

# 300.00

## ADMINISTRATION OF STUDENT ELIGIBILITY BYLAWS

Purpose: The following bylaws are intended to provide direction and assistance to school officials in the administration of the student eligibility program.

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# 300.00 BYLAWS: ADMINISTRATION OF STUDENT ELIGIBILITY

*A Fair Hearing Procedure is provided for all students who wish to appeal a school's determination of a student's eligibility.*

## 1. Fair Hearing Procedure

Section 211.02.8 of the Constitution of the Minnesota State High School League provides a Fair Hearing Procedure for a student, parent or guardian to appeal a school's determination of ineligibility of a student pursuant to the student's violation of a League bylaw.

- A. The purpose of the Fair Hearing Procedure is to allow a local hearing panel to review the decision of the school representatives regarding the student's declaration of ineligibility. All rulings must be consistent with League bylaws. Only the Board of Directors has the constitutional authority to waive the application of the penalty for the violation of any bylaw.
- B. These Fair Hearing Procedures apply to all eligibility situations where a student, parent or guardian contests the school's eligibility decision EXCEPT in the situations identified below.
  - 1) The student admits to the violation.
  - 2) The student neither admits to nor denies the violation, but accepts and serves the penalty.
  - 3) The sole issue in question is the determination by the school to impose a penalty greater than the minimum League suspension for the violation.
  - 4) The principal's decision regarding the school's eligibility requirements for the student, including student code of responsibilities. (See Bylaw 206.1 and 206.2)

## 2. General Eligibility Review Process

Bylaw 305 - Master Eligibility List and Bylaw 306—Responsibility for Student Eligibility indicates it is the responsibility of the school administrator to determine the eligibility of all students who participate in League-sponsored programs offered by their schools. When a student's eligibility is in jeopardy due to an alleged violation of the League bylaws and policies, the school will conduct an investigation. The investigation will begin on the day the school is first notified of the alleged violation and it shall conclude within ten (10) school business days. At the conclusion of the investigation the school must make a determination of the eligibility status of the student. It shall be the responsibility of the member school to notify the student, parent or guardian in writing of the eligibility determination. The written notification must also include a copy of the Fair Hearing Procedure and the Acknowledgement of Rights.

- A. A student, parent or guardian may contest a school's eligibility decision as follows:
  - 1) Within ten (10) school business days of the documented notification regarding eligibility, the student, parent or guardian must request a hearing on the school's eligibility decision. The written request for hearing must include a statement outlining the basis for the claim of eligibility.
  - 2) The school administrator shall convene a hearing panel of from three (3) to five (5) members within ten (10) school business days after receipt of the request for hearing. The hearing panel may include a member of the School Board, a member of the school's administrative staff and a member of the school faculty, or the school may elect to have the hearing conducted by an independent hearing officer.
    - a) Any member of the school staff who was involved in the investigation or the initial eligibility determination cannot serve as part of the hearing panel.
    - b) One member of the hearing panel must be identified as the chair.
    - c) The school must send the notification of the hearing by certified mail or personally deliver it to the student's parent(s) or legal guardian(s).
    - d) The student's parents(s) or guardian(s) must be provided a minimum of three (3) school business days notice beginning with the receipt of the notice of the hearing.
    - e) The notice shall state the date, time, and place of the hearing.
    - f) The student shall have a right to be represented by a person of the student's choice, which may include legal counsel.
    - g) All costs of the hearing incurred by the school shall be borne by the school.
  - 3) The hearing panel shall:
    - a) **Designate** one of the panel members as the chair.
    - b) **Make** an audio recording of the hearing and preserve a written record pending ultimate outcome of the matter.
    - c) **Hear** the complete evidence on the matter.
    - d) Determine if the school's declaration of ineligibility is supported by a preponderance of evidence and is consistent with League bylaws. When making this determination, the committee shall meet on its own and no other persons shall be present or participate in any way in the committee's deliberations.

