

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 91
Committee Substitute Favorable 2/23/21
Committee Substitute #2 Favorable 3/11/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H91-CSTCf-47 [v.7]

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Short Title: Accountability and Fair Play in Athletics.

(Public)

Sponsors:

Referred to:

February 17, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO RESTRUCTURE OVERSIGHT OF PUBLIC HIGH SCHOOL
3 INTERSCHOLASTIC ATHLETICS TO ENSURE ACCOUNTABILITY AND FAIR
4 PLAY.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. REGULATION OF INTERSCHOLASTIC ATHLETIC COMPETITIONS**

8 **SECTION 1.(a)** Chapter 115C of the General Statutes is amended by adding a new
9 article to read:

10 "Article 29E.

11 "Interscholastic Athletic Competition.

12 "Part 1.

13 "Definitions.

14 **"§ 115C-407.50. Definitions.**

15 The following definitions apply in this Article:

- 16 (1) Commission. – The North Carolina Interscholastic Athletic Commission.
17 (2) Director. – The Director of the North Carolina Interscholastic Athletic
18 Commission.
19 (3) Final Participation Appeal Board. – The Student Athletic Participation Final
20 Appeal Board appointed by the State Board of Education to review final
21 appeals of application of student participation rules.
22 (4) Fund. – The High School Interscholastic Athletic Fund.
23 (5) Gameplay Appeal Board. – The Interscholastic Athletic Gameplay Appeal
24 Board.
25 (6) Gameplay rules. – Rules adopted by the North Carolina Interscholastic
26 Athletic Commission in accordance with this Article governing oversight of
27 the administration, classification, scheduling, and conduct of interscholastic
28 athletic activities.
29 (7) Initial Participation Appeal Board. – The Student Athletic Participation Initial
30 Appeal Board appointed by the State Board of Education to review initial
31 appeals of application of student participation rules.
32 (8) Parent. – The parent or legal guardian of a student participating or seeking to
33 participate in interscholastic athletic activities.
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1 (9) Participating school. – A school serving any grade between six and twelve
2 that is (i) part of a public school unit or the North Carolina School of Science
3 and Mathematics, and (ii) elects to offer interscholastic athletic activities.

4 (10) Student participation rules. – Rules adopted by the State Board of Education
5 in accordance with this Article governing student eligibility to participate in
6 interscholastic athletic activities. Student participation rules include both
7 student participation and student health and safety requirements.

8 "Part 2.

9 "Student Participation Rules

10 "**§ 115C-407.60. Regulation of interscholastic athletic activities.**

11 (a) The State Board of Education shall adopt student participation rules governing student
12 eligibility for interscholastic athletic activities conducted by public school units, in accordance
13 with the requirements of this Article. The rules adopted by the State Board of Education for
14 interscholastic athletic activities at the high school level shall be administered by the North
15 Carolina Interscholastic Athletic Commission. The rules adopted by the State Board of Education
16 for interscholastic athletic activities at the middle school level shall be administered by the
17 Department of Public Instruction.

18 (b) The student participation rules shall adopt standards for student participation and
19 student health and safety. Student participation rules shall include academic standards,
20 enrollment requirements, attendance requirements, medical eligibility requirements, recruiting
21 limitations, and hardship exceptions, and shall ensure compliance with the requirements of
22 G.S. 115C-407.65 and G.S. 115C-407.70. The rules shall allow students enrolled in a home
23 school, as defined in G.S. 115C-563, to participate in interscholastic athletics at the school to
24 which the student would be assigned by the local school administrative unit based on the student's
25 domicile if the student were enrolled in that unit, if the student meets all rules other than those
26 related to enrollment.

27 (c) All public school units shall conduct middle school interscholastic athletic activities
28 in accordance with the student participation rules adopted by the State Board of Education as
29 administered by the Department of Public Instruction. All public school units shall conduct high
30 school interscholastic athletic activities in accordance with the student participation rules adopted
31 by the State Board of Education as administered by the Commission. Public school units shall
32 not be regulated by entities other than the State Board of Education and Commission for regular
33 and post-season interscholastic athletics.

34 "**§ 115C-407.65. Rules on concussions and head injuries.**

35 (a) For the purpose of this section, a concussion is a traumatic brain injury caused by a
36 direct or indirect impact to the head that results in disruption of normal brain function, which
37 may or may not result in loss of consciousness.

38 (b) With regard to middle schools and high schools, the State Board of Education shall
39 adopt rules that provide for the following:

40 (1) All coaches, school nurses, athletic directors, first responders, volunteers,
41 students who participate in interscholastic athletic activities, and the parents
42 of those students shall receive, on an annual basis, a concussion and head
43 injury information sheet. School employees, first responders, volunteers, and
44 students must sign the sheet and return it to the coach before they can
45 participate in interscholastic athletic activities, including tryouts, practices, or
46 competition. Parents must sign the sheet and return it to the coach before their
47 children can participate in any such interscholastic athletic activities. The
48 signed sheets shall be maintained in accordance with subsection (c) of this
49 section.

