

# STATE OF NEW YORK

6722--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to enacting the "New York collegiate athletic participation compensation act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York collegiate athletic participation compensation act".

3 § 2. The education law is amended by adding two new sections 6438-a  
4 and 6438-b to read as follows:

5 § 6438-a. Student-athlete compensation. 1. (a) A college shall not  
6 uphold any rule, requirement, standard, or other limitation that  
7 prevents a student of that institution participating in intercollegiate  
8 athletics from earning compensation pursuant to this section including  
9 as a result of the use of the student's name, image, or likeness. Earn-  
10 ing compensation pursuant to this section including from the use of a  
11 student's name, image, or likeness shall not affect the student's schol-  
12 arship eligibility.

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

19 (c) An athletic association, conference, or other group or organiza-  
20 tion with authority over intercollegiate athletics, including, but not  
21 limited to, the National Collegiate Athletic Association, shall not  
22 prevent a college from participating in intercollegiate athletics as a

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

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1 result of the compensation of a student-athlete pursuant to this section  
2 including for the use of the student's name, image, or likeness.

3 (d) A community college shall be exempt from the requirements of this  
4 section.

5 2. A college, athletic association, conference, or other group or  
6 organization with authority over intercollegiate athletics shall not  
7 provide a prospective student-athlete with compensation in relation to  
8 the athlete's name, image, or likeness.

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

15 (b) Professional representation obtained by student-athletes shall be  
16 from persons registered and/or licensed by the state. Professional  
17 representation provided by athlete agents shall be by persons registered  
18 pursuant to article thirty-nine-E of the general business law. Legal  
19 representation of student-athletes shall be by attorneys licensed pursu-  
20 ant to article fifteen of the judiciary law.

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

25 4. A scholarship from the college in which a student is enrolled that  
26 provides the student with the cost of attendance at that institution is  
27 not compensation for purposes of this section, and a scholarship shall  
28 not be revoked as a result of earning compensation, obtaining legal  
29 representation or receiving funds through a college's wage fund pursuant  
30 to this section.

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

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

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

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

47 7. (a) Each college shall establish a sports injury health savings  
48 account and a wage fund pursuant to this subdivision. Such savings  
49 account and wage fund shall be funded with fifteen percent of the reven-  
50 ue earned from such college's athletics program. Half of such revenue  
51 shall be deposited into such sports injury health savings account and  
52 half shall be deposited into such wage fund.

53 (b) Each college's sports injury health savings account shall be  
54 established to provide a student-athlete who suffers a career ending or  
55 serious injury during a game or practice with compensation upon his or  
56 her graduation. The amount of such compensation and qualifying injuries

1 shall be determined by the department. A qualifying injury shall be  
2 verified by an independent health care provider not affiliated with such  
3 student-athlete's college.

4 (c) At the conclusion of each school year, each college's wage fund  
5 shall be divided evenly and paid to all student-athletes attending such  
6 college.

7 § 6438-b. Community college athlete name, image and likeness working  
8 group. 1. There shall be established within the department by the chan-  
9 cancellor of the state university of New York, the community college  
10 athlete name, image and likeness working group, to examine and review  
11 existing state university of New York athletic bylaws, state and federal  
12 laws and national athletic association bylaws regarding a college  
13 athlete's use of such athlete's name, image and likeness for compen-  
14 sation. The department shall provide necessary secretariat and support  
15 services to the working group.

16 2. (a) The community college athlete name, image and likeness working  
17 group shall consist of, but not be limited to, the following members:

18 (i) one representative from the office of the chancellor of the state  
19 university of New York;

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

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

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

26 (v) one member appointed by the governor;

27 (vi) one member appointed by the temporary president of the senate;

28 and

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

30 (b) All appointments to the working group shall be completed on or  
31 before July first, two thousand twenty.

32 3. On or before July first, two thousand twenty-one, the working group  
33 shall provide a report to the governor, the speaker of the assembly, the  
34 temporary president of the senate and the chancellor of the state  
35 university of New York, which contains such working group's findings and  
36 policy recommendations in connection with its review pursuant to subdi-  
37 vision one of this section.

38 § 3. This act shall take effect immediately; provided, however, that  
39 section 6438-a of the education law, as added by section two of this  
40 act, shall take effect January 1, 2023.