- e) *Issue written findings of fact, conclusions and determination. The written findings, conclusions and determination shall be sent by registered mail or personally delivered to the student, parent or guardian and the Executive Director of the League within four (4) school business days of the conclusion of the hearing. The findings, conclusion and recommendations shall be stated in sufficient detail to apprise the parties of the basis and reason for the determination. The chair of the hearing panel shall be responsible for composing the written findings and shall sign the findings on behalf of the hearing panel.*
- f) *Within ten (10) school business days of receipt of the determination of the hearing panel the Executive Director of the League or his designee shall either affirm or overrule the determination made by the school hearing panel based on compliance with League bylaws. If the decision of the hearing panel is overruled, then the Executive Director shall notify the school and the student and the student's parent(s) or guardian(s) of his decision registered mail. If the decision of the hearing panel is affirmed, notification shall be sent by first class mail.*
- B. *A student, parent or guardian may **appeal** the decision of the hearing panel or Executive Director of the League to the League Board of Directors. To appeal, the student, parent or guardian must:*
- 1) *Submit a written notice of appeal to the Executive Director of the League and a copy to the school principal. The notice of appeal must be personally delivered or postmarked within ten (10) school business days of the receipt of the written findings of fact, conclusions and determination from the school hearing panel or the decision of the League Executive Director. The notice must outline the basis of the appeal.*
  - 2) *The written request for a League-level fair hearing will be reviewed by League staff. Within ten (10) business days of the receipt of the written request the League will contact the student, parent or guardian to indicate whether the rationale warrants a League-level fair hearing. An extension to the ten (10) day notification window may be made by mutual agreement.*
  - 3) *If the appeal request is granted the hearing shall be scheduled on a mutually acceptable date.*
  - 4) *The appeal by an Independent Hearing Officer shall be a review of the proceedings and the record of the local hearing panel decision or the decision of the League Executive Director.*
  - 5) *The proceedings of the appeal shall be recorded and preserved pending the ultimate disposition of the matter. In the event that the audio recording or the written record is inadequate for review, the hearing officer may remand the case back to the local school district for a new hearing.*
  - 6) *The appeal shall be heard by an Independent Hearing Officer. If all parties agree, the hearing may be conducted by telephone; or the hearing may consist of an independent review of the local level record which shall include the documents presented at the hearing and the written arguments.*
  - 7) *The student shall have a right to a representative of the student's choice, which may include legal counsel.*
  - 8) *Within four (4) business days of the oral presentation made at the League level, the Independent Hearing Officer shall make a recommendation to the League Board of Directors. The recommendation shall be in writing and based upon the record, including the oral and written presentations of the parties from the local level hearings. The recommendation of the Independent Hearing Officer will govern the student's eligibility until action by the League Board of Directors or by the League Executive Director acting on behalf of the League Board of Directors.*
  - 9) *The League Board of Directors will review and officially act upon the matter at its first regularly scheduled meeting following the receipt of the Independent Hearing Officer's decision.*
  - 10) *The decision of the League Board of Directors shall be final.*
  - 11) *If any of the procedural steps identified in sections **2.A.1, 2.A.2, or 2.A.3** above are omitted during the local level hearing and the Independent Hearing Officer finds that the student has been prejudiced, the Independent Hearing Officer may direct the school to rehear the case at the local level. If a rehearing is required, a new local hearing panel shall be used.*
- C. *A violation of the technical provision of the Fair Hearing Procedure, made in good faith, is not a defense to the disciplinary procedure unless the student can show actual prejudice as a result of the violation.*
3. **Eligibility Appeal Procedures for a Transgender Student**
- A. **Introduction.** *In accordance with applicable state and federal laws, rules and regulations, the Minnesota State High School League allows participation for all students consistent with their gender identity or expression in an environment free from discrimination with an equal opportunity for participation in athletics and fine arts.*
- B. **Transgender Eligibility Appeal Procedures.** *The application to appeal a transgender eligibility determination is limited to the following circumstances:*
- 1) *The school must have made a determination of ineligibility based on the student's gender identity after receiving information that the student has a consistent gender identity or that the gender identity is sincerely held as part of the student's core identity and the gender identity is different from the student's sex assigned at birth and that the student wishes to participate in athletics in a manner consistent with the student's gender identity.*
  - 2) *The appeal must be submitted to the MSHSL Executive Director or Executive Director's Designee and may include, but is not limited to, the following:*
    - a) *The student's current transcript, school registration and any additional relevant information.*
    - b) *The written statement from the student and the student's parent(s)/legal guardian(s) affirming the consistent gender-related identity and expression to which the student self-relates.*
    - c) *Statements from individuals such as, but not limited to parents, friends, and/or teachers, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent or sincerely held gender-related identification and expression.*
    - d) *A written statement from an appropriate health-care professional, acting within the scope of his/her licensure that verifies the existence of the student's consistent and uniform gender-related identity or sincerely held gender-related identity.*
    - e) *Any other evidence that the gender identity is sincerely held as part of the person's core identity as may be required by the school or the MSHSL office relative to the eligibility determination.*

