

The Executive Director can waive the ineligibility decision of the transfer law after careful review of the waiver application if all of the following criteria have been established:

1. Strict enforcement of ineligibility does not serve to accomplish the purpose of the law.
2. The spirit of ineligibility is not offended or compromised by waiving ineligibility.
3. The principle of educational balance over athletics is not offended or compromised by waiving the ineligibility.
4. Waiving ineligibility does not result in a safety risk to a teammate or competitor.

After review of the **completed application** for a waiver, the Executive Director shall issue in writing the Executive Director's decision regarding a request to waive eligibility under this law. The Executive Director must issue the **written decision no later than 15 days after the completed application for waiver is submitted**. A notice of the right to appeal the Executive Director's decision must be included in the written decision.

1. **Burden of Proof** - The student who has applied for the waiver has the burden of proof in establishing that the criteria for a waiver has been met.
2. **Application Requirements** - An application for a waiver must include all facts relevant to the request, including sufficient information for the Executive Director to reach a determination. If an application does not include all the required documentation under this law, the Executive Director may request the missing documentation. If the student does not provide the missing documentation, the Executive Director may refuse to process the application or may accept the student's reason for not providing the missing documentation. **(See below information for required documentation)**
3. **Appeal of Executive Director's Decision** - A party may appeal the Executive Director's decision of the waiver request to an appeals panel composed of 3 Board members. The Board's chair shall select the 3 members of the appeals panel on a per case basis.

To Request an Appeal - a party must do all of the following:

1. State the party's grievance for appeal in a petition.
2. Ensure that the petition is served on the Executive Director by certified or registered mail within 15 days after receiving notice of the Executive Director's decision.

In considering an appeal, the appeals panel shall do the following:

1. Review the documents that the Executive Director considered in making the decision on the waiver
2. Overturn the Executive Director's decision only if the Board finds that the decision is not supported by substantial evidence or is arbitrary or capricious.
3. Issue a decision affirming or overturning the Executive Director's decision not later than 30 days after receiving a petition for appeal.

The Appeals Panel may not do either of the following:

1. Consider evidence or documents that were not part of the information that the Executive Director considered in making the Executive Director's decision.
2. Hold a hearing on the appeal or ask questions of the student who is the subject of the appeal.

Required Documentation for a Waiver Application:

- The student's official transcripts from eighth grade through the current school year and most recent report card or grade report, if the student's most recent grades are not included in the transcripts.
- The student's attendance records for the previous 2 years.
- A letter from the principal or headmaster of the students sending school, either supporting or not supporting the waiver request.
- A letter from the student's parent, guardian, or relative caregiver, explaining in detail the circumstances for requesting a waiver. If the student is 18 years or older, the student or the student's parent, guardian or relative caregiver may provide the letter.
- Documentation of withdrawal from the student's sending school, if applicable.
- Documentation of acceptance into the student's receiving school, such as an acceptance letter from the receiving school.
- School district choice enrollment program documents that show the date of withdrawal and the date of enrollment, if applicable.
- The school calendar for the student's receiving school.
- The student's medical records, if applicable.
- The student's legal documentation, if applicable.
- The student's individualized education plan, if applicable.
- Certification from the student's sending school and receiving school that the student is transferring for the reasons indicated on the student's application for a waiver, and that the student's transfer is not motivated by an athletic advantage. If the student is unable to obtain the certification from either school, the student may submit a written statement explaining why the student is unable to obtain the certification.

Date of Filing:

An application for a waiver must be filed at least 30 days prior to the start of the interscholastic athletic sport season in which the student wishes to participate.

Transfers for Athletic Advantage:

A student who transfers from the student's sending school to receiving school for athletic advantage may apply for a waiver under this law.