

116TH CONGRESS
2D SESSION

S. 5003

To protect the rights of student athletes, to provide for transparency and accountability with respect to student athlete name, image, and likeness agreements, and to establish an independent entity for intercollegiate athletics, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2020

Mr. WICKER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect the rights of student athletes, to provide for transparency and accountability with respect to student athlete name, image, and likeness agreements, and to establish an independent entity for 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 “Collegiate Athlete
5 Compensation Rights Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ASSOCIATION.—The term “association”
2 means any organization that—

3 (A) has as members 2 or more conferences
4 or institutions; and

5 (B) arranges championships and sets rules
6 for varsity intercollegiate sports competition.

7 (2) BOOSTER.—The term “booster” means an
8 individual or entity that, in a calendar year, directly
9 or indirectly, through an institution or any other in-
10 dividual or entity or in any other manner—

11 (A) has provided a donation to obtain sea-
12 son tickets for any sport at an institution that
13 exceeds the annual amount determined by the
14 Entity;

15 (B) has made a financial contribution di-
16 rectly to the athletics department or other ath-
17 letics management organization of an institu-
18 tion in an amount that exceeds the annual
19 amount determined by the Entity;

20 (C) is party to any license agreement for
21 use of the trademarks of an institution in con-
22 nection with athletics under which the total
23 payments exceed such amount;

24 (D) has made any combination of such do-
25 nations, contributions, or license payments, or

1 has provided any other form of consideration in
2 connection with an activity described in any of
3 subparagraphs (A) through (C), that, in the ag-
4 gregate, exceed such amount;

5 (E) has arranged or provided employment
6 for 1 or more student athletes; or

7 (F) has assisted, or been requested by an
8 employee of an institution to assist, in the re-
9 cruitment of a prospective student athlete.

10 (3) CERTIFICATION OFFICE.—The term “cer-
11 tification office” means the office established by the
12 Entity under section 6(e)(2).

13 (4) CERTIFIED AGENT.—The term “certified
14 agent” means an athlete agent (as defined in section
15 2 of the Sports Agent Responsibility and Trust Act
16 (15 U.S.C. 7801))—

17 (A) who is certified by the certification of-
18 fice as being in full compliance with all require-
19 ments established by the certification office;
20 and

21 (B) whose certification has not lapsed, ex-
22 pired, or been revoked.

23 (5) COMMISSION.—The term “Commission”
24 means the Federal Trade Commission.

1 (6) CONFERENCE.—The term “conference”
2 means any organization or association that—

3 (A) has as members 2 or more institutions;
4 and

5 (B) arranges championships and sets rules
6 for varsity intercollegiate sports competition.

7 (7) COST OF ATTENDANCE.—The term “cost of
8 attendance”—

9 (A) has the meaning given the term in sec-
10 tion 472 of the Higher Education Act of 1965
11 (20 U.S.C. 1087ll); and

12 (B) shall be calculated by the financial aid
13 office of each institution applying the same
14 standards, policies, and procedures for all stu-
15 dents, including such amounts paid or provided
16 by the institution for undergraduate and grad-
17 uate studies at the institution.

18 (8) COVERED COMPENSATION.—

19 (A) IN GENERAL.—The term “covered
20 compensation” includes any form of payment or
21 remuneration, including cash, benefits, awards,
22 gifts, in-kind contributions, and any other form
23 of payment or remuneration.

24 (B) INCLUSIONS.—The term “covered
25 compensation” includes social media compensa-

tion and payments for licensing or use of publicity rights or for other intellectual or intangible property rights under Federal or State law.

(C) EXCLUSIONS.—The term “covered compensation” does not include the payment or provision of the following:

(i) Tuition, room, board, books, fees, and personal expenses paid or provided by an institution up to the full cost of attendance.

(ii) Federal Pell Grants and other State and Federal grants unrelated to, and not awarded with respect to, participation in varsity intercollegiate sports competition.