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- 3) When the MSHSL Executive Director or the Executive Director's Designee has received the appeal from the student, the Executive Director or the Executive Director's Designee shall contact an Independent Hearing Officer who will review the submitted information.
- 4) In addition to the review of submitted information, the Independent Hearing Officer may:
  - a) communicate with experts, within their scope of licensure, with experience in gender identity health care.
  - b) communicate with the Minnesota Department of Education, Office of Monitoring and Assistance.
  - c) communicate with legislative counsel relative to existing state laws, rules and procedures.
  - d) communicate with representatives of the U.S. Department of Education, Office for Civil Rights regarding Title IX and related laws, rules, guidance and procedures.
  - e) review any other pertinent information as may be necessary in order to render a decision that complies with state and federal laws, rules and regulations.
- 5) Following a complete review of the information, the Independent Hearing Officer's recommendation shall be effective until reviewed by the MSHSL Board of Directors at its next regularly scheduled meeting.
- 6) If the Independent Hearing Officer affirms the eligibility of the student, the student will be eligible to participate in MSHSL activities consistent with the student's gender identification for the balance of the student's high school eligibility.
- 7) Any decision of the Hearing Officer shall take into account the exemptions for religious affiliated non-public schools as set out in Minn. Stat. 363A.24, 363A.26, 20 U.S.C. 1681(a)(3) and 34 C.F.R. 106.12(a).

Amended on February 4, 2016 as recommended by the MN Department of Education; Division of Compliance and Assistance on December 17, 2015.

#### 5. IEP/504 Appeal Procedure

- A. **Introduction.** Minn. Stat. 128C.02, subd. 5(c) requires the MSHSL to "...adopt league rules making a student with an individualized education program who transfers from one public school to another public school as a reasonable accommodation to reduce barriers to educational access immediately eligible to participate in league-sponsored varsity competition on the same basis as other students in the school to which the student transfers. The league also must establish guidelines, consistent with this paragraph, for reviewing the 504 plan of a student who transfers between public schools to determine whether the student is immediately eligible to participate in league-sponsored varsity competition on the same basis as other students in the school to which the student transfers."

**Please Note:** The MSHSL Board of Directors approved M.S. 128C.02, subd. 5(c) to include all MSHSL member schools on June 1, 2015.

- B. **Procedure.** The following procedure was approved by the MSHSL Board of Directors for students with an individualized education program (IEP) or 504 plan on August 5, 2014.

**Step 1:** A student/the student's parent(s)/legal guardian(s) will submit, in writing, information to the Executive Director of the Minnesota State High School League (MSHSL) identifying:

- a) The barriers to educational access they believe are present at the school (sending school) in which the student is enrolled; and
- b) The school (receiving school) to which the student intends to enroll; and
- c) The specific programming available at the receiving school that will constitute a reasonable accommodation to reduce barriers to educational access.

**Step 2:** Upon receipt of the letter from the student/student's parent(s)/legal guardian(s) the Executive Director of the MSHSL shall contact the school principal/activity director/IEP/504 case manager at the sending school to:

- a) Affirm that the sending school has met with the student/student's parent(s)/legal guardian(s) and has discussed the identified barriers to educational access; and
- b) Affirm that the school believes the student/student's parent(s)/legal guardian(s) believe that there are barriers to educational access as identified in the letter submitted to the Executive Director of the MSHSL; and
- c) Ask if the principal/activities director/IEP/504 case manager believes the transfer to the public school identified in the letter from the student/student's parent(s)/legal guardian(s) is athletically motivated.

