

118TH CONGRESS
1ST SESSION

S. 2495

To protect student athletes, ensure fair competition and compensation, and preserve intercollegiate athletics, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2023

Mr. MANCHIN (for himself and Mr. TUBERVILLE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect student athletes, ensure fair competition and compensation, and preserve intercollegiate athletics, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Athletes,
5 Schools, and Sports Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **AGENT.**—The term “agent” means an ath-
9 lete agent (as defined in section 2 of the Sports

1 Agent Responsibility and Trust Act (15 U.S.C.
2 7801)).

3 (2) ATHLETIC DEPARTMENT.—The term “ath-
4 letic department” means a department at an institu-
5 tion of higher education that sponsors or conducts 1
6 or more varsity intercollegiate athletics programs in
7 which student athletes enrolled at the institution of
8 higher education compete in athletic contests against
9 student athletes enrolled at another institution of
10 higher education.

11 (3) BOOSTER.—The term “booster” means any
12 individual or entity that has—

13 (A) provided a donation—

14 (i) to an institution of higher edu-
15 cation to obtain season tickets for any
16 sport; or

17 (ii) to support the athletics program
18 at an institution of higher education;

19 (B) participated in or has been a member
20 of an organization promoting in any way the
21 varsity intercollegiate athletics programs of an
22 institution of higher education; or

23 (C) made a financial contribution to the
24 athletic department, athletics foundation, collec-

1 tive, or booster organization affiliated with an
2 institution of higher education.

3 (4) COMPENSATION.—The term “compensa-
4 tion”—

5 (A) means any monetary or in-kind pay-
6 ment to a student athlete; and

7 (B) does not include—

8 (i) grant-in-aid;

9 (ii) funds from any student assistance
10 fund or academic enhancement fund affili-
11 ated with an institution of higher edu-
12 cation that are available and distributed
13 without regard to athletic ability for the
14 purposes of assisting student athletes in
15 meeting their financial needs, improving
16 the welfare of student athletes, providing
17 academic support for student athletes, or
18 recognizing the academic achievement of
19 student athletes, including by providing—

20 (I) postgraduate scholarships;

21 (II) school supplies;

22 (III) benefits, such as travel ex-
23 penses for student athletes, clothing,
24 and magazine subscriptions; or

1 (IV) payments incidental to ath-
2 letics participation, such as the Na-
3 tional Collegiate Athletic Association
4 cost-of-attendance stipend;

5 (iii) awards for participation or
6 achievement in intercollegiate athletics,
7 such as qualifying for a bowl game, or pay-
8 ments for performance in the Olympics;

9 (iv) awards for future educational op-
10 portunities;

11 (v) premiums paid on behalf of a stu-
12 dent athlete for loss-of-value insurance or
13 disability insurance; or

14 (vi) travel funds for members of a stu-
15 dent athlete's immediate family to attend
16 sporting events of the student athlete.

17 (5) CONFERENCE.—The term “conference”
18 means an organization that—

19 (A) has as members 2 or more institutions
20 of higher education;

21 (B) arranges or conducts season-long
22 intercollegiate athletic events to determine,
23 among its members, a champion in a particular
24 intercollegiate sport; and

1 (C) sets rules for varsity intercollegiate
2 sports competition among its members.

3 (6) GRANT-IN-AID.—The term “grant-in-aid”
4 means—

5 (A) tuition, room, board, books, fees, and
6 personal expenses paid or provided by an insti-
7 tution of higher education up to the full cost of
8 attendance;

9 (B) Federal Pell Grants and other State
10 and Federal grants unrelated to, and not
11 awarded with respect to, participation in varsity
12 intercollegiate sports competition;

13 (C) health insurance and the costs of
14 health care wholly or partly self-funded by the
15 National Collegiate Athletic Association, a con-
16 ference, or an institution of higher education;

17 (D) disability and loss of value insurance
18 that is wholly or partly self-funded by the Na-
19 tional Collegiate Athletic Association, a con-
20 ference, or an institution of higher education;
21 and

22 (E) career counseling or job placement
23 services available to all students at an institu-
24 tion of higher education.

1 (7) IMMEDIATE FAMILY.—With respect to a
2 student athlete, the term “immediate family” means
3 the 1 or more parents, guardians, siblings, aunts,
4 uncles, and grandparents of the student athlete.

5 (8) INSTITUTION OF HIGHER EDUCATION.—The
6 term “institution of higher education” means an in-
7 stitution of higher education as defined in section
8 101 of the Higher Education Act of 1965 (20
9 U.S.C. 1001).

10 (9) NAME, IMAGE, OR LIKENESS.—The term
11 “name, image, or likeness” means a symbol, word,
12 given name, surname, nickname, design, or image
13 (such as a photograph or video) that readily identi-
14 fies a student athlete.