(iii) Health insurance and the costs of health care wholly or partly self-funded by an association, a conference, or an institution.

(iv) Disability and loss of value insurance that is wholly or partly self-funded by an association, a conference, or an institution.

1 (v) Career counseling or job place-
2 ment services available to all students at
3 an institution.

4 (vi) Payment of hourly wages and
5 benefits for work actually performed (and
6 not for participation in intercollegiate ath-
7 letics) at a rate commensurate with the
8 prevailing rate in the locality of an institu-
9 tion for similar work.

10 (9) DIVISION.—The term “division” means an
11 organization of institutions—

12 (A) the athletics programs of which com-
13 pete against each other at a similar level of
14 competition; and

15 (B) that is recognized by an association.

16 (10) ENROLL.—With respect to a student ath-
17 lete, the term “enroll” means to receive passing
18 grades, as determined by the applicable institution,
19 for completing courses of instruction at such institu-
20 tion comprising not less than 12 percent of the cred-
21 its required for graduation from the institution.

22 (11) ENTITY.—The term “Entity” means the
23 independent entity for intercollegiate athletics se-
24 lected by the Commission under section 6(b).

1 (12) IMAGE.—The term “image”, with respect
2 to a student athlete, means a picture of the student
3 athlete.

4 (13) INSTITUTION.—The term “institution”
5 means an institution of higher education (as defined
6 in section 101 of the Higher Education Act of 1965
7 (20 U.S.C. 1001)) that sponsors varsity intercolle-
8 giate sports competition in the United States.

9 (14) INTERCOLLEGIATE ATHLETICS.—The term
10 “intercollegiate athletics” means sports played at the
11 collegiate level for which eligibility requirements for
12 participation by student athletes are established by
13 an association for the promotion or regulation of col-
14 legiate athletics.

15 (15) LIKENESS.—The term “likeness”, with re-
16 spect to a student athlete, means a physical or dig-
17 ital depiction or representation of the student ath-
18 lete.

19 (16) LOSS OF VALUE INSURANCE.—The term
20 “loss of value insurance” means insurance that pro-
21 tects the future contract value of a student athlete
22 from decreasing below a predetermined amount due
23 to significant injury or illness suffered by the stu-
24 dent athlete during the designated coverage period
25 of the insurance policy.

1 (17) NAME.—The term “name”, with respect to
 2 a student athlete, means the first or last name, or
 3 the nickname, of the student athlete when used in
 4 a context that reasonably identifies the student ath-
 5 lete with particularity.

6 (18) NAME, IMAGE, AND LIKENESS AGREE-
 7 MENT.—The term “name, image, and likeness agree-
 8 ment” means a contract or similar arrangement be-
 9 tween a student athlete and a third-party licensee
 10 regarding the commercial use of the name, image, or
 11 likeness of the student athlete.

12 (19) PUBLICITY RIGHT.—The term “publicity
 13 right”—

14 (A) means a right that is recognized under
 15 a Federal or State law that permits an indi-
 16 vidual to control and profit from the commer-
 17 cial use of the name, image, or likeness of the
 18 individual; and

19 (B) includes any right that is licensed
 20 under a name, image, and likeness agreement.

21 (20) SOCIAL MEDIA COMPENSATION.—The term
 22 “social media compensation” includes all forms of
 23 payment for engagement on social media received by
 24 a student athlete as a result of the use of the name,
 25 image, or likeness of the student athlete.

1 (21) STUDENT ATHLETE.—The term “student
2 athlete” means any individual attending an institu-
3 tion who participates as a team member or compet-
4 itor in varsity intercollegiate sports competition
5 sponsored by the institution.

6 (22) THIRD-PARTY LICENSEE.—

7 (A) IN GENERAL.—The term “third-party
8 licensee” means any individual or entity that li-
9 censes publicity rights from any current or pro-
10 spective student athlete or groups of student
11 athletes.

12 (B) EXCLUSION.—The term “third-party
13 licensee” does not include any association, con-
14 ference, or institution.

