
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 808 Session of
2021

INTRODUCED BY MARTIN, TOMLINSON, BROWNE, A. WILLIAMS AND SAVAL,
JULY 7, 2021

REFERRED TO EDUCATION, JULY 7, 2021

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," adding provisions relating to
6 intercollegiate athletics by providing for compensation
7 regarding a college student athlete's name, image or likeness
8 rights, for professional representation, for scholarships,
9 for certain contracts violations and claims and for
10 settlements.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
14 as the Public School Code of 1949, is amended by adding an
15 article to read:

16 ARTICLE XX-K

17 INTERCOLLEGIATE ATHLETICS

18 Section 2001-K. Scope of article.

19 This article relates to college athlete compensation related
20 to name, image or likeness and professional representation.

21 Section 2002-K. Definitions.

22 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Athlete agent." As defined in 5 Pa.C.S. § 3102 (relating to
4 definitions.

5 "College student athlete." An individual enrolled at an
6 institution of higher education who participates in
7 intercollegiate athletics for the institution of higher
8 education. The term does not include an individual whose
9 participation is or was in a college intramural sport, club
10 sport or in a professional sport outside of intercollegiate
11 athletics.

12 "Institution of higher education." Any of the following:

13 (1) A university within the State System of Higher
14 Education.

15 (2) The Pennsylvania State University, the University of
16 Pittsburgh, Temple University, Lincoln University or any
17 other institution designated as State-related by the
18 Commonwealth.

19 (3) The Thaddeus Stevens College of Technology.

20 (4) A community college as defined in Article XIX-A.

21 (5) A college established under Article XIX-G.

22 (6) An institution of higher education located in and
23 incorporated or chartered by the Commonwealth and entitled to
24 confer degrees as specified in section 24 Pa.C.S. § 6505
25 (relating to power to confer degrees) and as provided for by
26 the standards and qualifications prescribed by the State
27 Board of Education under 24 Pa.C.S. Ch. 65 (relating to
28 private colleges, universities and seminaries).

29 (7) A private school licensed under the act of December
30 15, 1986 (P.L.1585, No.174), known as the Private Licensed

1 Schools Act.

2 (8) A foreign corporation approved to operate an
3 educational enterprise under 22 Pa. Code Ch. 36 (relating to
4 foreign corporation standards).

5 "NCAA." The National Collegiate Athletic Association.

6 Section 2003-K. Compensation regarding college student
7 athlete's name, image or likeness rights.

8 (a) Compensation allowed.--A college student athlete may
9 earn compensation for the use of the college student athlete's
10 name, image or likeness under this article. The compensation
11 shall be commensurate with the market value of the student
12 athlete's name, image or likeness. The compensation may not be
13 provided in exchange, in whole or in part, for a current or
14 prospective student athlete to attend, participate or perform at
15 a particular institution of higher education.

16 (b) Prohibition regarding institutions of higher
17 education.--An institution of higher education may not:

18 (1) Uphold a rule, requirement, standard or other
19 limitation that prevents a college student athlete of the
20 institution of higher education from earning compensation
21 through the use of the college student athlete's name, image
22 or likeness rights.

23 (2) Arrange third-party compensation for a college
24 student athlete relating to the use of the college student
25 athlete's name, image or likeness rights or use a similar
26 type of arrangement as an inducement to recruit a prospective
27 college student athlete.

28 (c) Prohibitions regarding intercollegiate athletic
29 entities.--An athletic association, conference or other group or
30 organization with authority over intercollegiate athletics,

1 including the NCAA, may not:

2 (1) Prevent a college student athlete from earning
3 compensation through the use or license of the college
4 student athlete's name, image or likeness rights.

5 (2) Prevent an institution of higher education from
6 fully participating in intercollegiate athletics as a result
7 of a college student athlete's use of the college student
8 athlete's name, image or likeness rights to seek
9 compensation.

10 (d) Royalty payment.--A person that produces a college team
11 jersey, a college team video game or college team trading cards
12 for the purpose of making a profit shall make a royalty payment
13 to each college student athlete whose name, image, likeness or
14 other individually identifiable feature is used.

15 Section 2004-K. Professional representation.

16 (a) Prohibitions.--

17 (1) An institution of higher education, athletic
18 association, conference or other group or organization with
19 authority over intercollegiate athletics, including the NCAA,
20 may not interfere with or prevent a college student athlete
21 from fully participating in intercollegiate athletics for
22 obtaining professional representation in relation to
23 contracts or legal matters, including representation provided
24 by athlete agents, financial advisors or legal representation
25 provided by attorneys, in relation to a college student
26 athlete's use of the college student athlete's name, image or
27 likeness rights.

28 (2) An athletic association, conference or other group
29 or organization with authority over intercollegiate
30 athletics, including the NCAA, may not prevent an institution

1 of higher education from fully participating in
2 intercollegiate athletics without penalty to the institution
3 or individual student as a result of a college student
4 athlete obtaining professional representation in relation to
5 contracts or legal matters, including representation provided
6 by athlete agents, financial advisors or legal representation
7 provided by attorneys, in relation to a college student
8 athlete's use of the college student athlete's name, image or
9 likeness rights.