15 (10) NAME, IMAGE, OR LIKENESS CONTRACT.—
16 The term “name, image, or likeness contract” means
17 an agreement under which a student athlete receives
18 compensation from a third party for the use of the
19 publicity received by, or the reputation, following, or
20 fame of, the student athlete.

21 (11) NATIONAL COLLEGIATE ATHLETIC ASSO-
22 CIATION.—The term “National Collegiate Athletic
23 Association” means the National Collegiate Athletic
24 Association that functions as an authority for inter-

1 collegiate athletics in the United States (or a suc-
2 cessor organization).

3 (12) PROSPECTIVE STUDENT ATHLETE.—The
4 term “prospective student athlete” means an indi-
5 vidual who—

6 (A) is attending, and has not yet grad-
7 uated from, an elementary school or a sec-
8 ondary school (as such terms are defined in sec-
9 tion 8101 of the Elementary and Secondary
10 Education Act of 1965 (20 U.S.C. 7801)); and

11 (B) participates in a sports program.

12 (13) STUDENT ATHLETE.—The term “student
13 athlete” means an individual who engages or is eligi-
14 ble to engage in intercollegiate athletics.

15 (14) THIRD PARTY.—The term “third party”
16 means—

17 (A) a person, other than an institution of
18 higher education or a student athlete, that—

19 (i) offers, solicits, or enters into a
20 name, image, or likeness contract; or

21 (ii) offers or provides name, image, or
22 likeness compensation;

23 (B) an entity that is affiliated with an in-
24 stitution of higher education, yet operates inde-
25 pendently of the institution of higher education,

1 that generates funding to support opportunities
2 for student athletes to enter into name, image,
3 or likeness contracts; or

4 (C) an entity that is, refers to itself as, or
5 is colloquially referred to as, a collective.

6 (15) TRANSFER PORTAL.—The term “transfer
7 portal” means a process managed by the National
8 Collegiate Athletic Association that facilitates the
9 transfer of student athletes from one institution of
10 higher education to another institution of higher
11 education for the purpose of engaging, or being able
12 to engage in the future, in intercollegiate athletics.

13 (16) VARSITY INTERCOLLEGIATE ATHLETICS
14 PROGRAM.—The term “varsity intercollegiate ath-
15 letics program” means a sport played at the inter-
16 collegiate level, administered by an athletic depart-
17 ment, for which eligibility requirements for partici-
18 pation by student athletes are established by the Na-
19 tional Collegiate Athletic Association or a con-
20 ference.

21 (17) VARSITY INTERCOLLEGIATE SPORTS COM-
22 PETITION.—The term “varsity intercollegiate sports
23 competition” means a competition—

24 (A) between or among student athletes;
25 and

1 (B) involving 2 or more varsity intercolle-
2 giate athletics programs sponsored by different
3 institutions of higher education.

4 **SEC. 3. THIRD PARTIES.**

5 (a) IN GENERAL.—A third party may only promote
6 an intercollegiate athletics program, assist with recruiting,
7 or assist with providing benefits to student athletes or the
8 family members of student athletes if the third party is
9 formally associated with an institution of higher education
10 through a written contract pursuant to the normal policies
11 of the institution of higher education.

12 (b) INDUCEMENTS.—

13 (1) IN GENERAL.—An individual, booster, or
14 third party may not offer or provide a prospective
15 student athlete or a student athlete with any com-
16 pensation or benefit that is intended to induce the
17 prospective student athlete or student athlete to en-
18 roll in or transfer to a particular institution of high-
19 er education.

20 (2) RULE OF CONSTRUCTION.—Nothing in this
21 subsection may be construed to prohibit an indi-
22 vidual, booster, or third party from offering or pro-
23 viding a bona fide grant that may be used by a pro-
24 spective student athlete or student athlete solely for
25 the payment of tuition, room and board, or other

1 fees charged by an institution of higher education
2 for enrollment in an academic program offered by
3 the institution of higher education.

4 (c) EQUAL REPRESENTATION.—A third party associ-
5 ated with an institution of higher education shall offer
6 equal representation of, and provide equal services to, all
7 student athletes in all intercollegiate athletics programs
8 at the institution of higher education.

9 **SEC. 4. TRANSFER PORTAL.**

10 (a) ROLE OF NATIONAL COLLEGIATE ATHLETIC AS-
11 SOCIATION.—The National Collegiate Athletic Association
12 shall set forth rules relating to the transfer portal, includ-
13 ing with respect to the 1 or more periods during which
14 a student athlete may formally notify the institution of
15 higher education in which the student athlete is enrolled
16 of his or her intent to transfer to another institution of
17 higher education.

18 (b) EFFECT OF TRANSFER.—

19 (1) IN GENERAL.—A student athlete enrolled at
20 an institution of higher education who transfers to
21 another institution of higher education shall be ineli-
22 gible to participate in any athletic competition spon-
23 sored by the National Collegiate Athletic Association
24 during the academic year, beginning at the start of
25 the fall semester and ending at the end of an insti-

1 tution of higher education’s final summer session, in
2 which the student athlete entered the transfer por-
3 tal.