15 (23) VARSITY INTERCOLLEGIATE SPORTS COM-
16 PETITION.—The term “varsity intercollegiate sports
17 competition” means competition between and among
18 collegiate sports teams that principally represent an
19 institution at the highest level of competition.

20 **SEC. 3. PROTECTION OF STUDENT ATHLETE RIGHTS.**

21 (a) IN GENERAL.—Except as provided in section 4,
22 an association, a conference, or an institution shall permit
23 a student athlete—

24 (1) to earn covered compensation, commensu-
25 rate with market value, for the use of the name,

1 image, or likeness of the student athlete while en-
 2 rolled at an institution; and

3 (2) to obtain and retain a certified agent for
 4 any matter or activity relating to such covered com-
 5 pensation.

6 (b) RESCISSION OF AGREEMENTS.—In the case of a
 7 student athlete who no longer participates in varsity inter-
 8 collegiate sports competition, the student athlete may re-
 9 scind a name, image, and likeness agreement with a re-
 10 maining term of more than 1 year—

11 (1) without being held liable for breach; and

12 (2) with no obligation to return payments re-
 13 ceived before giving notice of the rescission.

14 (c) EDUCATIONAL RESOURCES.—The Entity shall
 15 provide educational resources to student athletes with re-
 16 spect to earning covered compensation for the use of the
 17 name, image, or likeness of the student athlete.

18 **SEC. 4. PROHIBITIONS ON CERTAIN ACTIVITIES OF INSTI-**
 19 **TUTIONS, BOOSTERS, AND THIRD-PARTY LI-**
 20 **CENSEES.**

21 (a) RESTRICTIONS ON EARNING COVERED COM-
 22 PENSATION.—

23 (1) IN GENERAL.—An association, a conference,
 24 or an institution may not adopt or maintain a con-
 25 tract, rule, regulation, standard, or other require-

1 ment that prevents or unduly restricts a student
2 athlete from earning covered compensation for the
3 use of the name, image, or likeness of the student
4 athlete.

5 (b) CLASSIFICATION OF STUDENT ATHLETES.—Not-
6 withstanding any other provision of Federal or State law,
7 a student athlete shall not be considered an employee of
8 an association, a conference, or an institution based on
9 participation in varsity intercollegiate sports competition.

10 (c) PAYMENT TO STUDENT ATHLETES OR FAMI-
11 LIES.—An institution may not, directly or indirectly, pro-
12 vide covered compensation to a student athlete or a pro-
13 spective student athlete, or to the family of a student ath-
14 lete or a prospective student athlete.

15 (d) SCHOLARSHIPS.—An institution or an association
16 may not revoke or impose a condition on an athletic schol-
17 arship of a student athlete based on the student athlete
18 having earned covered compensation or having obtained
19 a certified agent in accordance with this Act.

20 (e) CONFLICTS WITH CONTRACTS OR RULES OF IN-
21 STITUTION.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), a third-party licensee may not enter into,
24 or offer to enter into, a name, image, and likeness
25 agreement with a student athlete that provides cov-

1 ered compensation if a provision of the name, image,
 2 and likeness agreement conflicts with a provision of
 3 a contract, rule, regulation, standard, or other re-
 4 quirement of the applicable institution.

5 (2) EXCEPTION.—A third-party licensee may
 6 enter into, or offer to enter into, a name, image, and
 7 likeness agreement with a student athlete that con-
 8 flicts with a provision of a contract, rule, regulation,
 9 standard, or other requirement of the applicable in-
 10 stitution if—

11 (A) the institution consents, in writing, to
 12 the name, image, and likeness agreement; or

13 (B) the contract, rule, regulation, stand-
 14 ard, or other requirement unduly restricts stu-
 15 dent athletes from earning covered compensa-
 16 tion for the use of the name, image, or likeness
 17 of the student athlete.