50 (2) If a student participating in an interscholastic athletic activity exhibits signs
51 or symptoms consistent with concussion, the student shall be removed from

1 the activity at that time and shall not be allowed to return to play or practice
2 that day. The student shall not return to play or practice on a subsequent day
3 until the student is evaluated by and receives written clearance for such
4 participation from one of the following:

- 5 a. A physician licensed under Article 1 of Chapter 90 of the General
6 Statutes with training in concussion management.
7 b. A neuropsychologist licensed under Article 18A of Chapter 90 of the
8 General Statutes with training in concussion management and working
9 in consultation with a physician licensed under Article 1 of Chapter 90
10 of the General Statutes.
11 c. An athletic trainer licensed under Article 34 of Chapter 90 of the
12 General Statutes.
13 d. A physician assistant, consistent with the limitations of G.S. 90-18.1.
14 e. A nurse practitioner, consistent with the limitations of G.S. 90-18.2.

15 (c) Each middle and high school shall maintain complete and accurate records of its
16 compliance with the requirements of this section.

17 **"§ 115C-407.70. Emergency action plans.**

18 (a) With regard to middle schools and high schools, the State Board of Education shall
19 adopt a rule that requires each school to develop a venue specific emergency action plan to deal
20 with serious injuries and acute medical conditions in which the condition of the patient may
21 deteriorate rapidly. The plan shall include a delineation of roles, methods of communication,
22 available emergency equipment, and access to and plan for emergency transport.

23 (b) The rule required by subsection (a) shall require the plan to be at least the following:

- 24 (1) In writing.
25 (2) Reviewed by an athletic trainer licensed in North Carolina.
26 (3) Approved by the principal of the school.
27 (4) Distributed to all appropriate personnel.
28 (5) Posted conspicuously at all venues.
29 (6) Reviewed and rehearsed annually by all licensed athletic trainers, first
30 responders, coaches, school nurses, athletic directors, and volunteers for
31 interscholastic athletic activities."

32 "Part 3.

33 "North Carolina Interscholastic Athletic Commission.

34 **"§ 115C-407.75. North Carolina Interscholastic Athletic Commission.**

35 (a) There is created the North Carolina Interscholastic Athletic Commission. The purpose
36 of the Commission is to (i) apply and enforce the student participation rules adopted by the State
37 Board of Education, (ii) adopt, apply, and enforce gameplay rules, and (iii) oversee the conduct
38 of high school interscholastic athletic competition for public school units. The Commission shall
39 not oversee interscholastic athletic competition for nonpublic schools.

40 (b) The Commission shall be located administratively within the Department of
41 Administration. The Department of Administration shall provide administrative services, office
42 space, and meeting space for the Commission at no cost to the Commission. The Commission
43 shall exercise all of its prescribed statutory powers and management functions independently of
44 the Department of Administration. "Management functions," as used in this section, means
45 planning, organizing, staffing, directing, coordinating, and budgeting.

46 (c) The Commission shall consist of 17 members. All members of the Commission shall
47 be employed in a public school unit as an athletic director, superintendent, assistant or associate
48 superintendent, principal, or assistant principal, or full-time employee serving as a coach.
49 Member shall be appointed as follows:

- 50 (1) Nine members appointed by the Governor. Of these appointments, no more
51 than three members may be an (i) athletic director, (ii) superintendent or

1 assistant or associate superintendent, or (iii) principal or assistant principal, or
2 a (iv) full-time employee serving as a coach, and no more than three members
3 shall be from a single athletic division adopted as provided in
4 G.S. 115C-407.80(a)(2).

5 (2) Four members appointed by the General Assembly, upon the recommendation
6 of the President Pro Tempore of the Senate. Of these appointments, no more
7 than two members may be an (i) athletic director, (ii) superintendent or
8 assistant or associate superintendent, or (iii) principal or assistant principal, or
9 a (iv) full-time employee serving as a coach, and no more than two members
10 shall be from a single athletic division adopted as provided in
11 G.S. 115C-407.80(a)(2).

12 (3) Four members appointed by the General Assembly, upon the recommendation
13 of the Speaker of the House of Representatives. Of these appointments, no
14 more than two members may be an (i) athletic director, (ii) superintendent or
15 assistant or associate superintendent, or (iii) principal or assistant principal, or
16 a (iv) full time employee serving as a coach, and no more than two members
17 shall be from a single athletic division adopted as provided in
18 G.S. 115C-407.80(a)(2).

19 (d) Appointed members shall serve for four-year terms beginning on July 1 of
20 odd-numbered years. No appointed member shall serve more than two consecutive full terms. A
21 seat shall be considered vacant if the appointed member ceases to be employed by the public
22 school unit in the same position the member was employed in at the time of appointment.
23 Vacancies in the membership shall be filled by the appointing authority in accordance with the
24 criteria in subsection (c) of this section. Vacancies in appointments by the General Assembly
25 shall be filled as provided in G.S. 120-122.

26 (e) The Commission shall annually elect a chair and a vice-chair from among its
27 membership. In the absence of the chair, the vice-chair shall preside over the Commission's
28 meetings. All members are voting members, and a majority of the Commission shall constitute a
29 quorum. The Commission shall adopt rules to govern its proceedings.

30 (f) The Commission shall meet at least 10 times a year, and may meet more frequently
31 upon the call of the chair or the vice-chair in the absence of the chair.

