

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 759*

Short Title: Student-Athlete Compensation/Study. (Public)

Sponsors: Senators Nickel and Lowe (Primary Sponsors).

Referred to: Rules and Operations of the Senate

May 18, 2020

A BILL TO BE ENTITLED

AN ACT TO PERMIT A STUDENT-ATHLETE TO RECEIVE COMPENSATION FOR THE USE OF HIS OR HER NAME, IMAGE, AND LIKENESS IN RELATION TO AN ATHLETIC PROGRAM AND TO PROHIBIT CERTAIN CONDUCT IN RESPONSE TO A STUDENT-ATHLETE RECEIVING COMPENSATION OR REPRESENTATION FROM AN AGENT; AND TO ESTABLISH THE STUDY COMMITTEE ON STUDENT-ATHLETE COMPENSATION AND TO PROVIDE FUNDS FOR CONSULTANT SERVICES FOR THE COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 37.

"Student-Athlete Compensation.

"§ 116-400. Findings.

The General Assembly finds that every student-athlete enrolled at an institution of higher education that has an athletic program should have an opportunity to (i) be compensated for the use of his or her name, image, and likeness in relation to an athletic program and (ii) hire an athlete agent or licensed attorney to represent the student-athlete's interests in participating in an athletic program. The General Assembly also finds that protecting student-athletes so that they are not compelled to forfeit this opportunity to be eligible to participate in intercollegiate athletic competitions vitally affects the public interest.

"§ 116-401. Definitions.

The following definitions apply in this Article:

- (1) Athletic program. – A sport program played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of intercollegiate athletics.
- (2) Institution of higher education. – A constituent institution of The University of North Carolina or a private college or university located in North Carolina.
- (3) Student-athlete. – A student enrolled at an institution of higher education who participates in an athletic program at that institution.

"§ 116-402. Permissible activities for student-athletes; prohibited conduct by other persons.

(a) Except as otherwise provided in subsection (b) of this section, a student-athlete may receive compensation for the use of the student-athlete's name, image, or likeness related to an athletic program at an institution of higher education. The student-athlete may also enter into an



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1 agreement to be represented by an athlete agent or licensed attorney in accordance with Article
 2 9 of Chapter 78C of the General Statutes and applicable federal law, including the Sports Agent
 3 Responsibility and Trust Act, 15 U.S.C. §7801-7807.

4 (b) An institution of higher education or an athletic association, conference, or other
 5 group or organization with authority over intercollegiate athletics shall not provide a prospective
 6 student-athlete with compensation in relation to the student-athlete's name, image, or likeness. A
 7 scholarship from an institution of higher education in which a student is enrolled shall not be
 8 considered compensation for the purposes of this section.

9 (c) No institution of higher education or an athletic association, conference, or other
 10 group or organization with authority over intercollegiate athletics, including the National
 11 Collegiate Athletic Association, shall engage in any of the following conduct in response to the
 12 activities of a student-athlete that are authorized under subsection (a) of this section:

- 13 (1) Adopt or uphold any rule, requirement, standard, or other limitation that
 14 prevents the student-athlete from participating in intercollegiate athletics.
 15 (2) Prohibit or suspend the student-athlete from competing in an intercollegiate
 16 athletic competition or otherwise imposing a penalty on the student-athlete,
 17 including making the student ineligible for a scholarship.
 18 (3) Prohibit or suspend an institution of higher education's athletic team from
 19 competing in an intercollegiate athletic competition or otherwise imposing a
 20 penalty on the institution.
 21 (4) Request or require an institution of higher education to prohibit or otherwise
 22 limit the student-athlete's ability to engage in the activities authorized by
 23 subsection (a) of this section in order for the institution's students or athletic
 24 teams to be eligible, or remain eligible, to participate in an intercollegiate
 25 athletic competition.

26 **"§ 116-403. Student-athlete contract for compensation.**

27 (a) A student-athlete entering into a contract to receive compensation for the use of the
 28 student-athlete's name, image, or likeness related to an athletic program at an institution of higher
 29 education, as permitted under G.S. 116-402, shall do all of the following:

- 30 (1) Ensure the contract terms (i) do not conflict with a provision of the
 31 student-athlete's team contract and (ii) provide for modification of the contract
 32 if a conflict is identified by an institution of higher education pursuant to
 33 subsection (b) of this section.
 34 (2) Disclose the contract to a designated official for the institution of higher
 35 education.

36 (b) An institution of higher education shall disclose to the student-athlete or the athlete's
 37 representation any conflict identified by the institution between the team contract and the
 38 student-athlete's contract for compensation under this section.

39 (c) A team contract of an institution of higher education's athletic program shall not
 40 prevent a student-athlete from using the athlete's name, image, or likeness for a commercial
 41 purpose when the athlete is not engaged in official team activities."