18 (3) DISCLOSURES.—

19 (A) CONFLICTS.—An institution asserting
 20 a conflict described in paragraph (1) shall dis-
 21 close to the certified agent and the Entity each
 22 relevant term of the contract, rule, regulation,
 23 standard, or other requirement of the athletic
 24 team.

1 (B) RESTRICTIONS.—A certified agent as-
2 serting a restriction described in paragraph
3 (2)(B) shall disclose to the Entity the nature of
4 such restriction.

5 (f) AGENT ACTIVITIES.—An individual may not carry
6 out any agent activity or representation of a student ath-
7 lete with respect to a student athlete name, image, and
8 likeness agreement unless the individual is a certified
9 agent.

10 (g) PROHIBITED AGREEMENTS.—

11 (1) BOOSTER AGREEMENTS AND INDUCE-
12 MENTS.—An association, a conference, or an institu-
13 tion may prohibit a booster from providing covered
14 compensation to, or entering into a name, image,
15 and likeness agreement with, a student athlete or
16 prospective student athlete as an inducement to at-
17 tend or enroll in or continue attending a specific in-
18 stitution or group of institutions.

19 (2) OTHER PROHIBITED AGREEMENTS.—An as-
20 sociation, a conference, or an institution may pro-
21 hibit a student athlete from entering into a name,
22 image, and likeness agreement with a third-party li-
23 censee relating to the name, image, or likeness of
24 the student athlete—

1 (A) before the date on which the student
2 athlete enrolls at an institution; or

3 (B) for the promotion of gambling, tobacco
4 or alcohol products, adult entertainment, or any
5 other product or service that is reasonably con-
6 sidered to be inconsistent with the values of an
7 institution.

8 **SEC. 5. TRANSPARENCY AND ACCOUNTABILITY RELATING**
9 **TO NAME, IMAGE, AND LIKENESS AGREE-**
10 **MENTS AND STUDENT ATHLETE ENDORSE-**
11 **MENTS.**

12 (a) **CONTRACT WITH CERTIFIED AGENT.**—A cer-
13 tified agent may not enter into a representation agreement
14 with a student athlete before the date on which the stu-
15 dent athlete is enrolled.

16 (b) **DISCLOSURES RELATING TO RECEIPT OF COV-**
17 **ERED COMPENSATION.**—Not later than 5 days after the
18 date on which a student athlete receives covered com-
19 pensation relating to a name, image, and likeness agree-
20 ment, the certified agent representing the student athlete
21 shall report to the Entity—

22 (1) the receipt and amount of such covered
23 compensation; and

24 (2) the terms and conditions of the agreement,
25 including the name of each party to the agreement.

1 (c) LIMITATION ON DURATION OF ENDORSEMENT
2 ACTIVITIES.—To preserve the integrity of the educational
3 programs of institutions, an institution or the Entity may
4 impose reasonable limits on the amount of time a student
5 athlete may spend to carry out endorsement activities re-
6 lating to a name, image, and likeness agreement.

7 (d) ANNUAL REPORT.—Not less frequently than an-
8 nually, the Entity shall make available to the public on
9 the internet website of the Entity, for the preceding 1-
10 year period—

11 (1) the total number of student athletes who
12 have entered into name, image, and likeness agree-
13 ments;

14 (2) the total number of student athletes eligible
15 to earn covered compensation from third-party li-
16 censees as a result of name, image, and likeness
17 agreements;

18 (3) the total amount of covered compensation
19 earned by student athletes, disaggregated by division
20 and by conference;

21 (4) the average amount of covered compensa-
22 tion earned by student athletes;

23 (5) the average amount of covered compensa-
24 tion earned by student athletes, disaggregated by
25 sport; and

1 (6) a detailed description of each name, image,
 2 and likeness agreement entered into, including, for
 3 each student athlete—

4 (A) the terms and conditions of the name,
 5 image, and likeness agreement;

6 (B) the amount of covered compensation;

7 (C) the requirements of the student athlete
 8 for receiving such covered compensation;

9 (D) the dates for which the name, image,
 10 and likeness agreement is in effect; and

11 (E) any other information the Entity con-
 12 siders relevant.