32 (g) Members of the Commission shall receive compensation from the Fund for their
33 services and reimbursement for expenses incurred in the performance of their duties required by
34 this Article at the rate prescribed in G.S. 138-5 and G.S. 138-6.

35 **"§ 115C-407.80. Powers, duties, and restrictions.**

36 (a) The Commission shall have the following powers and duties:

37 (1) Apply, enforce, and administer all student participation rules adopted by the
38 State Board.

39 (2) Adopt, apply, enforce, and administer gameplay rules as follows:

40 a. Classification of all participating schools in the State into one of four
41 athletic divisions based solely on average daily membership. For
42 charter schools, the rules shall classify those schools into the next
43 largest conference than the school would be assigned to based solely
44 on average daily membership.

45 b. Classification of all participating schools in the State into conferences
46 based solely on geography, division classification, and average daily
47 membership.

48 c. Game rules, including rules specific to individual sports.

49 d. Game administration.

50 e. Coaching requirements.

51 f. Officiating requirements.

- 1 g. Sportsmanship requirements.
- 2 h. Season and conference schedules and requirements, including the
- 3 following:
- 4 1. Preseason calendar and requirements.
- 5 2. Regular season calendars and requirements.
- 6 3. Post-season conference and state tournament calendars and
- 7 requirements. The rules shall limit all conference and state
- 8 tournament participation to participating schools.
- 9 (3) Adopt a system of demerits for infractions of student participation rules and
- 10 gameplay rules which may result in reprimands, probations, suspensions,
- 11 forfeitures of contests, forfeitures of titles, and disqualifications.
- 12 (4) Make publicly available on the Commission's website all student participation
- 13 rules, gameplay rules, and information on the appeals process, including
- 14 specific information on how to make an initial and final appeal.
- 15 (5) Coordinate the appeals process established in Part 4 of this Article for the
- 16 Student Athletic Participation Initial Appeal Board and Student Athletic
- 17 Participation Final Appeal Board for appeals of the application of student
- 18 participation rules.
- 19 (6) Coordinate the appeals process established in Part 4 of this Article for the
- 20 Interscholastic Athletic Gameplay Appeal Board for appeals of the application
- 21 of gameplay rules.
- 22 (7) Apply the standards established by the federal Family Educational Rights and
- 23 Privacy Act, 20 U.S.C. § 1232g, to all student records containing personally
- 24 identifiable information in the possession of the Commission. The
- 25 Commission shall be authorized to display and share student information
- 26 designated by a participant school as directory information unless the
- 27 participant school indicates that a parent has opted out of disclosure of that
- 28 information. Other than directory information, all student records containing
- 29 personally identifiable information held by the Commission are not public
- 30 records under Chapter 132 of the General Statutes.
- 31 (8) Establish programs to recognize special achievement, including recognition
- 32 of outstanding scholar-athletes.
- 33 (9) Retain up to fifty percent (50%) of the net proceeds of any state tournament
- 34 game.
- 35 (10) Annually report by December 1 to the Joint Legislative Education Oversight
- 36 Committee and the State Board of Education on the following:
- 37 a. Activities during the prior school year and recommendations and
- 38 findings regarding improvement of high school interscholastic
- 39 athletics.
- 40 b. A copy of the most recent audit conducted by the State Auditor.
- 41 c. A schedule of current fees charged to participating schools.
- 42 d. The current balance of the High School Interscholastic Athletic Fund
- 43 and the amount of interest accrued in the Fund over the prior fiscal
- 44 year.
- 45 e. From the prior fiscal year:
- 46 1. The total of the Commission's expenses, including the
- 47 percentage of those expenses expended on personnel costs.
- 48 2. The amount of fees and gate receipts collected.
- 49 (11) Exercise the powers of a body corporate, including the power to sue and be
- 50 sued, to make contracts, to hold and own copyrights and to adopt and use a
- 51 common seal.

1 **(b)** The Commission is not authorized to do the following:

- 2 (1) Solicit grant funding and sponsorships from third-party organizations, other
3 than for state tournament games.
4 (2) Provide grants to schools regulated by the Commission.
5 (3) Provide scholarships to players.
6 (4) Designate the use of specific or preferred vendors.
7 (5) Retain a percentage of gate receipts for games other than state tournament
8 games.
9 (6) Regulate or control the intellectual property of schools, including team logos,
10 mascots, and audio or video of any game other than the state tournament game.
11 (7) Restrict the recording of audio or video at a state tournament game by any
12 parent of a student participating in the game or any employee of the school
13 participating in the game.
14 (8) Impose monetary penalties for rule violations.
15 (9) Prohibit participating schools from games against nonpublic schools prior to
16 the conclusion of regular season play.
17 (10) Retain any portion of receipts collected from ticket sales, concessions, or sale
18 of merchandise by a participating school.
19 (11) Delegate its statutory duties to the Director or other entities.

20 **"§ 115C-407.85. Director, other employees.**

21 (a) The Commission shall appoint a Director, who shall perform all duties imposed by
22 statute and such duties as may be assigned by the Commission. Except for Articles 6 and 7 of
23 Chapter 126 of the General Statutes, the Director shall be exempt from all requirements of the
24 North Carolina Human Resources Act.

