K and to live this year with his father in our town. He is to alternate each year until he finishes school. Is he eligible for athletics at our school?

**A:** Yes, he is eligible for interscholastic athletics at your school during the current semester.

**Q 7:** We have a student who lives in our school district with his parents. Each day he drives to a neighboring community and attends school in a different school district. He has decided that he would like to go to school in the district in which his parents are now living. Is he eligible?

**A:** No, he is ineligible for 90 school days at the varsity level.

**Q 8:** We have a student living in our school district who has been attending a private school in our district. He would now like to attend the public school in the district in which he and his parents live. Would he be eligible?

**A:** No, he is ineligible for 90 school days at the varsity level.

**Q 9:** We have a student who has attended our school for a period of three years. He is a senior this year and a good basketball player. During the past summer, his parents moved from our school district to the town of N. He has decided to stay here and live with friends and attend our school this year where he expects to graduate this spring. Is he eligible for interscholastic athletics at our school?

**A:** Yes, he is eligible at your school.

**Q 10:** We have a student who attended our school as a freshman. He attended school at the town of P during his sophomore and junior years. He made his home there with his grandparents. His parents have lived in our school district for the last 15 years and are still residents of this district. He has now decided to return to the home of his parents and he has entered our school this fall to complete his senior year. Is he eligible for interscholastic athletics?

**A:** Yes, he is eligible. A student may always return to the home of his parents and be eligible immediately providing his parents live in your school district.

**Q 11:** We have a student who entered our school this fall, having attended school in the town of T for the past two years. His parents lived on a farm two miles north of the town of T and in the T school district until March 1st last year, when they moved on a farm in our school district. He finished out the school year at T last year, making his home with friends in the town of T. This fall he has entered our school. Is he eligible?

**A:** Yes, he is eligible at your school during the current semester.

**Q 12:** We have a student who entered our school this fall having attended a school in the town of T for the past two years. His parents have not made a change of residence. He is 18 years old. Is he eligible for interscholastic athletics?

**A:** No, he is not eligible for interscholastic athletics for a period of 90 school days at the varsity level.

**Q 13:** We have a student who entered school this fall. The student's parents were killed in an automobile accident this summer and he has come to live with his grandfather who lives in our school district. His grandfather has been appointed his legal guardian by the courts. Is the student eligible for interscholastic athletics?

**A:** Yes, the student is eligible.

**Q 14:** We have a student attending our school this fall whose parents separated during the summer. The student's uncle, who is a resident of our school district, was appointed his legal guardian by the courts. The student has come to live with his uncle and is attending our school. Is he eligible?

**A:** The student is ineligible. The creation of legal guardianship does not answer the question as to why the student is not living with a parent.

**Q 15:** We have a student attending our school this fall whose parents have been divorced for several years. The student has lived with his biological mother in our school district for many years. The student now wants to go live with his biological father in Town X and attend high school in Town X. Will he have immediate eligibility there?

**A:** Unless there has been a change in the marital status of the student's biological mother, or a change in the divorce decree granting the biological father custody, the student will be ineligible for 90 school days at the varsity level at X High School.

### **RETURN TO SCHOOL PREVIOUSLY ATTENDED**

Periodically a bona fide transfer will take place and after a few days of attendance at the new school, the student desires to go back to the school he had been attending. If the student decides to go back where he previously attended prior to the 30<sup>th</sup> school day of attendance and prior to the end of school days for that academic year, excluding summer school, he may do so without jeopardizing his eligibility.