

STATE OF NEW YORK

6722

2019-2020 Regular Sessions

IN SENATE

September 16, 2019

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to allowing student-athletes to earn compensation as a result of the use of that student's name, image or likeness

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new section 6438-a
2 to read as follows:

3 § 6438-a. Student-athlete compensation. 1. (a) A college, except a
4 community college, shall not uphold any rule, requirement, standard, or
5 other limitation that prevents a student of that institution participat-
6 ing in intercollegiate athletics from earning compensation as a result
7 of the use of the student's name, image, or likeness. Earning compen-
8 sation from the use of a student's name, image, or likeness shall not
9 affect the student's scholarship eligibility.

10 (b) An athletic association, conference, or other group or organiza-
11 tion with authority over intercollegiate athletics, including, but not
12 limited to, the National Collegiate Athletic Association, shall not
13 prevent a student of a college participating in intercollegiate athlet-
14 ics from earning compensation as a result of the use of the student's
15 name, image, or likeness.

16 (c) An athletic association, conference, or other group or organiza-
17 tion with authority over intercollegiate athletics, including, but not
18 limited to, the National Collegiate Athletic Association, shall not
19 prevent a college from participating in intercollegiate athletics as a
20 result of the compensation of a student-athlete for the use of the
21 student's name, image, or likeness.

22 2. A college, athletic association, conference, or other group or
23 organization with authority over intercollegiate athletics shall not

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 provide a prospective student-athlete with compensation in relation to
2 the athlete's name, image, or likeness.

3 3. (a) A college, athletic association, conference, or other group or
4 organization with authority over intercollegiate athletics shall not
5 prevent a student-athlete participating in intercollegiate athletics
6 from obtaining professional representation in relation to contracts or
7 legal matters, including, but not limited to, representation provided by
8 athlete agents or legal representation provided by attorneys.

9 (b) Professional representation obtained by student athletes shall be
10 from persons registered and/or licensed by the state. Professional
11 representation provided by athlete agents shall be by persons registered
12 pursuant to article thirty-nine-e of the general business law. Legal
13 representation of student athletes shall be by attorneys licensed pursu-
14 ant to article fifteen of the judiciary law.

15 (c) Athlete agents representing student athletes shall comply with the
16 federal Sports Agent Responsibility and Trust Act, established in chap-
17 ter 104 of title 15 of the United States Code, in their relationships
18 with student athletes.

19 4. A scholarship from the college in which a student is enrolled that
20 provides the student with the cost of attendance at that institution is
21 not compensation for purposes of this section, and a scholarship shall
22 not be revoked as a result of earning compensation or obtaining legal
23 representation pursuant to this section.

24 5. (a) A student-athlete shall not enter into a contract providing
25 compensation to the athlete for use of the athlete's name, image, or
26 likeness if a provision of the contract is in conflict with a provision
27 of the athlete's team contract.

28 (b) A student-athlete who enters into a contract providing compen-
29 sation to the athlete for use of the athlete's name, image, or likeness
30 shall disclose the contract to an official of the college, to be desig-
31 nated by the college.

32 (c) A college asserting a conflict described in paragraph (a) of this
33 subdivision shall disclose to the athlete or the athlete's legal repre-
34 sentation the relevant contractual provisions that are in conflict.

35 6. After the effective date of this section, a new team contract or a
36 renewal or modification of a team contract of a college's athletic
37 program shall not prevent a student-athlete from using the athlete's
38 name, image, or likeness for a commercial purpose when the athlete is
39 not engaged in official team activities.

40 7. (a) There shall be established within the department by the chan-
41 cancellor of the state university of New York, the community college
42 athlete name, image and likeness working group, to examine and review
43 existing state university of New York athletic bylaws, state and federal
44 laws and national athletic association bylaws regarding a college
45 athlete's use of such athlete's name, image and likeness for compen-
46 sation. The department shall provide necessary secretariat and support
47 services to the working group.

48 (b) (1) The community college athlete name, image and likeness working
49 group shall consist of, but not be limited to, the following members:

50 (i) one representative from the office of the chancellor of the state
51 university of New York;

52 (ii) at least two community college student-athletes appointed by the
53 chancellor's office;

54 (iii) a community college athletic administrator appointed by the
55 chancellor's office;

1 (iv) a community college athletic coach appointed by the chancellor's
2 office;

3 (v) one member appointed by the governor;

4 (vi) one member appointed by the temporary president of the senate;
5 and

6 (vii) one member appointed by the speaker of the assembly.

7 (2) All appointments to the working group shall be completed on or
8 before July first, two thousand twenty.

9 (c) On or before July first, two thousand twenty-one, the working
10 group shall provide a report to the governor, the speaker of the assem-
11 bly, the temporary president of the senate and the chancellor of the
12 state university of New York, which contains such working group's find-
13 ings and policy recommendations in connection with its review pursuant
14 to paragraph (a) of this subdivision.

15 § 2. This act shall take effect immediately; provided, however, that
16 subdivisions 1, 2, 3, 4, 5 and 6 of section 6438-a of the education law,
17 as added by section one of this act, shall take effect January 1, 2023.