25 (b) The Commission shall employ and designate personnel to coordinate appeals, as
26 required in Part 4 of this Article.

27 (c) The Commission may employ, subject to Chapter 126 of the General Statutes, all
28 necessary personnel for the performance of its functions, and shall fix compensation for all
29 employees within the limits of funds available to the Commission from the Fund.

30 (d) The Commission shall not employ or contract with a legislative lobbyist or liaison.

31 **"§ 115C-407.90. Fees, High School Interscholastic Athletic Fund, annual audit.**

32 (a) The Commission shall be solely supported by fees and a percentage of gate receipts
33 from state tournament games. The Commission shall adopt reasonable annual fees for participant
34 schools as needed to support the duties of the Commission, including fees associated with student
35 catastrophic insurance coverage. Annual fees may vary based on the division to which the school
36 is assigned.

37 (b) The High School Interscholastic Athletic Fund is established in the Department of
38 State Treasurer as a fund for deposit of fees charged by the Commission to participant schools
39 and gate receipts. Interest accruing to the Fund is credited to the Fund. The Commission
40 administers the Fund and may use the Fund to support the work of the Commission. If the Fund
41 reaches a balance that is two-hundred and fifty percent (250%) of the Commission's total
42 expenses from the prior fiscal year, the Commission shall reduce the annual fee to participant
43 schools by a minimum of twenty percent (20%). The Commission may increase annual fees if
44 the Fund reaches a balance that is one hundred and fifty-percent (150%) of the Commission's
45 total expenses from the prior fiscal year.

46 (c) All Commission funds shall be handled in accordance with the State Budget Act.

47 (d) The Commission shall be audited annually by the State Auditor pursuant to Article
48 5A of Chapter 147 of the General Statutes.

49 **"§ 115C-407.95. Student catastrophic insurance.**

50 (a) The Commission shall maintain a State-funded student-athlete catastrophic insurance
51 policy, and shall notify public school units regarding the coverage provided by the policy

1 annually prior to the start of each school year. Notification shall include information regarding
2 policy coverage details, instructions on reporting claims, contact information for additional
3 questions, and instructions on obtaining a copy of the policy.

4 (b) The Commission shall include in the annual fees charged to each participating school
5 a per pupil share of the cost of the policy based on the number of student participating in
6 interscholastic athletics at that school in the immediately prior school year."

7 "Part 4.

8 "Appeals.

9 **"§ 115C-407.100. Student participation rules appeals process.**

10 (a) The State Board of Education shall appoint appeals boards as provided in this section
11 to provide initial and final decisions on appeals of a decision related to the application of student
12 participation rules for high school interscholastic athletic activities.

13 (b) The following shall apply to all members appointed by the State Board of Education
14 to the appeals boards established by this Article:

15 (1) A member must meet the following requirements.

16 a. Continuously reside in the education district the member is appointed
17 to represent.

18 b. Be an employee of a public school unit.

19 (2) Members shall serve four-year terms beginning on July 1 of even-numbered
20 years, and no appointed member shall serve more than two consecutive full
21 terms.

22 (3) Any vacancies shall be filled by the State Board of Education. A seat shall be
23 deemed vacant if the appointed member ceases to be employed by the public
24 school unit or reside in the same education district as at the time of
25 appointment.

26 (4) Members shall receive per diem and travel allowances in accordance with
27 G.S. 138-5 and 138-6, to be paid by the Commission from the Fund.

28 (c) The State Board of Education shall appoint a Student Athletic Participation Initial
29 Appeal Board to review initial appeals. The Initial Participation Appeal Board shall have two
30 members from each of the eight education districts established by G.S. 115C-65. Members of the
31 Initial Participation Appeal Board shall serve in three-member panels. Members shall be assigned
32 by the Commission through a method of random selection to serve on a panel, and panel
33 assignments shall be rotated at least once every three months.

34 (d) The State Board of Education shall appoint a Student Athletic Participation Final
35 Appeal Board to review final appeals. One member shall be appointed from each of the eight
36 education districts established by G.S. 115C-65 to the Final Participation Appeal Board. The
37 Final Participation Appeal Board shall decide all appeals en banc, and shall not use panels. A
38 member shall recuse themselves from any appeal related to a school located in the education
39 district where the member resides.

40 (e) The Director of the Commission shall provide electronic written notice of a decision
41 related to the application of student participation rules to a school within two business days of
42 the decision. A school shall provide notice to the student and parent of any student affected by a
43 decision related to the application of student participation rules within two business days of the
44 earlier of the decision by the school or notice of a decision by the Director of the Commission.
45 Notifications by schools to the student and parent of the student may be made electronically with
46 the consent of the parent of that student.

47 (f) A school or student, including the parent of a student, may appeal an application of
48 the student participation rules by the Director of the Commission as follows:

49 (1) An initial appeal shall be made to the Initial Participation Appeal Board no
50 later than 14 days following the date of transmission of the notice of the
51 decision to the appealing party. The appeal shall be conducted in accordance

1 with the procedures in subsection (g) of this section. The notice of appeal shall
2 be submitted to the Commission's appeal coordinator, who shall coordinate
3 the hearing and assign the appeal to a three-member panel that does not
4 include any members from the education district in which the appeal
5 originated. A hearing before a three-member panel of the Initial Participation
6 Appeal Board shall be scheduled within 14 days of the notice. The panel shall
7 issue a written decision within seven days of the hearing that shall be
8 transmitted to the parties electronically unless the parties request an
9 alternative means of notification. The decision of the panel shall be appealable
10 to the Final Participation Appeal Board.