10 (b) Qualifications.--Professional representation obtained by
11 a college student athlete shall be from a person:

12 (1) acting as an athlete agent in accordance with 5
13 Pa.C.S. Ch. 33 (relating to registration);

14 (2) acting as a financial advisor in accordance with the
15 laws of this Commonwealth; or

16 (3) admitted to practice law by a court of record of
17 this Commonwealth.

18 (c) Limitation.--A person that represents an institution of
19 higher education may not represent a college student athlete in
20 a business agreement.

21 Section 2005-K. Scholarships.

22 (a) Eligibility.--Earning compensation from the use of a
23 college student athlete's name, image or likeness rights may not
24 affect the college student athlete's scholarship eligibility,
25 duration or renewal.

26 (b) Compensation.--

27 (1) For purposes of this article, an athletics grant-in-
28 aid or stipend scholarship from an institution of higher
29 education in which a college student athlete is enrolled may
30 not be considered to limit a college student athlete's right

1 to use the college student athlete's name, image or likeness
2 rights, except as expressly provided in this section.

3 (2) An athletics grant-in-aid or stipend scholarship may
4 not be revoked or reduced as a result of a college student
5 athlete earning compensation under this article, except if
6 otherwise mandated by Federal or state student aid
7 guidelines.

8 Section 2006-K. Contracts.

9 (a) Opportunities.--An institution of higher education,
10 athletic association, conference or other group or organization
11 with authority over intercollegiate athletics may not be
12 required to identify, create, facilitate, negotiate or enable
13 opportunities for a college student athlete to earn compensation
14 for the college student athlete's use of the college student
15 athlete's name, image or likeness rights.

16 (b) Use of trademarks.--This article shall not establish or
17 grant a right to a college student athlete to use the name,
18 trademarks, services marks, logos, symbols or any other
19 intellectual property, registered or unregistered, of an
20 institution of higher education, athletic association,
21 conference or other group or organization with authority over
22 intercollegiate athletics, in furtherance of the college student
23 athlete's opportunities to earn compensation for the college
24 student athlete's use of the college student athlete's name,
25 image or likeness rights.

26 (c) Enforcement.--This article shall not limit the right of
27 an institution of higher education to establish and enforce any
28 of the following:

29 (1) Academic standards, requirements, regulations or
30 obligations for the institution of higher education's college

1 student athletes.

2 (2) Team rules of conduct or other rules of conduct.

3 (3) Standards or policies regarding the governance or
4 operation of or participation in intercollegiate athletics.

5 (4) Disciplinary rules and standards generally
6 applicable to all students of the institution of higher
7 education.

8 (d) Prohibition.--A college student athlete may not earn
9 compensation as a result of the use of the college student
10 athlete's name, image or likeness in connection with a person,
11 company or organization related to or associated with the
12 development, production, distribution, wholesaling or retailing
13 of any of the following:

14 (1) Adult entertainment products and services.

15 (2) Alcohol products.

16 (3) Casinos and gambling, including sports betting, the
17 lottery and betting in connection with video games, online
18 games and mobile devices.

19 (4) Tobacco and electronic smoking products and devices.

20 (5) Prescription pharmaceuticals.

21 (6) A controlled dangerous substance.

22 (e) Prohibition.--An institution of higher education may
23 prohibit a college student athlete's involvement in name, image
24 or likeness activities that conflict with existing institutional
25 sponsorship arrangements at the time the college student athlete
26 discloses a contract to the institution of higher education as
27 required under subsection (f). An institution of higher
28 education, at the institution of higher education's discretion,
29 may prohibit a college student athlete's involvement in name,
30 image or likeness activities based on other considerations, such

1 as conflict with institutional values, as defined by the
2 institution of higher education. An institution of higher
3 education shall have policies that specify the name, image or
4 likeness activities in which college student athletes may or may
5 not engage.

6 (f) Disclosure.--A college student athlete who proposes to
7 enter into a contract providing compensation to the college
8 student athlete for use of the college student athlete's name,
9 image or likeness rights shall disclose the contract at least
10 seven days prior to execution of the contract to an official of
11 the institution of higher education, who is designated by the
12 institution of higher education.

13 Section 2007-K. Violations and claims.

14 (a) Protections and right to adjudicate.--A college student
15 athlete, institution of higher education or conference shall not
16 be deprived of a protection provided under State law with
17 respect to a controversy that arises in this Commonwealth and
18 shall have the right to adjudication in this Commonwealth of a
19 claim that arises in this Commonwealth.

20 (b) Private civil action.--A college student athlete shall
21 have the right to pursue a private civil action against a person
22 that violates this article. The court shall award costs and
23 reasonable attorney fees to a prevailing plaintiff in an action
24 brought against a person violating this article.

25 Section 2008-K. Settlements.

26 Legal settlements made on or after the effective date of this
27 section may not permit noncompliance with this article.

28 Section 2009-K. Severability.

29 The provisions of this article are severable. If any
30 provision of this article or the application of any provision of

1 this article is held to be invalid, that invalidity shall not
2 affect any other provision or application of any other provision
3 that can be given effect without the invalid provision or
4 application.

5 Section 2. This act shall take effect in 60 days.