



Ohio High School Athletic Association
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ENROLLMENT AND ATTENDANCE and THE BUDGET BILL SIGNED BY GOV. KASICH

The enrollment and attendance requirements set forth at Bylaw 4-3 of the OHSAA Handbook have been among the “gold standard” rules for participation in interscholastic athletics since the inception of the OHSAA in 1908. These rules are grounded in some of the same principles behind “neighborhood schools” and exist in order to achieve the educational outcomes for which these interscholastic programs are designed to achieve. Included among these desirable educational outcomes are the instilment of the notion of citizenship, loyalty and school spirit, the building of a cohesive student body, the promotion of amateurism by drawing athletes from the school’s population only which, in turn, discourages an overemphasis on sports, avoids “team shopping,” keeps in proper perspective the relationships among student-athletes and coaches and secures role models for other students.

Over the years the member schools have made modifications to this gold standard as changes in education in Ohio have been made. Presently, there are seven exceptions that have been adopted by the member schools that accommodate these changes in Ohio’s education system and the law, all of these exceptions having been deemed necessary and appropriate by the member schools. On July 1, 2013, Governor Kasich signed into law the biennium budget bill which, among other things, legislates some additional “exceptions” to this gold standard. Although technically the law does not become effective until 90 days after the Governor signed the bill, given that the start of the 2013-2014 school year is upon us, the Commissioner’s Office of the OHSAA is treating this matter as though the bill became effective upon the signing of the same by the Governor.

There are two (2) aspects of the Budget Bill that affect a student’s “opportunities to participate” in all extra-curricular activities (Note: this bill is not limited to just interscholastic athletic teams or sports) that will be addressed in this Guidance. Those aspects are students who are excused from compulsory education or home-educated students and students enrolled at non-public (chartered and non-chartered) schools. They will be discussed in that order.

I. HOME EDUCATED STUDENTS

The Budget Bill sections that address home-educated students are actually split into two sections: students whose parents reside in your district and who may wish to participate on your school-sponsored teams and students whose parents reside “outside” your district but who may still wish to participate on your school-sponsored sport teams.

A. The home educated student who resides in your district

Section 3313.5312(A) provides, in pertinent part, that “a student who is receiving home education in accordance with division (A)(2) of section 3321.04 of the Revised Code **shall be afforded**, by the Superintendent of the school district in **which the student is entitled to attend school** under section 3313.64 or 3313.65 of the Revised Code, **the opportunity to participate in any extracurricular activity offered at the district school to which the student otherwise would be assigned during that school year...**” This law differs significantly from Exception 6 to Bylaw 4-3-1 in that it removes the option available under Exception 6 of requiring a student to enroll at your school and/or to take at least one course at your school. Any student who is receiving home education pursuant to statute and who resides in your district or is otherwise entitled to attend your schools, **shall have** the same opportunities to participate on your school sponsored teams (and all extra-curricular activities for that matter) as any and all other students in your district. The statute does go on to state that the **home-educated student must meet all other eligibility requirements**, e.g. transfer, scholarship, age, semesters, etc., and pay the same fees (*e.g.* pay-to-play) as any other student. Note: A student who leaves a member school for home education during the school year in order to avoid the consequence of failing grades shall be ineligible for one grading period upon return to the member school’s athletic programs.

B. The home educated student who does not reside in your district

Section 3313.5312(B) addresses the student who receives home education under division (A)(2) of section 3321.04 of the Revised Code and **who is not entitled to attend school in the district** under section 3313.64 or 3313.65 of the Revised Code. In that situation, the Budget Bill states that “the superintendent . . . **may afford** [the student] . . . the opportunity to participate in any extracurricular activity offered by a school of the district **if the district to which the student is entitled to attend does not offer that extracurricular activity.**” While the language of this section of the bill is confusing and fraught with practical difficulties for schools (financial accounting and otherwise), for purposes of interscholastic athletic competition, two things must be kept in mind: (1) that it remains the “**option**” of the superintendent as to whether s/he would permit this participation and (2) that “**option**” only exists if the school to which the student is entitled to attend does not offer the sport in question. In other words, if Jane Doe is a resident of District A and is receiving home education under division (A)(2) of 3321.04, Jane Doe is not eligible at District B for volleyball if District A sponsors volleyball even if District B’s superintendent would have otherwise “permitted” Jane’s participation at District B’s school.

NOTE: The Budget Bill does address the “student who commences home education after the beginning of the school year” and who is ineligible to participate in extracurricular activities at the time s/he commences home education by declaring “**no student under this section shall be eligible to participate in the same semester in which the student was determined ineligible.**” While there exists some ambiguity to this provision, it is the position of the Commissioner’s Office that the legislative intent with this language is that no student shall be permitted to circumvent the academic standards for participation in extracurricular activities by receiving home education. Therefore, the position of the OHSAA is that the scholarship bylaw applies to all students and that a student who was failing to meet the academic standards of the bylaws and/or the member school

at the time s/he becomes “home educated” shall be ineligible for the remainder of that grading period as well as the following grading period.

II. STUDENTS ENROLLED IN A NON-PUBLIC (CHARTERED OR NON-CHARTERED) SCHOOL

Section 3313.5311(B) of the Code provides that “if the nonpublic school in which the student is enrolled does not offer the extracurricular activity, a student enrolled in a chartered or non-chartered nonpublic school shall be afforded, by the superintendent of the district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the opportunity to participate in that extracurricular activity at the district school to which the student otherwise would be assigned” Section 3313.5311(C) also addresses the non-resident student (not otherwise entitled to attend school under 3313.64 or 3313.65) who is enrolled in a non-public school but goes on to declare interscholastic athletics and interscholastic contests as excluded from the extracurricular activities covered under that section.

Please note that the word “chartered” in this provision of the law refers to a non-public school which is chartered by the State Department of Education. Chartered in this context should not be confused with a charter or community school, which by definition, is an independent public school that is part of the state’s educational system created pursuant to ORC Section 3314.01. Charter or community schools are not addressed in this legislation, and thus students who attend those charter or community schools that are not OHSAA member schools, or are not sponsored by a school district’s Board of Education (see Bylaw 4-3-1, exception three) would not have a participation option.

The most likely scenario you will face is a student from a small chartered non-public school or a student from an “08” school (non-chartered non-public school) who resides in your district requesting access to interscholastic athletics. In either of these scenarios, the Budget Bill declares these students **must be afforded** the same opportunity to participate as would be afforded to any of your students who reside in your district. Again, the athletic aspects of this law, while probably the most conspicuous and dramatic, actually pale in comparison to the more practical effects with which schools will actually have to deal. Funding, accounting (financial or otherwise) academic standing, semesters and the like, not to mention the displacement issues and the effects on the underlying reasons for why you sponsor these activities in the first place, are all impacted by these changes.

Ohio law, be it enacted by the General Assembly or through common law, always supersedes the bylaws, rules and regulations enacted by the member schools of the OHSAA. As such, the Commissioner’s Office is compelled to recognize and to comply with these laws as enacted by the legislature. To the extent these changes in the Code conflict with OHSAA bylaws or your school policy, the Code prevails, and that is precisely how the Commissioner’s Office intends to go about enforcement of these changes as they relate to Bylaw 4-3.

Please feel free to contact our eligibility/compliance staff with questions on this legislation and its impact on interscholastic athletics at your school.