11 (2) A final appeal from an Initial Participation Appeal Board panel decision shall
12 be made to the Final Participation Appeal Board no later than 14 days
13 following the date of transmission of the notice of the decision to the appealing
14 party. The appeal shall be conducted in accordance with the procedures in
15 subsection (g) of this section. The notice of appeal shall be submitted to the
16 Commission's appeal coordinator, who shall coordinate the hearing. A hearing
17 before the Final Participation Appeal Board shall be scheduled within 14 days
18 of the notice. The Final Participation Appeal Board shall issue a written
19 decision within seven days of the hearing that shall be transmitted to the
20 parties electronically unless the parties request an alternative means of
21 notification. The decision of the Final Participation Appeal Board shall be
22 final.

23 (g) The State Board of Education shall adopt by rule the procedures for conduct of
24 appeals consistent with the requirements of this section. Appeal hearings may be conducted
25 virtually, in the discretion of the reviewing entity, to facilitate timely hearings and access for
26 parties. The rules, at a minimum, shall provide for the following:

- 27 (1) The right of the parties to be represented at the appeal by a non-attorney
28 advocate.
29 (2) The right of the parties to be present at the hearing.
30 (3) If the appeal is made by a student, the right of the student to be accompanied
31 by his or her parents.
32 (4) The right of the parties to question witnesses appearing at the hearing.
33 (5) The right to present evidence on the parties' behalf, which may include written
34 statements or oral testimony.
35 (6) The right of the parties to make an audio or video recording of the hearing.
36 (7) The right to a written decision, based on substantial evidence presented at the
37 hearing, either upholding, modifying, or rejecting the application of the
38 student participation rule, including the basis for the decision, and the right to
39 appeal the decision and notice of the procedures for such appeal, when
40 applicable.

41 **"§ 115C-407.105. Gameplay rules appeals process.**

42 (a) The Commission shall appoint an appeals board as provided in this section to provide
43 initial decisions on appeals of a decision related to the application of gameplay rules.

44 (b) The Commission shall appoint the Interscholastic Athletic Gameplay Appeal Board
45 as follows:

- 46 (1) The Gameplay Appeal Board shall have one member who meets the following
47 qualifications from each of the eight education districts established by
48 G.S. 115C-65:
49 a. Resides in the education district the member is appointed to represent.
50 b. Is an employee of a public school unit.

- 1 (2) Appointed members shall serve four-year terms beginning on July 1 in
2 even-numbered years. No member shall serve more than two consecutive full
3 terms.
- 4 (3) Any vacancies shall be filled by the Commission. A seat shall be deemed
5 vacant if the appointed member ceases to be employed by the public school
6 unit or reside in the same education district as at the time of appointment.
- 7 (4) A member shall recuse themselves from any appeal related to a school located
8 in the education district where the member resides.
- 9 (5) Members shall receive per diem and travel allowances in accordance with
10 G.S. 138-5 and 138-6, to be paid by the Commission from the Fund.
- 11 (c) The Director of the Commission shall provide electronic written notice of a decision
12 related to the application of gameplay rules to a school within two business days of the decision.
13 A school shall provide notice to the student and parent of any student affected by a decision
14 related to the application of gameplay rules within two business days of the earlier of the decision
15 by the school or notice of a decision by the Director of the Commission. Notifications by schools
16 to the student and parent of the student may be made electronically with the consent of the parent
17 of that student.
- 18 (d) A school or student, including the parent of the student, may appeal an application of
19 gameplay rules as follows:
- 20 (1) An initial appeal shall be made to the Gameplay Appeal Board no later than
21 14 days following the date of transmission of the notice of the decision to the
22 appealing party. The appeal shall be conducted in accordance with the
23 procedures in subsection (e) of this section. The notice of appeal shall be
24 submitted to the Commission's appeal coordinator, who shall coordinate the
25 hearing. A hearing before the Gameplay Appeal Board shall be scheduled
26 within 14 days of the notice. The Gameplay Appeal Board shall issue a written
27 decision within seven days of the hearing that shall be transmitted to the
28 parties electronically unless the parties request an alternative means of
29 notification. The decision of the Gameplay Appeal Board shall be appealable
30 to the Commission.
- 31 (2) A final appeal from the Gameplay Appeal Board panel decision shall be made
32 to the Commission no later than 14 days following the date of transmission of
33 the notice of the decision to the appealing party. The final appeal shall be
34 conducted in accordance with the procedures in subsection (e) of this section.
35 The notice of appeal shall be submitted to the Commission's appeal
36 coordinator, who shall coordinate the hearing. A member shall recuse
37 themselves from any appeal related to a school located in the education district
38 where the member resides. A hearing before the Commission shall be
39 scheduled within 14 days of the notice. The Commission shall issue a written
40 decision within seven days of the hearing that shall be transmitted to the
41 parties electronically unless the parties request an alternative means of
42 notification. The decision of the Commission shall be final.
- 43 (e) The Commission shall adopt by rule the procedures for conduct of appeals consistent
44 with this section. Appeal hearings may be conducted virtually, in the discretion of the reviewing
45 entity, to facilitate timely hearings and access for parties. The rules, at a minimum, shall provide
46 for the following:
- 47 (1) The right of the parties to be represented at the appeal by a non-attorney
48 advocate.
- 49 (2) The right of the parties to be present at the hearing.
- 50 (3) If the appeal is made by a student, the right of the student to be accompanied
51 by his or her parents.