13 **SEC. 6. INDEPENDENT ENTITY FOR INTERCOLLEGIATE**
 14 **ATHLETICS.**

15 (a) IN GENERAL.—The independent entity for inter-
 16 collegiate athletics shall be a private, independent, self-
 17 regulatory, nonprofit corporation.

18 (b) SELECTION OF INDEPENDENT ENTITY.—

19 (1) IN GENERAL.—Subject to paragraph (2),
 20 the Commission may select an independent entity
 21 that meets the requirements described in this section
 22 to carry out the duties described in this section. In
 23 selecting the Entity, the Commission shall consider
 24 applications from individuals representing or under
 25 the jurisdiction of not less than 10 conferences.

1 (2) SPECIAL RULE.—If, not later than 180 days
 2 after the date of enactment of this Act, the Commis-
 3 sion has not selected the Entity in accordance with
 4 paragraph (1), the Commission shall—

5 (A) carry out the duties described in sub-
 6 section (e), except that the Commission may
 7 use its existing enforcement procedures rather
 8 than those outlined in such subsection; and

9 (B) establish and oversee an advisory com-
 10 mittee in accordance with the requirements in
 11 the Federal Advisory Committee Act (5 U.S.C.
 12 App.), with membership as described in sub-
 13 section (f)(2), to advise the Commission on the
 14 topics described in subsection (f)(1).

15 (c) BOARD OF DIRECTORS.—

16 (1) MEMBERSHIP.—The Entity shall be gov-
 17 erned by a board of directors (in this section re-
 18 ferred to as the “Board”).

19 (2) REPRESENTATION.—The Board shall be
 20 comprised of 15 voting members who shall include—

21 (A) 3 representatives of student athletes
 22 attending an institution;

23 (B) 3 representatives of athletics directors
 24 at institutions;

25 (C) 3 representatives of conferences;

1 (D) 3 representatives of institutions of dif-
 2 ferent sizes and geographical locations; and

3 (E) 3 representatives of a variety of inter-
 4 collegiate athletics teams.

5 (3) CHAIR.—The chair of the Board shall be
 6 elected by a majority of the Board.

7 (4) BYLAWS.—The Board shall be governed by
 8 bylaws for the operation of the Entity with respect
 9 to—

10 (A) the administrative structure and em-
 11 ployees of the Entity;

12 (B) the establishment of standing commit-
 13 tees;

14 (C) the procedures for filling vacancies on
 15 the Board and the standing committees;

16 (D) termination of membership; and

17 (E) any other matter the Board considers
 18 necessary.

19 (5) TERMS.—

20 (A) IN GENERAL.—A member of the Board
 21 shall be appointed for a term of 3 years, except
 22 that of the members first appointed—

23 (i) $\frac{1}{3}$ of the members shall be ap-
 24 pointed for 2 years;

1 (ii) $\frac{1}{3}$ of the members shall be ap-
 2 pointed for 3 years; and

3 (iii) $\frac{1}{3}$ of the members shall be ap-
 4 pointed for 4 years.

5 (B) LIMIT.—A member of the Board may
 6 serve for not more than 2 consecutive terms.

7 (d) QUORUM.—For all items for which Board ap-
 8 proval is required, the Board shall have present a majority
 9 of members.

10 (e) DUTIES.—

11 (1) DEVELOPMENT OF RULES.—

12 (A) IN GENERAL.—The Entity shall de-
 13 velop rules and standards—

14 (i) with respect to, and consistent
 15 with, the requirements and prohibitions
 16 under sections 3 and 4; and

17 (ii) to maintain fairness and integrity
 18 in amateur intercollegiate athletics and the
 19 principle of amateurism in intercollegiate
 20 athletic competition.

