



2019-2020

# ELIGIBILITY QUESTIONS & ANSWERS

This document is intended to provide general information regarding your high school coaching assignment and Minnesota State High School League rules and policies. All coaches—head, assistant, full-time, part-time, unpaid or volunteer—who are members of a high school coaching staff must follow these rules and policies.

Contact your athletic/activities director if you have any questions about these rules and policies.

## OPEN GYM:

**Q: What constitutes an open gym?**

- A:** Open gym refers to the use of school facilities for recreational activities. The characteristics of an open gym are that:
- the school facilities are available for students to participate in a number of activities;
  - the recreational activities are open to all students;
  - there is no coaching of the skills and techniques of activities provided in the school interscholastic athletic program;
  - there is no requirement for students to attend open gym activities as a prerequisite for membership on a high school team;
  - high school coaches may not participate in games, pickup games, provide instruction in the skills of a sport or otherwise influence a high school athlete's participation in open gym.

Open gym conducted as stated above is not a violation of MSHSL bylaws. (Note: Coaches who have been approved for summer waivers may supervise open gym and provide instruction to athletes during the summer waiver period.)

**Q: As a high school coach, may I supervise open gym?**

- A:** High school coaches may supervise open gym, provided that the coach has been designated by the school to do so and that all of the characteristics of open gym are met. High school coaches may not supervise open gym where only their sport is offered for participants, i.e. open volleyball, open basketball, open wrestling, etc. High school coaches may not participate in games or provide instruction, coaching or training to their high school athletes in that sport.

**Q: When may I conduct open gym during the year?**

- A:** Because open gym is not a MSHSL sanctioned activity there are no restrictions on when it may be offered.

**Q: May a coach receive pay for supervising open gym?**

- A:** A school may hire and pay coaches to supervise open gym.

**Q: May we have open gym on Sunday?**

- A:** There are no restrictions as to when the school may allow open gym, however school districts are responsible for identifying the person responsible for open gym supervision.

## TRANSFER RULE:

**Q: What questions should I ask of incoming transfer students in order to determine their eligibility?**

- A:** In determining the eligibility status of a transfer you need to ask the following questions:

1. Where is the student transferring from?

**Domestic Transfers:** Students who are citizens of the United States who reside in a permanent residence with their parents or legal guardian(s) in the United States and are transferring from a high school in the United States to a school in Minnesota. Domestic students must meet one of the transfer provisions listed below.

- A. **9th Grade Option:** the student is enrolling in 9th grade for the first time.
- B. **Family Residence Change:** the student transfers from one public school district attendance area to another public school district attendance area at any time during the calendar year in which there is a change of residence and occupancy in Minnesota by the student's parents. If the student's parents move from one public school district attendance area to another public school district attendance area, the student will be eligible in the new public school attendance area or a non-public school if the student transfers at the same time the student's parents establish a new family residence. (Please see Definitions for further explanation.)

If the parents move from one public school district attendance area to another public school district attendance area, the student shall continue to be fully eligible if the student continues enrollment in the prior school for the balance of the current marking period, or for the balance of the academic school year. If the student elects either of the current enrollment options above, the student will be fully eligible upon transfer to the new school eligible in the new public school district attendance area where the student's parents reside or a non-public school.

A student who elects not to transfer upon a parent's change in residence shall continue to be eligible at the school in which the student is currently enrolled.

- C. **Court Ordered Residence Change for Child Protection:** The student's residence is changed pursuant to a child protection order placement in a foster home, or a juvenile court disposition order.
- D. **Divorced Parents:** A student of divorced parents or parents who were never married, who reside with one parent and moves to reside with the other parent shall be fully eligible at the time of the move:
  - 1) At the public school in the new public school attendance area as determined by the district school board where the new residence is located; or



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2) At any non-public school.

The student may utilize this provision only one time during grades 9-12 inclusive. The new residence cannot be located in the same public school attendance area as the previous residence.