42 **SECTION 2.** G.S. 78C-94(c) reads as rewritten:

43 "(c) An agency contract must contain, in close proximity to the signature of the
 44 student-athlete, a conspicuous notice in boldface type in capital letters stating:

45 **WARNING TO STUDENT-ATHLETE**

46 **IF YOU SIGN THIS CONTRACT:**

47 **~~(1) YOU SHALL LOSE YOUR ELIGIBILITY TO COMPETE AS A~~**
 48 **~~STUDENT-ATHLETE IN YOUR SPORT;~~**

49 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**
 50 **ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT**
 51 **MUST NOTIFY YOUR ATHLETIC ~~DIRECTOR;~~DIRECTOR.**

1 (3) YOU WAIVE YOUR ATTORNEY-CLIENT PRIVILEGE WITH RESPECT
2 TO THIS CONTRACT AND CERTAIN INFORMATION RELATED TO IT; AND IT.

3 (4) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
4 SIGNING IT. ~~CANCELLATION OF THIS CONTRACT SHALL NOT REINSTATE~~
5 ~~YOUR ELIGIBILITY."~~

6 **SECTION 3.** G.S. 78C-98(b)(6) is repealed.

7 **SECTION 4.(a)** Establishment. – The North Carolina Study Committee on
8 Student-Athlete Compensation (Committee) is established.

9 **SECTION 4.(b)** Membership. – The Study Committee shall be composed of 18
10 members as follows:

11 (1) Nine members appointed by the President Pro Tempore of the Senate as
12 follows:

- 13 a. Four persons who are members of the Senate at the time of
14 appointment, at least two of whom represent the minority party.
- 15 b. A parent of a student-athlete.
- 16 c. A student-athlete.
- 17 d. An athletic coach of an institution of higher education.
- 18 e. A representative from the Department of Labor.
- 19 f. A representative from The University of North Carolina System
20 Office.

21 (2) Nine members appointed by the Speaker of the House of Representatives as
22 follows:

- 23 a. Four persons who are members of the House of Representatives at the
24 time of appointment, at least two of whom represent the minority
25 party.
- 26 b. A student-athlete.
- 27 c. A student-athlete agent or attorney representing student-athletes.
- 28 d. A representative from an athletic association.
- 29 e. A representative from the North Carolina Independent Colleges and
30 Universities.
- 31 f. A representative from the Secretary of State's Office.

32 The Committee shall have two cochairs, one designated by the President Pro Tempore
33 of the Senate and one designated by the Speaker of the House of Representatives from among
34 the legislative member appointees. The Committee shall meet upon the call of the cochairs.
35 Vacancies shall be filled by the appointing authority. A quorum of the Committee shall be a
36 majority of the members.

37 **SECTION 4.(c)** Duties. – The Committee shall study and make recommendations
38 on ensuring implementation of a fair and equitable system of compensation for student-athletes
39 in North Carolina. The Committee shall contract with an independent consultant, as necessary,
40 to gather information and data necessary to study the issues and develop recommendations. In
41 developing recommendations, the Committee shall consider at least the following factors:

- 42 (1) How every student-athlete enrolled at an institution of higher education that
43 has an athletic program should have an opportunity to (i) be compensated for
44 the use of his or her name, image, and likeness in relation to an athletic
45 program and (ii) hire an athlete agent or licensed attorney to represent the
46 student-athlete's interests in participating in an athletic program.
- 47 (2) Whether receiving compensation will impact eligibility for scholarships or
48 other financial assistance for student-athletes.
- 49 (3) Whether further modifications may be required to State law to permit
50 student-athletes to receive compensation.

1 (4) Whether there continues to be significant limitations related to rules of athletic
2 associations, conferences, or other groups or organizations with authority over
3 intercollegiate athletics, including the National Collegiate Athletic
4 Association, on student-athletes receiving compensation and potential
5 solutions to existing obstacles for student-athletes receiving compensation in
6 North Carolina.

7 (5) Whether any limitations on student-athlete compensation exist in relation to
8 team contracts and if any other guidelines should be imposed on permitting
9 student-athletes to receive compensation.

10 **SECTION 4.(d) Compensation; Administration.** – Members of the Committee shall
11 receive subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or 138-6,
12 as appropriate. With the prior approval of the Legislative Services Commission, the Legislative
13 Services Officer shall assign professional and clerical staff to assist in the work of the Committee.
14 With the prior approval of the Legislative Services Commission, the Committee may hold its
15 meetings in the State Legislative Building or the Legislative Office Building. The Committee
16 may also meet at various locations around the State in order to promote greater public
17 participation in its deliberations. The Committee, while in the discharge of its official duties, may
18 exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through
19 G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of
20 the State to provide any information, data, or documents within their possession, ascertainable
21 from their records or otherwise available to them, and the power to subpoena witnesses.

22 **SECTION 5. Appropriation of Funds.** – There is appropriated from the General Fund
23 to the North Carolina General Assembly the sum of ten thousand dollars (\$10,000) to support the
24 Committee's operations, including to cover the expense of contracting with an independent
25 consultant to assist the Committee in preparing recommendations in accordance with the
26 requirements of this section.

27 **SECTION 6. Report.** – The Committee shall report its findings and
28 recommendations to the 2021 Regular Session of the General Assembly upon its convening. The
29 Committee shall terminate June 1, 2021, or upon the filing of its final report, whichever occurs
30 first.

31 **SECTION 7.** Sections 1 through 3 of this act become effective January 1, 2023, and
32 apply to contracts entered into on or after that date. Sections 4 through 6 of this act become
33 effective July 1, 2020. The remainder of this act is effective when it becomes law.