4 (2) WAIVER FOR QUALIFYING EVENTS OR CIR-
5 CUMSTANCES.—

6 (A) IN GENERAL.—The National Collegiate
7 Athletic Association may waive the application
8 of paragraph (1) in the case of a student ath-
9 lete—

10 (i) who has completed 3 years of ath-
11 letics eligibility;

12 (ii) whose family member has died or
13 has been diagnosed with a terminal illness;

14 (iii) whose primary position coach or
15 head coach has voluntarily or involuntarily
16 left the institution of higher education in
17 which the student athlete was enrolled be-
18 fore the date on which the student athlete
19 entered the transfer portal; or

20 (iv) who meets any other criteria, as
21 determined by the National Collegiate Ath-
22 letic Association.

23 (B) CRITERIA.—

24 (i) IN GENERAL.—The National Colle-
25 giate Athletic Association may grant a

1 waiver under subparagraph (A) only if, not
2 later than 30 days after the date on which
3 a qualifying event or circumstance de-
4 scribed in that subparagraph occurs, the
5 student athlete concerned provides to the
6 athletic department of his or her institu-
7 tion of higher education written docu-
8 mentation of the event or circumstance.

9 (ii) VERIFICATION.—The National
10 Collegiate Athletic Association shall estab-
11 lish procedures for verifying the validity of
12 the documentation provided under clause
13 (i).

14 (c) CERTAIN OTHER RULES AND REGULATIONS.—

15 This section shall supersede any National Ath-
16 letic Association rule or regulation related to transfer eligi-
17 bility that is in effect on the date of the enactment of this
18 Act.

19 **SEC. 5. VALID NAME, IMAGE, OR LIKENESS CONTRACT.**

20 (a) IN GENERAL.—A student athlete may only enter
21 into a name, image, or likeness contract that—

22 (1) is in writing and signed by each party;

23 (2) includes the names of each party;

24 (3) outlines the scope of work to be performed

25 by the student athlete;

1 (4) states the timeline for the performance of
2 such work;

3 (5) states the compensation to be provided to
4 the student athlete;

5 (6) describes the duration of the contract;

6 (7) conforms with the format of a standard
7 contract template developed by the Federal Trade
8 Commission;

9 (8) takes effect after the date on which the stu-
10 dent athlete enrolls in an institution of higher edu-
11 cation and begins participation in intercollegiate ath-
12 letics; and

13 (9) is consistent with this Act.

14 (b) DURATION.—A student athlete may only enter
15 into a name, image, or likeness contract if—

16 (1) the student athlete is enrolled at an institu-
17 tion of higher education during an academic term
18 for which classes have begun; and

19 (2) the duration of the contract does not extend
20 beyond the period during which the student athlete
21 is enrolled at an institution of higher education.

22 (c) STUDENT ATHLETE PARTICIPATION IN INTER-
23 COLLEGIATE ATHLETICS.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the National Collegiate Athletic Associa-

1 tion or an institution of higher education may not
2 prohibit a student athlete from participating in
3 intercollegiate athletics based on the student athlete
4 having entered into a name, image, or likeness con-
5 tract.

6 (2) LIMITATIONS ON NAME, IMAGE, OR LIKE-
7 NESS CONTRACTS.—

8 (A) CONTRACTS WITH CERTAIN PERSONS
9 AND ENTITIES.—Notwithstanding paragraph
10 (1), the National Collegiate Athletic Association
11 or an institution of higher education may pro-
12 hibit a student athlete who is enrolled at the in-
13 stitution from participating in intercollegiate
14 athletics if the student athlete has entered into
15 a name, image, or likeness contract with any
16 person or entity related to or associated with
17 the development, promotion, production, dis-
18 tribution, wholesaling, or retailing of—

19 (i) adult entertainment, sexually sug-
20 gestive products, or sex-oriented products,
21 services, conduct, imagery, or inferences;

22 (ii) alcohol products;

23 (iii) a casino or gambling, including
24 sports betting and betting in connection

1 with a video game or online game, or on a
2 mobile device;

3 (iv) tobacco, marijuana, or electronic
4 smoking products and devices;

5 (v) pharmaceuticals;

6 (vi) any dangerous or controlled sub-
7 stance;

8 (vii) drug paraphernalia;

9 (viii) weapons, including firearms and
10 ammunition; or

11 (ix) any product, substance, or meth-
12 od that is prohibited in competition by the
13 National Collegiate Athletic Association, a
14 conference, or any other organization gov-
15 erning varsity intercollegiate sports com-
16 petition.