*Please Note: This provision can only be applied the first time the student moves between parents and changes schools and only if the specific requirements of this provision are met. The intent of this provision is to provide varsity competition eligibility for a student who is living (solely) with one parent and who desires to move to live with the other parent. Parent is defined as the biological parent(s) or adoptive parent(s).*

- E. **Move From Out of State:** If a student's parents move to Minnesota from a state or country outside of Minnesota and if the student moves at the same time the parent establishes a residence in a Minnesota public school district attendance area, the student shall be eligible at the first school the student attends in Minnesota.
- F. **Enrollment Options Program:** A student who transfers from one MSHSL member school to another MSHSL member school utilizing Minnesota Statute 124D.03 Enrollment Options Program, and who transfers without a corresponding change of residence by the student's parents shall elect one of the following:
- 1) retain full eligibility for varsity competition for one (1) calendar year at the school where the student was enrolled prior to the transfer after which time the student shall become fully eligible at the school to which the student has transferred; or
  - 2) be eligible only at the non-varsity level in the school to which the student has transferred for one (1) calendar year.
2. Is the student in good standing?  
You must have the school from which the student transfers state the student's eligibility standing at the time the student withdrew from school. The MSHSL website has a form that may be used for this purpose.
3. Does the student meet the other general eligibility requirements?
- **Age:** A student who turns 20 during the 11th or 12th semester since first entering the 7th grade shall be allowed to participate through the completion of the 12th semester. Students who participate in the Adapted Athletics Program shall be under 22 years of age. A student under age 22 who has started a sport season will be permitted to complete that sports season. (See Age Bylaw 101.)
  - **Semesters:** Students shall be eligible for participation in League-sponsored activities for twelve consecutive semesters (six years), beginning with their initial entrance into the 7th grade.  
Counting Semesters: The student has twelve consecutive semesters for participation, whether the student chooses

to participate or not, and regardless of whether the student remains fully enrolled or not. The twelve consecutive semesters begin with the student's initial entrance into the 7th grade. Did the student ever repeat a grade? (See Semester Bylaw 110.)

- **Graduate:** The student must not have graduated from high school or completed the terminal grade, including foreign schools, or earned a GED. (See Graduates of Secondary School Bylaw 106.)
  - **Scholastic Eligibility:** The student must be making satisfactory progress toward the previous school's requirements for graduation. (See Scholastic Eligibility Bylaw 108.)
  - **Seasons:** The student is limited to 6 seasons of participation in a sport beginning in the 7th grade. (See Seasons Bylaw 109.)
4. Was the student ineligible for any reason at the previous school? If so, the student will be ineligible in the new school until the penalty would have been served in the student's previous school. Schools must respect and enforce the previous school's determination of ineligibility and enforce the previous school's penalty. Students may not transfer from one school to another in order to regain their high school eligibility or to avoid a penalty imposed by their previous school.

## NON-SCHOOL COMPETITION AND TRAINING:

**Q: When can athletes participate on a non-school team or tournament?**

**A:** Athletes are prohibited from participating on a non-school team or in non-school competition while they are a member of their high school team in that sport. Athletes may participate in non-school competition and on non-school teams once their high school team has been eliminated from MSHSL tournament competition. (Baseball, softball, and skiing are exceptions to this rule—students may participate on a non-school team in these same sports during the high school season.)

**Exception: Non-School Training During the High School Season for Athletes Who Qualify as Individual competitors to the State Tournament: (Swimming, Cross Country, Tennis, Skiing, Gymnastics, Wrestling, Synchronize Swimming, Golf, and Track and Field)**

- **Lessons/Training:** During the MSHSL high school season athletes may take lessons from professionals and other non-school coaches without limit as to where, when or who may provide the training. Athletes may not miss a high school practice, game, or meet to take a lesson or train for a non-school event. Athletes may take lessons/train with a non-school team/club during the high school season in the same sport.
- **Competition:** Athletes may compete in non-school events/competitions that do not match the events in which athletes currently compete in high school competition.

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**Q: Is it OK and legal to coach my own daughter all year round in any of the MSHSL sponsored sports?**

**A:** Bylaw 208, Non-School Coaching and Training prohibits high school coaches from providing coaching or training to members of their high school team outside of the high school season or summer waiver period. However, the League recognizes that coaches are also parents with children that may participate on a high school team coached by one of their parents. To that end we have, by interpretation, made accommodations in the bylaw to allow parents to coach their own children anytime without being in violation of bylaw 208.

