

# STATE OF NEW YORK

5891

2021-2022 Regular Sessions

## IN SENATE

March 22, 2021

Introduced by Sens. PARKER, BAILEY -- read twice and ordered printed,  
and when printed to be committed to the Committee on Education

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 Assem-  
bly, 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  
23 result of the compensation of a student-athlete pursuant to this section  
24 including for the use of the student's name, image, or likeness.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 verified by an independent health care provider not affiliated with such  
2 student-athlete's college.

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

6 § 6438-b. Community college athlete name, image and likeness working  
7 group. 1. There shall be established within the department by the chan-  
8 cancellor of the state university of New York, the community college  
9 athlete name, image and likeness working group, to examine and review  
10 existing state university of New York athletic bylaws, state and federal  
11 laws and national athletic association bylaws regarding a college  
12 athlete's use of such athlete's name, image and likeness for compen-  
13 sation. The department shall provide necessary secretariat and support  
14 services to the working group.

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

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

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

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

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

25 (v) one member appointed by the governor;

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

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

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

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

37 § 3. This act shall take effect immediately; provided, however, that  
38 section 6438-a of the education law, as added by section two of this  
39 act, shall take effect January 1, 2025.