- 1 (4) The right of the parties to question witnesses appearing at the hearing.
2 (5) The right to present evidence on the parties' behalf, which may include written
3 statements or oral testimony.
4 (6) The right of the parties to make an audio or video recording of the hearing.
5 (7) The right to a written decision, based on substantial evidence presented at the
6 hearing, either upholding, modifying, or rejecting the application of the
7 student participation rule, including the basis for the decision, and the right to
8 appeal the decision and notice of the procedures for such appeal, when
9 applicable."

10 **SECTION 1.(c)** The State Board of Education shall review and adopt new or revised
11 rules on interscholastic athletics in accordance with the requirements of Article 29E of Chapter
12 115C of the General Statutes, as enacted by this act, no later than January 31, 2022. The State
13 Board of Education is authorized to adopt temporary rules as provided in G.S. 150B-21.1 for use
14 in the 2022-2023 school year.

15 **SECTION 1.(d)** The State Board of Education shall make appointments to the
16 Student Athletic Participation Initial Appeal Board and Student Athletic Participation Final
17 Appeal Board no later than March 1, 2022. Notwithstanding G.S. 115C-407.100, as enacted by
18 this act, for the initial appointments to the boards, the State Board of Education shall designate
19 eight of the 16 appointments to the Student Athletic Participation Initial Appeal Board to
20 two-year terms of office, and four of the eight appointments to the Student Athletic Participation
21 Final Appeal Board to two-year terms of office. Thereafter, all appointments shall be for
22 four-year terms of office.

23 **SECTION 1.(e)** The State Board of Education shall not designate the North
24 Carolina High School Athletic Association (NCHSAA) as the designated organization to apply
25 and enforce the State Board of Education's rules governing participation in interscholastic athletic
26 activities at the high school level for the 2021-2022 school year unless the NCHSAA agrees to
27 discontinue all financial penalties for rules violations for participating schools during the
28 2021-2022 school year through a memorandum of understanding.

29 **SECTION 1.(f)** In the event the NCHSAA is not designated by the State Board of
30 Education to apply and enforce the State Board of Education's rules governing participation in
31 interscholastic athletic activities at the high school level for the 2021-2022 school year, or if the
32 NCHSAA elects to not be the State Board of Education's designee, the State Board of Education
33 shall direct the Department of Public Instruction to apply and enforce its rules for high schools
34 for the 2021-2022 school year. Notwithstanding the requirements of Article 2A of Chapter 150B
35 of the General Statutes, the Department of Public Instruction shall apply and enforce the existing
36 rules adopted by the State Board of Education as of July 1, 2021, and the existing rules and polies
37 adopted by the NCHSAA as of July 1, 2021 for the 2021-2022 school year, with the exception
38 that the Department of Public Instruction shall not apply any financial penalties for rules
39 violations for participating schools during the 2021-2022 school year. The State Board of
40 Education is authorized to charge participating schools reasonable fees to cover the costs of
41 administration for the 2021-2022 school year.

42 **SECTION 1.(g)** A public school unit shall not pay dues to the North Carolina High
43 School Athletic Association for the 2021-2022 school year prior to the date the North Carolina
44 High School Athletic Association enters into a memorandum of understanding with the State
45 Board of Education as provided in subsection (e) of this section. A public school unit is
46 authorized to participate in interscholastic athletic activities as follows:

- 47 (1) During the 2021-2022 school year, under the regulation of one of the
48 following:
49 a. The North Carolina High School Athletic Association, if operating
50 under a memorandum of understanding with the State Board of
51 Education as required by subsection (e) of this section.

- 1 b. The Department of Public Instruction.
- 2 (2) Beginning with the 2022-2023 school year, under the regulation of the State
- 3 Board of Education and North Carolina Interscholastic Athletic Commission,
- 4 as provided in Article 29E of Chapter 115C, as enacted by this act.

5 **SECTION 1.(h)** Initial appointments to the North Carolina Interscholastic Athletic

6 Commission shall be made by all appointing entities no later than September 15, 2021.

7 Notwithstanding G.S. 115C-407.75, as enacted by this act, the following shall apply to the initial

8 appointments made in 2021:

- 9 (1) Of the members appointed by the Governor, four of the nine appointments
- 10 shall be designated to serve a two-year term, and no more than three members
- 11 shall be employed by a school classified as Class A, AA, AAA, or AAAA,
- 12 respectively, as of the date of appointment.
- 13 (2) Of the members appointed by the General Assembly upon the
- 14 recommendation of the President Pro Tempore of the Senate, two of the four
- 15 appointments shall be designated to serve a two-year term, and no more than
- 16 two members shall be employed by a school classified as Class A, AA, AAA,
- 17 or AAAA, respectively, as of the date of appointment.
- 18 (3) Of the members appointed by the General Assembly upon the
- 19 recommendation of the Speaker of the House of Representatives, two of the
- 20 four appointments shall be designated to serve a two-year term, and no more
- 21 than two members shall be employed by a school classified as Class A, AA,
- 22 AAA, or AAAA, respectively, as of the date of appointment.