21 (B) NAME, IMAGE, AND LIKENESS AGREE-
 22 MENT RULES.—The Entity shall develop rules,
 23 consistent with sections 3 and 4, with respect to
 24 student athlete name, image, and likeness
 25 agreements.

(C) ANNUAL LIMITATION ON BOOSTER CONTRIBUTIONS.—The Entity shall develop a rule limiting the annual amount of booster donations, contributions, license payments, and any other form of consideration in connection with an activity described in section 2(2).

(D) APPROVAL OF COMMISSION.—The rules and standards developed under this paragraph shall be subject to approval by the Commission in accordance with section 7(d).

(2) ESTABLISHMENT OF CERTIFICATION OFFICE.—

(A) IN GENERAL.—The Entity shall establish and maintain a certification office to carry out activities described in subparagraph (B).

(B) ACTIVITIES OF CERTIFICATION OFFICE.—

(i) TESTING PROGRAM.—

(I) IN GENERAL.—The certification office shall develop and administer a testing program for individuals seeking to become certified agents.

(II) ELEMENTS.—The testing program shall be designed to ensure that each certified agent—

1 (aa) understands and is
2 equipped to provide competent
3 business advice to student ath-
4 letes with respect to publicity
5 rights licensing; and

6 (bb) has a reasonable work-
7 ing knowledge of relevant State
8 publicity rights law and applica-
9 ble tax laws.

10 (III) FREQUENCY OF TESTING.—

11 The certification office shall conduct
12 testing not less frequently than bien-
13 nially.

14 (ii) STANDARDS OF CONDUCT.—The
15 certification office shall develop and pub-
16 lish on a publicly available internet website
17 of the Entity standards of conduct and
18 ethics applicable to certified agents.

19 (iii) CERTIFICATION.—

20 (I) IN GENERAL.—The certifi-
21 cation office shall issue certificates to,
22 and publish on a publicly available
23 internet website of the Entity a list of,
24 certified agents.

1 (II) LIST OF INDIVIDUALS NOT
2 CERTIFIED.—The certification office
3 shall publish on a publicly available
4 internet website of the Entity a list of
5 individuals—

6 (aa) who have attempted to
7 obtain certification as certified
8 agents, but have not been so cer-
9 tified; and

10 (bb) whose certification as
11 certified agents has been revoked
12 as a result of an enforcement ac-
13 tion or any other action of the
14 Entity.

15 (3) AVAILABILITY OF INFORMATION.—Not less
16 frequently than annually, the Entity shall compile
17 and publish on a publicly available internet website
18 of the Entity such extracts of data and information
19 available from name, image, and likeness agreements
20 as the Entity determines to be helpful to student
21 athletes in evaluating certified agents and licensing
22 opportunities for publicity rights.

23 (4) GUIDANCE FOR STUDENT ATHLETES.—

24 (A) IN GENERAL.—The Entity shall de-
25 velop and publish on a publicly available inter-

1 net website of the Entity guidance for student
2 athletes that—

3 (i) explains the legal and business
4 concepts to be considered in licensing pub-
5 licity rights; and

6 (ii) specifically includes information
7 concerning the implications of provisions
8 that restrict a student athlete's choice of
9 institutions or bind the student athlete to
10 long-term arrangements.

11 (5) GRIEVANCE PROCEDURES.—The Entity
12 shall establish procedures for—

13 (A) addressing complaints and concerns
14 from student athletes and institutions with re-
15 spect to certified agents; and

16 (B) upon a showing that a certified agent
17 has not competently represented the interests of
18 1 or more student athletes or has failed to com-
19 ply with applicable standards of conduct and
20 ethics, the revocation of certification of a cer-
21 tified agent.

22 (6) ENFORCEMENT.—

23 (A) IN GENERAL.—The Entity shall en-
24 force the rules and standards developed under
25 paragraph (1) by imposing fines, penalties, and

1 sanctions, including revocation of agent certifi-
 2 cations, for agents, institutions, conferences,
 3 and associations that violate any such rule or
 4 standard.