17 (B) APPAREL.—The National Collegiate
18 Athletic Association or an institution of higher
19 education may prohibit a student athlete
20 from—

21 (i) wearing any item of clothing,
22 shoes, or other gear with the insignia of
23 any entity while wearing any athletic gear
24 or uniform provided by an institution of
25 higher education or otherwise competing in

1 a varsity intercollegiate sports competition
2 or athletic event sponsored by the institu-
3 tion of higher education at which the stu-
4 dent athlete is enrolled; and

5 (ii) using, without the express permis-
6 sion of the institution of higher education
7 at which the student athlete is enrolled,
8 the insignia, logo, or other intellectual
9 property of the institution of higher edu-
10 cation for any purpose.

11 (3) INSTITUTIONS OF HIGHER EDUCATION.—An
12 institution of higher education may not enter into an
13 advertising or promotional contract with a person or
14 entity described in paragraph (2)(A) if the institu-
15 tion of higher education has prohibited an enrolled
16 student athlete from participating in intercollegiate
17 athletics for having entered into a name, image, or
18 likeness contract with such person or entity.

19 (d) PROHIBITION.—An institution of higher edu-
20 cation shall not—

21 (1) prohibit a student athlete from entering
22 into a name, image, or likeness contract that com-
23 plies with this Act, including through a rule, stand-
24 ard, or policy that affects the eligibility of the stu-
25 dent to receive athletically related student aid (as

1 defined in section 485(e)(8) of the Higher Education
2 Act of 1965 (20 U.S.C. 1092(e)); or

3 (2) provide or arrange compensation for the
4 student athlete for the use of the name, image, or
5 likeness of the student or for participation in inter-
6 collegiate athletics.

7 **SEC. 6. TRANSPARENCY.**

8 (a) **STUDENT ATHLETES.**—Not later than 30 days
9 after entering into a name, image, or likeness contract,
10 a student athlete shall disclose to the institution of higher
11 education at which the student athlete is enrolled—

12 (1) the existence of the contract;

13 (2) the names of the parties to the contract;

14 (3) the scope of work to be performed by the
15 student athlete under the contract and the cor-
16 responding timeline for such work;

17 (4) the compensation to be provided to the stu-
18 dent athlete; and

19 (5) the duration of the contract.

20 (b) **AGENTS.**—An agent representing a student ath-
21 lete with respect to a name, image, or likeness contract
22 shall—

23 (1) register with the Federal Trade Commis-
24 sion; and

25 (2) disclose to the Federal Trade Commission—

1 (A) the fee and compensation structure of
2 the agent;

3 (B) the scope of work to be performed by
4 the agent; and

5 (C) the duration of the contract.

6 (c) THIRD PARTIES.—Each third party shall—

7 (1) register with the Federal Trade Commis-
8 sion; and

9 (2) disclose to the Federal Trade Commission
10 and to each institution of higher education that is a
11 party to a written contract with the third party—

12 (A) the existence of the contract;

13 (B) the names of the parties to the con-
14 tract;

15 (C) the scope of work to be performed by
16 the student athlete under the contract and the
17 corresponding timeline for such work;

18 (D) the compensation to be provided to the
19 student athlete; and

20 (E) the duration of the contract.

21 (d) INDIVIDUALS AND BOOSTERS.—Any individual or
22 booster seeking to enter into a name, image, or likeness
23 contract shall—

24 (1) register with the Federal Trade Commis-
25 sion; and

1 (2) not later than 7 days before the date on
2 which a name, image, or likeness contract is exe-
3 cuted, disclose to the Federal Trade Commission—

4 (A) the existence of the contract;

5 (B) the names of the parties to the con-
6 tract;

7 (C) the scope of work to be performed by
8 the student athlete under the contract and the
9 corresponding timeline for such work;

10 (D) the compensation to be provided to the
11 student athlete; and

12 (E) the duration of the contract.

13 (e) PUBLICATION OF NAME, IMAGE, OR LIKENESS
14 DATA.—Not later than 180 days after the date of the en-
15 actment of this Act, the Federal Trade Commission shall
16 establish a publicly accessible internet website on which
17 the Federal Trade Commission shall publish and fre-
18 quently update anonymized and aggregated name, image,
19 or likeness data.

20 (f) RULE OF CONSTRUCTION.—The disclosure of a
21 name, image, or likeness contract to an institution of high-
22 er education or the National Collegiate Athletic Associa-
23 tion may not be construed as an approval of the name,
24 image, or likeness contract by the institution of higher
25 education or the National Collegiate Athletic Association

1 with respect to the legal requirements or the fairness of
2 the economic terms of the name, image, or likeness con-
3 tract.

4 **SEC. 7. ADDITIONAL PROTECTIONS FOR STUDENT ATH-**
5 **LETES.**

6 (a) EDUCATIONAL RESOURCES.—

7 (1) NATIONAL COLLEGIATE ATHLETIC ASSOCIA-
8 TION.—The National Collegiate Athletic Association
9 or its designee shall develop and make available to
10 student athletes educational resources and informa-
11 tion on the rights of student athletes with respect to
12 name, image, or likeness contracts and related legal
13 and regulatory matters.