23 **SECTION 1.(i)** The Secretary of the Department of Administration shall convene the

24 first meeting of the Commission no later than 21 days after all appointments to the Commission

25 have been made by the General Assembly, and shall provide temporary staff to the Commission

26 through December 1, 2021.

27 **SECTION 1.(j)** The Commission shall adopt rules and fees in accordance with the

28 requirements of Article 29E of Chapter 115C of the General Statutes, as enacted by this act, no

29 later than February 15, 2022. The Commission is authorized to adopt temporary rules as provided

30 in G.S. 150B-21.1 for use in the 2022-2023 school year. In adopting rules and fees, the

31 Commission may establish workgroups of athletic directors, principals, coaches, and parents to

32 provide input to the Commission.

33 **SECTION 1.(k)** The Commission shall provide information to all public school units

34 in the State on the adopted rules and fees no later than February 28, 2022.

35 **SECTION 1.(l)** This section is effective when it becomes law. Subsections (a) and

36 (b) of this section apply beginning with interscholastic athletic competitions occurring during the

37 2022-2023 school year.

38

39 PART II. CONFORMING CHANGES

40 **SECTION 2.(a)** G.S. 115C-12(23) reads as rewritten:

41 "(23) Power to Adopt Eligibility Rules for Interscholastic Athletic Competition. –

42 In accordance with Article 29E of this Chapter, The State Board of

43 Education shall adopt rules governing interscholastic athletic activities

44 conducted by local boards of education, ~~including eligibility for student~~

45 ~~participation public school units. With regard to middle schools and high~~

46 ~~schools, the rules shall provide for the following:~~

- 47 a. ~~All coaches, school nurses, athletic directors, first responders,~~
- 48 ~~volunteers, students who participate in interscholastic athletic~~
- 49 ~~activities, and the parents of those students shall receive, on an annual~~
- 50 ~~basis, a concussion and head injury information sheet. School~~
- 51 ~~employees, first responders, volunteers, and students must sign the~~

1 ~~sheet and return it to the coach before they can participate in~~
2 ~~interscholastic athletic activities, including tryouts, practices, or~~
3 ~~competition. Parents must sign the sheet and return it to the coach~~
4 ~~before their children can participate in any such interscholastic athletic~~
5 ~~activities. The signed sheets shall be maintained in accordance with~~
6 ~~sub-subdivision d. of this subdivision.~~

7 ~~For the purpose of this subdivision, a concussion is a traumatic~~
8 ~~brain injury caused by a direct or indirect impact to the head that~~
9 ~~results in disruption of normal brain function, which may or may not~~
10 ~~result in loss of consciousness.~~

11 ~~b. If a student participating in an interscholastic athletic activity exhibits~~
12 ~~signs or symptoms consistent with concussion, the student shall be~~
13 ~~removed from the activity at that time and shall not be allowed to~~
14 ~~return to play or practice that day. The student shall not return to play~~
15 ~~or practice on a subsequent day until the student is evaluated by and~~
16 ~~receives written clearance for such participation from (i) a physician~~
17 ~~licensed under Article 1 of Chapter 90 of the General Statutes with~~
18 ~~training in concussion management, (ii) a neuropsychologist licensed~~
19 ~~under Article 18A of Chapter 90 of the General Statutes with training~~
20 ~~in concussion management and working in consultation with a~~
21 ~~physician licensed under Article 1 of Chapter 90 of the General~~
22 ~~Statutes, (iii) an athletic trainer licensed under Article 34 of Chapter~~
23 ~~90 of the General Statutes, (iv) a physician assistant, consistent with~~
24 ~~the limitations of G.S. 90 18.1, or (v) a nurse practitioner, consistent~~
25 ~~with the limitations of G.S. 90 18.2.~~

26 ~~e. Each school shall develop a venue specific emergency action plan to~~
27 ~~deal with serious injuries and acute medical conditions in which the~~
28 ~~condition of the patient may deteriorate rapidly. The plan shall include~~
29 ~~a delineation of roles, methods of communication, available~~
30 ~~emergency equipment, and access to and plan for emergency transport.~~
31 ~~This plan must be (i) in writing, (ii) reviewed by an athletic trainer~~
32 ~~licensed in North Carolina, (iii) approved by the principal of the~~
33 ~~school, (iv) distributed to all appropriate personnel, (v) posted~~
34 ~~conspicuously at all venues, and (vi) reviewed and rehearsed annually~~
35 ~~by all licensed athletic trainers, first responders, coaches, school~~
36 ~~nurses, athletic directors, and volunteers for interscholastic athletic~~
37 ~~activities.~~

38 ~~d. Each school shall maintain complete and accurate records of its~~
39 ~~compliance with the requirements of this subdivision pertaining to~~
40 ~~head injuries.~~