5 (B) APPEALS STANDING COMMITTEE.—

6 (i) IN GENERAL.—The Entity shall es-
 7 tablish an appeals standing committee, to
 8 which any individual affected by an en-
 9 forcement decision of the Entity may ap-
 10 peal such decision.

11 (ii) MEMBERSHIP.—The appeals
 12 standing committee shall be comprised of 7
 13 individuals selected by the nominating
 14 committee.

15 (iii) CHAIR.—The chair of the appeals
 16 standing committee shall be elected by a
 17 majority of the appeals standing com-
 18 mittee.

19 (iv) ADVICE TO BOARD.—After hear-
 20 ing an appeal on a decision of the Entity,
 21 the appeals standing committee shall ad-
 22 vise the Board on whether to sustain or
 23 overrule the decision.

24 (f) STUDENT ATHLETE HEALTH AND SAFETY
 25 STANDING COMMITTEE.—

1 (1) IN GENERAL.—The Entity shall establish a
2 student athlete health and safety standing com-
3 mittee, which shall provide advice and guidance to
4 the Board on the development of standards to help
5 prevent serious injury to and abuse of student ath-
6 letes.

7 (2) MEMBERSHIP.—The student athlete health
8 and safety standing committee shall be comprised of
9 not more than 7 voting members who shall be se-
10 lected by the Board not later than 120 days after
11 the date of the enactment of this Act, including indi-
12 viduals with experience relating to sports medicine.

13 (3) CHAIR.—The chair of the student athlete
14 health and safety standing committee shall be elect-
15 ed by a majority of the student athlete health and
16 safety standing committee.

17 (g) NOMINATING COMMITTEE.—

18 (1) IN GENERAL.—The Entity shall establish a
19 nominating committee.

20 (2) MEMBERSHIP.—The nominating committee
21 shall be comprised of 7 members selected from insti-
22 tutions, conferences, and divisions, except that the
23 initial nominating committee members shall be set
24 forth in the bylaws of the Entity.

1 (3) CHAIR.—The majority of the nominating
2 committee shall elect the chair of the nominating
3 committee.

4 (4) DUTIES.—The nominating committee
5 shall—

6 (A) be responsible for appointing members
7 to the Board in the event of a vacancy;

8 (B) appoint members to each standing
9 committee established under this section; and

10 (C) appoint members to any other com-
11 mittee established by the Entity.

12 (h) ADDITIONAL COMMITTEES.—The Entity may es-
13 tablish any additional committee the Board considers nec-
14 essary.

15 (i) CONFLICTS OF INTEREST.—To avoid conflicts of
16 interest, the following individuals may not be selected as
17 a member of the Board or as a member of a standing
18 committee or the nominating committee established under
19 this section:

20 (1) A booster.

21 (2) A certified agent.

22 (3) A third-party licensee.

1 **SEC. 7. ENFORCEMENT AND REVIEW BY THE FEDERAL**
2 **TRADE COMMISSION.**

3 (a) IN GENERAL.—A violation of this Act or any rule
4 approved pursuant to subsection (d) shall be treated as
5 a violation of a rule defining an unfair or deceptive act
6 or practice prescribed under section 18(a)(1)(B) of the
7 Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

8 (b) ENFORCEMENT AUTHORITY.—

9 (1) IN GENERAL.—The Commission shall en-
10 force this Act and any rule approved pursuant to
11 subsection (d) in the same manner, by the same
12 means, and with the same jurisdiction, powers, and
13 duties as though all applicable terms and provisions
14 of the Federal Trade Commission Act (15 U.S.C. 41
15 et seq.) were incorporated into and made a part of
16 this Act.

17 (2) NONPROFIT ORGANIZATIONS.—Notwith-
18 standing section 4 of the Federal Trade Commission
19 Act (15 U.S.C. 44) or any jurisdictional limitation
20 of the Commission, the Commission shall also en-
21 force this Act and any rule approved pursuant to
22 subsection (d) in the same manner provided in para-
23 graph (1), with respect to organizations not orga-
24 nized to carry on business for their own profit or
25 that of their members.