**Step 3:** At the same time the letter is sent to the sending school the Executive Director of the MSHSL shall contact the school to:

- a) Affirm that the receiving school has met with the student/student's parent(s)/legal guardian(s) to discuss the identified barriers to educational access at the sending school; and
- b) Affirm that the student/student's parent(s)/legal guardian(s) believe that there are barriers to educational access at the sending school as identified in the letter submitted to the Executive Director of the MSHSL; and
- c) Affirm, given the information identified by the student/student's parent(s)/legal guardian(s), that opportunities are available at the receiving school to reduce the identified barriers to educational access; and
- d) Affirm, to the extent possible, that the transfer from the sending school to the receiving school is not athletically motivated.

**Step 4:** The Executive Director of the MSHSL will review all of the information submitted by the student/student's parent(s)/ legal guardian(s), the sending school and the receiving school and will render a decision relative to the eligibility of the student.

**Step 5:** If the student/student's parent(s)/legal guardian(s) wish to appeal the decision of the Executive Director of the MSHSL, they may do so, in writing, and an Independent Hearing Officer shall be called to review the documentation provided and render an eligibility determination.

**Step 6:** The determination of the Independent Hearing Officer shall be final pending action by the MSHSL Board of Directors at their next regularly scheduled meeting.

**BYLAW 301.00****CERTIFYING STUDENT ELIGIBILITY****Cross References: Bylaw 103 (Credit Requirements) and Bylaw 104 (Enrollment)**

1. Only students who are fully enrolled in and attending your school are eligible to participate for your school in League sponsored activities. (Unless otherwise approved by League staff under the provisions of MSHSL Bylaw 111)
2. Not later than three days prior to the first interscholastic competition each member school shall:
  - A. Place on file in the school a complete Master Eligibility List of all students planning to participate in athletics, fine arts, dance team and cheerleading for that activity year;
  - B. Furnish a copy of the Master Eligibility List to the League office upon request;
  - C. Furnish a copy of the Master Eligibility List to member schools that request a copy.
3. Additions to the Master Eligibility List will be certified prior to competition.

**BYLAW 302.00****CITIES OF THE FIRST CLASS ELIGIBILITY RULES**

Member schools in cities of the first class may be governed by their own student eligibility bylaws when competing against schools from their own school district. The Constitution and Activity Bylaws of the League shall govern all interscholastic contests and meets which involve schools outside the city school system as well as in section and state tournaments and meets.

**BYLAW 303.00****ELIGIBILITY INFORMATION BROCHURE FOR ATHLETIC AND FINE ARTS ACTIVITIES****Cross References: Bylaw 105 (Grade Level Eligibility), Bylaw 109 (Seasons of Participation), Bylaw 110 (Semesters Enrolled)**

1. School officials are required to provide a copy of the "Eligibility Information Brochure" to each student interested in participating in League-sponsored programs.
2. Prior to practice or participation, the student and one parent or guardian must sign and return one copy of the Eligibility Information Brochure to the student's school. The student's signature will certify that they have read and understand the bylaws. The parent's or guardian's signature will acknowledge the receipt of the copy that is to be retained by the family. The copy containing the signatures will be placed on file in the school. This must be accomplished before a student may be placed on the school's Master Eligibility List.
3. **School Officials Responsibilities:**
  - A. read, discuss and explain the bylaws in the "Eligibility Information Brochures" to the high school student body;
  - B. post copies of the "Eligibility Information Brochures" in appropriate areas in the high school; and
  - C. furnish copies of the "Eligibility Information Brochures" to the local press with a request that they be published.
4. **Junior High School Bylaws:** Eligibility bylaws do apply to junior high school students who are participating in senior high school activities. Eligibility bylaws do not apply to a junior high program (grades 7-8-9) unless a school has taken formal action to adopt them.