41 ~~The State Board of Education may authorize a designated organization to~~
42 ~~apply and enforce the Board's rules governing participation in interscholastic~~
43 ~~athletic activities at the high school level."~~

44 **SECTION 2.(b)** G.S. 115C-47(4) reads as rewritten:

45 "(4) To Regulate Extracurricular Activities. – Local boards of education shall
46 make all rules and regulations necessary for the conducting of extracurricular
47 activities in the schools under their supervision, including a program of
48 athletics, where desired, without assuming liability therefor; provided, that all
49 interscholastic athletic activities shall be conducted in accordance with rules
50 and regulations prescribed adopted by the State Board of Education, Education
51 and the North Carolina Interscholastic Athletic Commission, in accordance

1 with Article 29E of this Chapter. For any sport for which the North Carolina
2 Interscholastic Athletic Commission has adopted gameplay rules, a local
3 board of education shall only participate in interscholastic athletic activities
4 regulated by the Commission."

5 **SECTION 2.(c)** G.S. 115C-366(f) reads as rewritten:

6 "(f) This section shall not be construed to allow students to transfer from one local school
7 administrative unit to another for athletic participation purposes in violation of eligibility
8 requirements ~~established~~ adopted by the State Board of Education and the North Carolina High
9 School Athletic Association. Education."

10 **SECTION 2.(d)** G.S. 116-235(b) is amended by adding a new subdivision to read:

11 "(4) Interscholastic Athletics. – If the Board of Trustees elects to provide a
12 program of interscholastic athletics, that program shall be conducted in
13 accordance with rules adopted by the State Board of Education and the North
14 Carolina Interscholastic Athletic Commission, in accordance with Article 29E
15 of Chapter 115C of the General Statutes. For any sport for which the North
16 Carolina Interscholastic Athletic Commission has adopted gameplay rules, the
17 School shall only participate in interscholastic athletic activities regulated by
18 the Commission."

19 **SECTION 2.(e)** G.S. 126-5(c1) is amended by adding a new subdivision to read:

20 "(37) The Director of the North Carolina Interscholastic Athletic Commission.

21 **SECTION 2.(f)** G.S. 143-291(c) is repealed.

22 **SECTION 2.(g)** This section is effective July 1, 2022.

23 24 **PART III. AUTHORIZE USE OF NEEDS-BASED PUBLIC SCHOOL CAPITAL FUND** 25 **GRANTS FOR ATHLETIC FACILITIES**

26
27 **SECTION 3.(a)** Section 5.3(e) of S.L. 2017-57, as amended by Section 1.1(a) of
28 S.L. 2017-187, Section 1.1 of S.L. 2017-212, Section 5.3(a) of S.L. 2018-5, and Section 3A.1 of
29 S.L. 2018-80, reads as rewritten:

30 "**SECTION 5.3.(e)** Grant funds awarded under this section shall be subject to a matching
31 requirement from the recipient county as follows:

32 (1) For a county designated as a development tier one area, the grant shall not
33 exceed three dollars (\$3.00) in grant funds for every one dollar (\$1.00)
34 provided by the county. Grant funds awarded to a county designated as a
35 development tier one area shall not exceed fifteen million dollars
36 (\$15,000,000).

37 (2) For a county designated as a development tier two area, the grant shall not
38 exceed one dollar (\$1.00) for every one dollar (\$1.00) in grant funds provided
39 by the county. Grant funds awarded to a county designated as a tier two area
40 shall not exceed ten million dollars (\$10,000,000).

41 Grant funds shall be used for the construction of new school buildings and school athletic
42 facilities only. Grant funds shall not be used for real property acquisition. Grant funds shall be
43 disbursed in a series of payments based on the progress of the project. To obtain a payment, the
44 grantee shall submit a request for payment along with documentation of the expenditures for
45 which the payment is requested and evidence that the matching requirement contained in
46 subsection (b) of this section has been met. Grant funds shall not be awarded to any county that
47 has received an aggregate amount exceeding eight million seven hundred fifty thousand dollars
48 (\$8,750,000) in funds from the Public School Building Capital Fund from the 2012-2013 fiscal
49 year to the 2016-2017 fiscal year. No county may receive grant funds under this section more
50 than once every five years. No portion of grant funds may be used to acquire a Leadership in
51 Energy and Environmental Design (LEED) certification. For fiscal year 2018-2019, for the

1 purposes of this section, a county shall be considered to be designated as a development tier one
2 area if (i) it was so designated by the Department of Commerce in 2017 or 2018 and (ii) the
3 county filed a grant application under this section in 2017."

4 **SECTION 3.(b)** This section is effective July 1, 2021.
5

6 **PART IV. FUNDING FOR NORTH CAROLINA INTERSCHOLASTIC ATHLETIC**
7 **COMMISSION**

8 **SECTION 4.** It is the intent of the General Assembly to provide funding to be used
9 for the establishment of the North Carolina Interscholastic Athletic Commission and initial
10 personnel costs during the 2021-2022 fiscal year.
11

12 **PART V. EFFECTIVE DATE**

13 **SECTION 5.** Except at otherwise provided herein, this act is effective when it
14 becomes law.