14 (2) INSTITUTIONS OF HIGHER EDUCATION.—

15 Each institution of higher education shall develop
16 and make available to student athletes educational
17 resources and information consistent with the edu-
18 cational resources and information developed under
19 paragraph (1).

20 (b) FINANCIAL LITERACY.—The National Collegiate
21 Athletic Association or its designee shall develop, main-
22 tain, and conduct financial literacy and life skills program-
23 ming for student athletes, which shall include—

24 (1) information relating to financial aid and
25 debt management;

1 (2) recommended model budgets for student
2 athletes based on the estimated cost of attendance
3 for the academic year and any grant-in-aid received
4 by the student athlete; and

5 (3) information relating to the potential tax im-
6 plications of entering into a name, image, or likeness
7 contract.

8 (c) TRAVEL AND MEDICAL EXPENSES.—

9 (1) TRUST FUND.—

10 (A) IN GENERAL.—The organizers of any
11 revenue-generating collegiate-level tournament
12 or playoff shall deposit not less than 1 percent
13 of annual gross revenues from such events into
14 a trust fund (referred to in this subsection as
15 the “Fund”), to be managed in a manner deter-
16 mined by the National Collegiate Athletic Asso-
17 ciation, for the purpose of covering the costs
18 of—

19 (i) in the case of a student athlete
20 who is a dependent, travel to sporting
21 events for members of the immediate fam-
22 ily of the student athlete; and

23 (ii) in the case of a former student
24 athlete, all out-of-pocket medical expenses

1 of such athlete that are not covered under
2 paragraph (2)(B), until the later of—

3 (I) the date on which such ath-
4 lete attains the age of 28 years; or

5 (II) 8 years after the date on
6 which the eligibility of such athlete for
7 intercollegiate athletics expired.

8 (B) ELIGIBILITY OF FORMER STUDENT
9 ATHLETES.—To be eligible to receive amounts
10 from the Fund under subparagraph (A)(ii), a
11 former student athlete shall—

12 (i) not later than 7 days after the
13 date on which the last regular season of
14 the sport of such athlete ends, complete an
15 exit physical examination with the institu-
16 tion of higher education; and

17 (ii) graduate from the institution of
18 higher education at which such was en-
19 rolled during such last regular season.

20 (2) MEDICAL EXPENSES.—

21 (A) RESPONSIBILITY OF INSTITUTION OF
22 HIGHER EDUCATION TO PROVIDE HEALTH CARE
23 COVERAGE FOR STUDENT ATHLETES.—An in-
24 stitution of higher education shall provide or
25 procure health care coverage for each student

1 athlete enrolled at the institution of higher edu-
2 cation during any academic year in which the
3 student athlete participates in intercollegiate
4 athletics.

5 (B) PAYMENT OF OUT-OF-POCKET MED-
6 ICAL EXPENSES FOR STUDENT ATHLETES AND
7 FORMER STUDENT ATHLETES.—

8 (i) INSTITUTIONS REPORTING LESS
9 THAN \$20,000,000.—An institution of higher
10 education that reports less than
11 \$20,000,000 in total annual athletics rev-
12 enue to the Department of Education dur-
13 ing an academic year shall be, during the
14 enrollment of a student athlete at the insti-
15 tution of higher education, financially re-
16 sponsible for all out-of-pocket medical ex-
17 penses of the student athlete's health care
18 coverage for any injury or communicable
19 disease incurred or acquired while the stu-
20 dent athlete was participating in an inter-
21 collegiate athletic event or a varsity inter-
22 collegiate athletic competition.

23 (ii) INSTITUTIONS REPORTING
24 \$20,000,000 OR MORE.—An institution of
25 higher education that reports not less than

1 \$20,000,000 in total annual athletics rev-
2 enue to the Department of Education dur-
3 ing an academic year shall be, during the
4 enrollment of a student athlete at the insti-
5 tution of higher education and the 2-year
6 period beginning on the day after the last
7 varsity intercollegiate sports competition of
8 the student athlete, financially responsible
9 for all out-of-pocket medical expenses of
10 the student athlete's health care coverage
11 for any injury or communicable disease
12 that was incurred or acquired while the
13 student athlete was participating in an
14 intercollegiate athletic event or a varsity
15 intercollegiate athletic competition.

16 (iii) INSTITUTIONS REPORTING
17 \$50,000,000 OR MORE.—An institution of
18 higher education that reports not less than
19 \$50,000,000 in total annual athletics rev-
20 enue to the Department of Education dur-
21 ing an academic year shall be, during the
22 enrollment of a student athlete at the insti-
23 tution of higher education and the 4-year
24 period beginning on the day after the last
25 varsity intercollegiate sports competition of

1 the student athlete, financially responsible
2 for all out-of-pocket medical expenses of
3 the student athlete's health care coverage
4 for any injury or communicable disease in-
5 curred or acquired while the student ath-
6 lete was participating in an intercollegiate
7 athletic event or varsity intercollegiate
8 sports competition.