**BYLAW 304.00****INELIGIBLE STUDENT**

1. Ineligible students shall not be used by mutual agreement of member schools. The penalty for a violation of this bylaw shall be suspension of both schools for a period of one calendar year from the date of the violation.
2. An ineligible student who participates in any League sport, shall be disqualified from all interscholastic athletics for nine additional weeks beyond the student's original period of ineligibility.
3. **Applying the Penalty:**
  - A. **The Game or Meet:**
    - 1) If an ineligible student is used in any interscholastic contest, whether deliberately or inadvertently, forfeiture of the game and honors for team sports and points and honors for individual sports shall be automatic and mandatory.
      - a) **Team sports:** In football, basketball, volleyball, hockey, lacrosse, soccer, softball and baseball, the game and honors shall be forfeited.
      - b) **Team/individual sports:** In cross country, wrestling, gymnastics, skiing, swimming, track, golf, tennis, and synchronized swimming, any points and or honors won by an ineligible participant individually or as a member of a relay or other team shall be forfeited.
    - 2) If a student's eligibility is in jeopardy due to an alleged violation of the bylaw on mood-altering chemicals or non-school competition, the student will be allowed to participate pending completion of the investigation without jeopardizing team points, team honors, or victories. The investigation shall be completed within 10 calendar days.
  - B. **The Contestant:**
    - 1) The penalty will not apply to a student's eligibility when the infraction is due to either the bylaw on mood- altering chemicals or non-school competition, unless the student denies violation of the bylaw, is allowed to participate and is subsequently found guilty of the violation.
    - 2) Should the ineligibility be due to the improper application of the bylaw on Enrollment, 104.00; Attendance, 102.00; Transfer, 111.00; or Credit Requirements, 103.00 and the student is not responsible for causing the error, it will be regarded as an error by those administering the bylaws and school officials will be held responsible. In such case, the League Board of Directors may adjust the penalty against the student.
    - 3) **Practice While Ineligible:** The League bylaws apply only to competition against another team in a game or meet. The question of whether to allow a student to practice when ineligible is one of local determination.

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**C. The School:**

The Board may penalize the school official or school officials responsible for an error under powers granted in the League Constitution, 213.02, if they judge the error by school officials to be deliberate, intentional, or sufficiently careless to warrant such special action.

**BYLAW 305.00****MASTER ELIGIBILITY LIST****Cross Reference: Board Policy 305**

1. The Master Eligibility List is an official declaration made by the principal indicating the names and data included within it are accurate and valid and that the individuals named are fully eligible to represent their school in all League activities. The data on the Master Eligibility List certifies that all students, as a group:
  - A. are carrying sufficient credits to graduate in four years after entering the 9th grade;
  - B. have passed the required physical examination before starting athletic, dance team or cheerleading practice;
  - C. have not been in attendance in grades 9-12 inclusive for more than eight consecutive semesters (four years);
  - D. have signed the Eligibility Information Brochure which is required for athletics, fine arts, dance team and cheerleading.
2. In the case of a transfer student, it is the responsibility of the receiving school to secure the necessary transcript and transfer information from the school(s) previously attended by the student before certifying that student's eligibility. It shall be the responsibility of the high school principal to review the eligibility requirements for all students, especially the transcript and other records for transfer students before signing the Master Eligibility List.
3. Receiving schools must include the data required below on the Master Eligibility List for all transfer students:
  - A. the school from which the student has transferred.
  - B. the date of enrollment at the student's new school.
  - C. the condition of transfer if applicable, which grants eligibility for the student to participate in varsity athletic contests.

**BYLAW 305.00 INTERPRETATIONS**

1. **Q. At what point does a student become eligible in a school, and when should that student's name be placed on a Master Eligibility List?**

A. Any student who represents a member school **MUST** meet all of the League eligibility requirements before the student can compete as a representative of that school. Administrators must carefully review eligibility requirements for students who represent their school.
2. **Q In our community there is a private school which is not a member of the League. Can students from that school participate on teams in our school since the parents live in our community?**

A. No. A student is eligible for participation only in the high school in which the student is fully enrolled.
3. **Q Whose responsibility is it to provide the names of student participants for the Master Eligibility List in a cooperatively sponsored activity?**

A. The responsibility for the Master Eligibility List lies with each member school.
4. **Q Whose names should be listed on the Master Eligibility List?**

A. League bylaws govern students who participate at the sophomore, B-squad, junior varsity or varsity level. Therefore, the information about any student, grades 7-12, who participates on any of these teams needs to be included on the Master Eligibility List.