## COACHING LICENSURE:

**Q: What are the requirements to be a head varsity coach?**

**A:** All rules and regulations regarding requirements for head coaches are administered by the Department of Education. They require the head coach to have 60 hours of training in first aid and a class in coaching theory. The MSHSL offers a training program that meets the requirements. Visit the League web site for more information.

## CHEMICAL USE:

**Q: How should I proceed with an alleged chemical violation when the student is fighting the minor consumption charge by the police in court?**

**A:** MSHSL bylaws require schools to complete their investigation of alleged violations of MSHSL bylaws within 10 days from the date the school received notice of the alleged violation. Schools should treat their investigation of MSHSL violations as a separate and independent action from the court's action. The courts must deal with an allegation in light of the law and the standard of proof required for violations of law "beyond reasonable doubt." Schools deal with an allegation using "substantial evidence" as the standard of proof. It is possible, therefore, that the school could confirm a violation and apply the required penalty while the courts dismiss the case against the student. The penalty must be applied immediately upon the school's confirmation of a violation.

**Q: A student was stopped in a car with an open bottle. The student received a citation for open bottle but nothing in the citation indicated consumption. What should I do?**

**A:** MSHSL Chemical Use Bylaw prohibits possession of alcohol, tobacco and other controlled substances. As such, the open bottle citation would constitute a violation of the Chemical Use Bylaw.

**Q: The chemical use bylaw states that on the third and subsequent violations, a student may enter a treatment center and reduce the penalty. What process should I follow to ensure that the bylaw has been satisfied?**

**A:** The bylaw states very specifically the requirements for reducing the penalty from the prescribed four weeks or the next 12 contests; whichever is greater, to a period of 6 weeks. The school must insure

that each of the following requirements have been met prior to reducing the penalty.

1. The student has been assessed as chemically dependent by a certified chemical dependency counselor.
2. Once assessed as chemically dependent, the student voluntarily participates in a chemical dependency treatment program and satisfactorily completes the required treatment.
3. Upon completion of the chemical dependency treatment program, the student presents a letter of satisfactory completion by the director of the treatment center. The student may then be reinstated for MSHSL activities after a minimum period of 6 weeks after entering the program

**Q: "My daughter is 18 years old and on occasion has had cigarettes in her purse. How can she be ruled ineligible under the possession rule when she is of legal age to possess tobacco products?"**

**A:** As an individual citizen we all have rights, which are guaranteed to us under the constitution and State and Federal laws. However, as a participant in MSHSL activities each student, by signing the Eligibility Statement, agrees to a Code of Conduct, which includes provisions prohibiting the use, consumption or possession of tobacco, alcohol and other controlled substances. Participation in high school activities is a privilege not a right. By signing the Eligibility Brochure the student committed herself to a higher standard of conduct, as such, the privilege to participate in high school activities may be suspended even though the student has not violated a state law.

**Q: If a student commits a violation of the chemical use bylaw and later has a violation of the sexual harassment bylaw, would that be considered a second violation for the purpose of determining the appropriate penalty?**

**A:** No, the multiplier effect of the penalty applies to multiple violations within a specific bylaw. In this case, the penalty would be for a first offense for sexual harassment.

## DUE PROCESS:

**Q: What is due process?**

**A:** Due process, or Fair Hearing Procedure, is the procedure by which a student who has been declared ineligible by the school has the opportunity to request a hearing at the local level conducted by a neutral hearing panel to re-examine the facts of the case and render a decision on the student's eligibility. If the student is still not convinced that the eligibility decision was fair and impartial, the student has the right to appeal to the MSHSL for a hearing.

**Q: Who qualifies for the Fair Hearing Procedure?**

**A:** All students who have been declared ineligible under one or more of the MSHSL bylaws are guaranteed the right to request the Fair Hearing Procedure. (EXCEPTION: Application of Bylaw 206)

*Please Note: The Transfer Eligibility Review Process is different than the Fair Hearing Procedure.*

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**Q: Who is responsible to inform the student that the Fair Hearing Procedure is available to them?**

**A:** The administrator who has responsibility for student eligibility should also be responsible to notify the student of the opportunity for due process. It would be advisable to give every student who commits a violation of MSHSL bylaws a copy of the Fair Hearing Procedure at the time that the student is notified of the confirmed violation and the prescribed penalty is imposed.