9 (C) SECOND OPINIONS.—

10 (i) STUDENT ATHLETES.—During the
11 enrollment of a student athlete at an insti-
12 tution of higher education, an institution
13 of higher education shall be financially re-
14 sponsible for the expense of obtaining for
15 the student athlete medical second opinions
16 independent from the institution of higher
17 education.

18 (ii) FORMER STUDENT ATHLETES.—

19 (I) IN GENERAL.—In the case of
20 an institution of higher education de-
21 scribed in clause (ii) or (iii) of sub-
22 paragraph (B), continuing through
23 the 2-year period described in clause
24 (ii) or the 4-year period described in
25 clause (iii), respectively, the institu-

1 tion of higher education shall be fi-
2 nancially responsible for the expense
3 of obtaining, for former student ath-
4 letes, medical second opinions inde-
5 pendent from the institution of higher
6 education.

7 (II) INSTITUTIONS REPORTING
8 LESS THAN \$20,000,000.—In the case
9 of an institution of higher education
10 described in clause (i), during any pe-
11 riod not exceeding 4 years beginning
12 on the day after the last varsity inter-
13 collegiate sports competition of a stu-
14 dent athlete that is not covered under
15 subclause (I), the Fund shall be finan-
16 cially responsible for the expense of
17 obtaining, for former student athletes,
18 medical second opinions independent
19 from the institution of higher edu-
20 cation.

21 (D) EXCEPTION.—The responsibilities of
22 an institution of higher education under sub-
23 paragraphs (A) through (C) shall not apply to
24 an institution of higher education in the case of
25 a student athlete who transfers out of the insti-

1 tution of higher education to continue participa-
2 tion in intercollegiate athletics elsewhere.

3 (d) GRANT-IN-AID PROTECTION.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this Act, an institution of higher education
6 may not revoke, reduce, or impose a condition on the
7 grant-in-aid of a student athlete based on the stu-
8 dent athlete having entered into a permissible name,
9 image, or likeness contract or having been injured.

10 (2) ORIGINAL GRANT-IN-AID COMMITMENT.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), an institution of higher education
13 shall honor the original grant-in-aid commit-
14 ment made by the institution of higher edu-
15 cation to a student athlete.

16 (B) EFFECT OF TRANSFER.—In the case
17 of a student athlete who transfers from one in-
18 stitution of higher education to another institu-
19 tion of higher education, subparagraph (A)—

20 (i) shall not apply to the former insti-
21 tution of higher education of the student
22 athlete; and

23 (ii) shall apply to the new institution
24 of higher education to which the student
25 athlete transfers.

1 (C) FORMER STUDENT ATHLETES.—

2 Grant-in-aid provided to a former student ath-
3 lete—

4 (i) may not count against athlete
5 scholarship caps; and

6 (ii) may be provided through the gen-
7 eral financial aid budget of an institution
8 of higher education.

9 (3) RULE OF CONSTRUCTION.—Nothing in this
10 subsection may be construed to prohibit an institu-
11 tion of higher education from revoking the grant-in-
12 aid of a student athlete or former student athlete
13 who does not remain in good standing in accordance
14 with the standards or code of conduct of the institu-
15 tion of higher education.

16 **SEC. 8. ENFORCEMENT.**

17 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

18 A violation under section 3 or 6 of this Act shall be treated
19 as an unfair or deceptive act or practice under section
20 5(a)(1) of the Federal Trade Commission Act (15 U.S.C.
21 45(a)(1)).

22 (b) POWERS OF THE FEDERAL TRADE COMMIS-
23 SION.—

24 (1) IN GENERAL.—The Federal Trade Commis-
25 sion shall enforce section 3 and 6 in the same man-

1 ner, by the same means, and with the same jurisdic-
2 tion, powers, and duties as though all applicable
3 terms and provisions of the Federal Trade Commis-
4 sion Act (15 U.S.C. 41 et seq.) were incorporated
5 into and made part of this Act.

6 (2) PRIVILEGES AND IMMUNITIES.—Any person
7 who violates this Act shall be subject to the penalties
8 and entitled to the privileges and immunities pro-
9 vided in the Federal Trade Commission Act (15
10 U.S.C. et seq.).

11 (3) RULES OF CONSTRUCTION.—

12 (A) NO POWER TO PRESCRIBE RULES.—

13 Nothing in this Act or any other provision of
14 Federal law may be construed to authorize or
15 permit the Federal Trade Commission to pre-
16 scribe or promulgate any rule or regulation with
17 respect to any act, practice, or conduct under
18 by this Act.