**BYLAW 306.00****RESPONSIBILITY FOR STUDENT ELIGIBILITY**

1. The designated administrator of a member school shall be held completely and solely responsible to certify that all students representing their school in League sponsored activities are properly enrolled and meet all of the eligibility requirements of the League. When a violation of the bylaws occurs, school administrators are expected and required to enforce the penalties prescribed in the bylaws.
2. It is not the responsibility of League officials to certify the eligibility status of students representing member schools. It is the responsibility of the League to examine and rule on all evidence submitted in relation to purported and actual violations of League bylaws and regulations. It is also the responsibility of the League to take whatever action is necessary to ensure that League activities realize the purposes for which they were established and are maintained.
3. **Administrative Error:** If the action or interpretation of League bylaws by a school official causes a student to become ineligible, the school must submit a report to the League including the following:
  - A. Complete report of the incident.
  - B. Identify the administrator responsible for the error.
  - C. Description of the administrative sanctions the school has imposed on the responsible administrator; and
  - D. An administrative plan to insure that all League bylaws are properly interpreted and followed.

**BYLAW 307.00****UNDUE INFLUENCE ON STUDENTS**

1. It shall be a violation for any school representative to exert undue influence on students to participate on non-school teams or to participate in camps, clinics, open gym, captain's practice or other activities. A School representative shall not require or demand participation in a camp or clinic or on a non-school team as a condition of membership for a school team.
2. An alleged violation will require a letter of inquiry from the League office. On the basis of the response from the member school to the letter of inquiry, the Board of Directors may choose to appoint a committee to conduct a full investigation. It shall be an obligation of the member school to cooperate with this investigating committee and to provide all information pertinent to the investigation.
3. **Penalty**  
A confirmed violation will result in a fine to the member school.
  - A. On the first offense, the fine shall be \$500.
  - B. On the second offense, the fine shall be \$750.
  - C. On the third offense, the fine shall be \$1,000.
4. **Appeal**  
All appeals by school representatives, including coaches, who have been found to be in violation of this bylaw shall be heard by an independent hearing officer at the local level.

**BYLAW 308.00****UNDUE SOLICITATION OF A STUDENT**

1. Any verbal or written contact initiated by a representative of another school soliciting the transfer of a high school student or junior high school student to participate in a sport will be considered as asserting undue influence, for which the school may be publicly censured, removed from tournament competition, or suspended from the League. If the contact is initiated by an individual who is not a representative of a school, that individual's name shall be recorded and a warning issued. If a further violation is reported relative to this individual, they will be considered to be a representative of the school, and the school may be subject to a suspension from League-sponsored activities.
2. Unless reliable evidence to the contrary is presented, the Board of Directors shall accept as prima facie evidence of undue influence: awarding of tuition, allowance for board/room, allowance for transportation, priority in assignments of jobs, cash or gifts in any form, or any other privilege or consideration accorded if not similarly available to students not participating in athletics.
3. An alleged violation will require a letter of inquiry from the League office. On the basis of the response to the member school from the letter of inquiry, the Board of Directors may choose to appoint a committee to conduct a full investigation. It shall be an obligation of any member school to cooperate with this investigating committee which shall include a full disclosure of all records, scholarships, and information pertinent to the investigation.
4. **Penalty:**
  - A. Student: Undue influence by any person connected or not connected with the school which results in securing or retaining the attendance of a student in a school shall cause the student to be ineligible for one calendar year.
  - B. School: Any verbal or written contact initiated by a representative of another school will be considered as asserting undue influence, for which the school may be:
    - 1) Publicly censured;
    - 2) Fined;
      - a) On the first offense, the fine shall be \$500;
      - b) On the second offense, the fine shall be \$750;
      - c) On the third offense, the fine shall be \$1,000;
    - 3) Removed from tournament competition; or
    - 4) Suspended from the League.

# 300.00 BYLAWS: ADMINISTRATION OF STUDENT ELIGIBILITY BOARD POLICIES

## **SCHOOL INSURANCE FOR STUDENTS**

*Catastrophe Plan. The League Board of Directors shall make available a special Catastrophe Accident Insurance policy. Questions concerning the policy should be directed to:*

Dissinger Reed, A Division of HUB International  
9200 Ward Parkway, Suite 500  
Kansas City, MO 64114

**Office:** 913-491-6385

**Fax:** 913-491-0527

[www.dissingerreed.com](http://www.dissingerreed.com)