**Q: Under what conditions may a student appeal a school's determination of ineligibility?**

**A:** A student or parent may appeal the school's determination of ineligibility as indicated in the Fair Hearing Procedure information.

**Q: How do I set up a hearing under the Fair Hearing Procedure?**

**A:** Hearing Panel Membership:

The Fair Hearing Procedure recommends that a three-member panel with representation from the School Board, Administration, and a faculty member-at-large be impaneled to conduct the hearing. You must avoid placing anyone on the panel who was involved in the initial determination of eligibility. The testimony should be recorded.

Conducting The Hearing:

One member of the hearing panel should serve as the facilitator for the hearing. It is the school's responsibility to present the evidence upon which the school determined the student's ineligibility. Once the school has presented its evidence, the appealing party has the opportunity to present their side, including witness testimony. Once all of the evidence from both sides has been entered into the record, the panel may allow any closing statements by the school and the appealing party. Following the closing arguments, the facilitator will conclude the hearing.

Rendering A Decision:

Following the hearing, the panel has two days in which to render a decision and notify the student of their decision.

**Q: Can we hire a hearing officer to hear the appeal?**

**A:** Yes, a school may choose to hire a hearing officer to conduct the hearing. The cost of the hearing officer must be borne by the school.

**Q: How do athletes appeal to the MSHSL?**

**A:** The Fair Hearing Procedure outlines the process by which a student may appeal to the MSHSL. It states that the student must submit a request for a hearing at the MSHSL level in writing not later than 10 days from the date of receiving the local hearing panel's decision.

**Q: Can the local hearing panel remove, waive or suspend a MSHSL penalty?**

**A:** No, the local hearing panel may not waive, suspend or otherwise modify a penalty if the panel determines that the student violated a MSHSL bylaw.

**Q: Can we charge the student for the hearing?**

**A:** No, all expenses for the hearing shall be the responsibility of the school.

**Q: Do we need to record the hearing and provide the audiotape to the MSHSL?**

**A:** Yes, you need to record the hearing. You only need to submit the audiotape to the MSHSL if the student appeals to the MSHSL.

## ELIGIBILITY FOR HOME SCHOOL AND CHARTER SCHOOL STUDENTS:

**Q: Are home schooled students eligible to participate in high school activities in the local resident high school?**

**A:** Yes. State law allows home schooled students to participate in the local resident high school activities program. Schools may not deny access to the activities program to the home schooled students.

**Q: I have been contacted by a 10th grade girl who is attending a charter school. The girl has expressed an interest in participating in our high school sports program. Is she eligible?**

**A:** No, charter school students are not eligible in the local high school as they do not meet the Minnesota Department of Education requirements for being enrolled in the local public school. For participation opportunities, the charter school would have to join the MSHSL and cooperatively sponsor the activities with a MSHSL member school.

**Q: I have heard that students attending a school which does not have a particular sport program can participate in that sport with another high school without transferring or having a cooperative sponsorship agreement in place. Is this true?**

**A:** No, students are eligible only for the activities that are offered by the high school where they are enrolled and attend.

## 6TH GRADE PARTICIPATION:

**Q: Several schools in our area have middle school (grades 6-8), they allow the 6th graders to practice and compete in exhibition events with the high school team. Is this a violation?**

**A:** MSHSL Grade Level Eligibility Bylaw 105 states: "Participation in MSHSL sponsored programs of a high school is limited to students in grades 7 through 12. Students in grade 7, 8, and 9 may participate only if they are enrolled in the regular continuation school for the educational unit, and if the students meet all other eligibility requirements of the League. Students in grades K-6 are not eligible for participation."

Students below the 7th grade are specifically prohibited from participating in high school sports at the B-Squad, JV or Varsity level. Students, 6th grade and below, should not be practicing or competing in exhibition with the high school team as they may not be listed on the school's master eligibility list and therefore are not covered by MSHSL catastrophic insurance increasing the school's exposure for liability.

Students below the 7th grade are also prohibited from being a member of the team official roster, including team managers/the cheerleader squad, including the team mascot.