19 (B) AUTHORITY PRESERVED.—Nothing in
20 this section shall be construed to limit the au-
21 thority of the Federal Trade Commission under
22 any other provision of law.

23 (c) PROHIBITING UNFAIR AND DECEPTIVE PRAC-
24 TICES BY THIRD PARTIES.—The Sports Agent Responsi-

1 bility and Trust Act (15 U.S.C. 7801 et seq.) is amend-
2 ed—

3 (1) in section 2 (15 U.S.C. 7801)—

4 (A) by redesignating paragraphs (4), (5),
5 (6), (7), (8), and (9) as paragraphs (5), (6),
6 (8), (9), (10), and (11), respectively;

7 (B) by inserting after paragraph (3) the
8 following new paragraph:

9 “(4) BOOSTER.—The term ‘booster’ means any
10 individual or entity that has—

11 “(A) provided a donation—

12 “(i) to an institution of higher edu-
13 cation to obtain season tickets for any
14 sport; or

15 “(ii) to support the athletics program
16 at an institution of higher education;

17 “(B) participated in or has been a member
18 of an organization promoting in any way the
19 varsity intercollegiate athletics programs of an
20 institution of higher education; or

21 “(C) made a financial contribution to the
22 athletic department, athletics foundation, collec-
23 tive, or booster organization affiliated with an
24 institution of higher education.”;

1 (C) by inserting after paragraph (6), as re-
2 designated, the following:

3 “(7) INSTITUTION OF HIGHER EDUCATION.—
4 The term ‘institution of higher education’ means an
5 institution of higher education as defined in section
6 101 of the Higher Education Act of 1965 (20
7 U.S.C. 1001).”; and

8 (D) by adding at the end the following:

9 “(12) THIRD PARTY.—The term ‘third party’
10 means—

11 “(A) a person, other than an institution of
12 higher education or a student athlete, that—

13 “(i) offers, solicits, or enters into a
14 name, image, or likeness contract; or

15 “(ii) offers or provides name, image,
16 or likeness compensation;

17 “(B) an entity that is affiliated with an in-
18 stitution of higher education, yet operates inde-
19 pendently of the institution of higher education,
20 that generates funding to support opportunities
21 for student athletes to enter into name, image,
22 or likeness contracts; or

23 “(C) an entity that is, refers to itself as,
24 or is colloquially referred to as, a collective.”;

1 (2) by inserting after section 3 (15 U.S.C.
2 7802) the following:

3 **“SEC. 3A. REGULATION OF BOOSTERS AND THIRD PARTIES.**

4 “It is unlawful for a booster or a third party to di-
5 rectly or indirectly provide or offer to provide any funds
6 or thing of value as an inducement to a student athlete
7 to enroll in, transfer from, or remain at a specific institu-
8 tion of higher education or group of institutions of higher
9 education.”; and

10 (3) in section 5(a)(1) (15 U.S.C. 7804(a)(1)),
11 by inserting “or by the engagement of any booster
12 or third party in a practice that violates section 3A
13 of this Act” after “section 3 of this Act”.

14 (d) **ELIGIBILITY TO COMPETE AS A STUDENT ATH-**
15 **LETE AFTER ENTERING INTO A NAME, IMAGE, OR LIKE-**
16 **NESS CONTRACT.**—Section 3(b)(3) of the Sports Agent
17 Responsibility and Trust Act (15 U.S.C. 7802(b)(3)) is
18 amended by striking “Warning to Student Athlete:” and
19 inserting “Notice to Student Athlete: If you agree orally
20 or in writing to be represented by an agent now or in the
21 future, or enter into a name, image, or likeness contract,
22 you, the agent by whom you are agreeing to be rep-
23 resented, and any other booster or third party must notify
24 the institution of higher education in which you are en-

1 rolled that you have entered into an agency or name,
2 image, or likeness contract. Warning to Student Athlete:”.

3 **SEC. 9. NATIONAL COLLEGIATE ATHLETIC ASSOCIATION.**

4 (a) DUTIES.—The National Collegiate Athletic Asso-
5 ciation or its designee shall—

6 (1) establish—

7 (A) rules to govern and provide oversight
8 of institutions of higher education, including
9 the duties of institutions of higher education
10 under section 7; and

11 (B) a process by which such rules may be
12 enforced;

13 (2) establish and maintain processes—

14 (A) by which third parties shall register
15 with the National Collegiate Athletic Associa-
16 tion; and

17 (B) for regulating third parties;

18 (3) establish and maintain a mechanism for cer-
19 tifying and regulating third parties that provide
20 compensation to student athletes under name,
21 image, or likeness contracts;

22 (4) develop and maintain—

23 (A) a list of permissible activities for reg-
24 istered third parties;

1 (B) a uniform standard name, image, or
2 likeness contract for use in all name, image, or
3 likeness activities; and

4 (C) the educational resources described in
5 subsection (a) of section 7 and the financial lit-
6 eracy curriculum and programming described in
7 subsection (b) of that section; and

8 (5) establish a dispute resolution process for
9 student athletes who assert a violation of this Act,
10 under which a student athlete may select arbitration.