1 (3) PENALTIES; PRIVILEGES AND IMMUNI-
 2 TIES.—Any person who violates this Act or any rule
 3 approved pursuant to subsection (d) shall be subject
 4 to the penalties and entitled to the privileges and
 5 immunities provided in the Federal Trade Commis-
 6 sion Act (15 U.S.C. 41 et seq.).

7 (4) INTERVENTION.—The Commission shall
 8 have the right to intervene in any action brought by
 9 the Entity with respect to any violation of this Act
 10 or any rule approved pursuant to subsection (d).

11 (5) ACTIONS BY THE FEDERAL TRADE COMMIS-
 12 SION.—In any case in which an action is instituted
 13 by or on behalf of the Commission for any violation
 14 of this Act or any rule approved pursuant to sub-
 15 section (d), the Entity may not, during the pendency
 16 of that action, institute an action under this Act
 17 against any defendant named in the complaint in
 18 that action for violation of such Act or rule.

19 (c) APPEALS.—In accordance with such rules as the
 20 Commission may prescribe, any person subject to a final
 21 decision by the Board under section 6(e)(6) may obtain
 22 review by the Commission of such decision.

23 (d) REVIEW OF PROPOSED RULES.—

24 (1) IN GENERAL.—The Entity shall file with
 25 the Commission, in accordance with such rules as

1 the Commission may prescribe, copies of any pro-
 2 posed rule or modification to any rule developed by
 3 the Entity under section 6(e)(1) (in this subsection
 4 referred to as a “proposed rule”).

5 (2) PUBLICATION.—The Commission shall pub-
 6 lish a proposed rule filed under paragraph (1) and
 7 provide interested persons an opportunity to com-
 8 ment.

9 (3) TIMELINE.—Not later than 45 days after a
 10 proposed rule is published under paragraph (2), the
 11 Commission shall approve or disapprove the pro-
 12 posed rule.

13 (4) APPROVAL.—The Commission shall approve
 14 a proposed rule if the Commission finds that the
 15 proposed rule is consistent with the requirements
 16 and purposes of this Act.

17 (5) PROHIBITION.—A proposed rule shall not
 18 take effect unless such rule has been approved by
 19 the Commission.

20 **SEC. 8. ROLE OF ASSOCIATIONS AND CONFERENCES.**

21 Associations and conferences may—

22 (1) establish rules, consistent with this Act and
 23 the rules and standards developed in accordance
 24 with section 6(e)(1); and

25 (2) enforce such rules by—

1 (A) declaring ineligible for competition a
 2 student athlete who receives payments in viola-
 3 tion of this Act or any such rule or standard;
 4 and

5 (B) withholding 1 or more revenue dis-
 6 tributions from an institution that makes pay-
 7 ments in violation of this Act or any such rule
 8 or standard.

9 **SEC. 9. LIMITATION OF LIABILITY.**

10 An institution, a conference, or an association that
 11 complies with the requirements under this Act shall not
 12 be subject to liability, based on action taken by the institu-
 13 tion, conference, or association before the date of the en-
 14 actment of this Act, under—

15 (1) any Federal or State statute relating to
 16 trade or competition; or

17 (2) any Federal or State statute relating to
 18 tortious interference based on concepts of unfair
 19 competition.

20 **SEC. 10. RELATIONSHIP TO STATE LAWS.**

21 No State or political subdivision of a State may es-
 22 tablish or continue in effect any law, regulation, rule, re-
 23 quirement, or standard that governs or regulates the com-
 24 pensation, publicity rights, employment status, or eligi-
 25 bility for competition of a student athlete, including any

1 provision that governs or regulates the commercial use of
2 the name, image, or likeness of a student athlete.

3 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated to the Com-
5 mission such sums as are necessary to carry out this Act.

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