11 (b) AUTHORITY.—

12 (1) INVESTIGATIONS AND AUDITS.—The Na-
13 tional Collegiate Athletic Association shall—

14 (A) conduct investigations and audits to
15 assess compliance with this Act; and

16 (B) not less frequently than annually, sub-
17 mit to the Committee on Commerce, Science,
18 and Transportation of the Senate and the Com-
19 mittee on Energy and Commerce of the House
20 of Representatives an annual report with re-
21 spect to such compliance.

22 (2) PENALTIES.—In the case of a violation of
23 this Act or a potential violation of any other Federal
24 law by an agent, third party, institution of higher

1 education, conference, or student athlete, the Na-
2 tional Collegiate Athletic Association may—

3 (A) revoke licenses to participate in name,
4 image, or likeness activities;

5 (B) with respect to a violation of this Act,
6 refer the matter to the Federal Trade Commis-
7 sion as an unfair and deceptive act or practice
8 for enforcement; and

9 (C) with respect to a violation of any other
10 Federal law, refer the matter to the appropriate
11 Federal agency for enforcement.

12 (3) LIMITATION.—The National Collegiate Ath-
13 letic Association shall not have the authority to ap-
14 prove name, image, or likeness contracts for legality
15 or appropriateness.

16 (c) NONCOMPLIANCE.—In the case of a failure by the
17 National Collegiate Athletic Association to carry out the
18 duties under this section, the Federal Trade Commission
19 may commence an investigation of such failure and impose
20 penalties, including—

21 (1) a penalty for an unfair and deceptive act or
22 practice; and

23 (2) revocation of tax-exempt status.

24 (d) REPORT.—Not later than 1 year after the date
25 of the enactment of this Act, and annually thereafter, the

1 Federal Trade Commission shall submit to the Committee
2 on Commerce, Science, and Transportation of the Senate
3 and the Committee on Energy and Commerce of the
4 House of Representatives a report that summarizes any
5 investigation or enforcement action brought by the Fed-
6 eral Trade Commission or the National Collegiate Athletic
7 Association under this Act during the preceding year, in-
8 cluding the number of complaints filed with the Federal
9 Trade Commission under this Act.

10 (e) DISCLOSURE.—The disclosure of a name, image,
11 or likeness contract to the National Collegiate Athletic As-
12 sociation may not be construed as an approval by the Na-
13 tional Collegiate Athletic Association of the contract with
14 respect to the legal requirements of the contract.

15 **SEC. 10. LIMITATION OF LIABILITY.**

16 No agreement, understanding, rule, or bylaw adopted
17 by a conference, the National Collegiate Athletic Associa-
18 tion, or a combination of 2 or more institutions of higher
19 education acting in concert that is authorized, consistent
20 with, or reasonably contemplated by any provision of this
21 Act shall be invalid or a basis for liability under or pursu-
22 ant to any Federal or State law upon enactment of this
23 Act.

1 **SEC. 11. RELATIONSHIP TO STATE LAW.**

2 (a) STATE PREEMPTION.—No State or political sub-
3 division of a State may adopt, maintain, enforce, or con-
4 tinue in effect any law, regulation, rule, requirement, or
5 standard that—

6 (1) conflicts with the provisions of this Act;

7 (2) limits or restricts the rights of student ath-
8 letes, the National Collegiate Athletic Association,
9 conferences, or institutions of higher education
10 under this Act; or

11 (3) relates to the rights of student athletes to
12 receive compensation directly or indirectly from any
13 institution of higher education, affiliate of an insti-
14 tution of higher education, third party, conference,
15 or the National Collegiate Athletic Association.

16 (b) NONDISCRIMINATION OF STUDENT ATHLETES.—
17 No State or political subdivision of a State may establish
18 or continue in effect any law, regulation, rule, require-
19 ment, or standard that is inconsistent with title IX of the
20 Higher Education Act of 1972 (20 U.S.C. 1681 et seq.),
21 including any law, regulation, rule, requirement, or stand-
22 ard that provides for the payment of student athletes par-
23 ticipating in a varsity intercollegiate athletics program
24 based on a share of annual revenue generated by that par-
25 ticular sports program.

1 **SEC. 12. RULES OF CONSTRUCTION.**

2 (a) TAX PROVISIONS.—Nothing in this Act or the
3 amendments made by this Act shall affect the treatment
4 of qualified scholarships under section 117 of the Internal
5 Revenue Code of 1986.

6 (b) CLASSIFICATION OF STUDENT ATHLETES.—
7 Nothing in this Act or the amendments made by this Act
8 shall affect the employment status of a student athlete
9 with respect to a conference or an institution of higher
10 education.

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