

# STATE OF NEW YORK

7388--A

2023-2024 Regular Sessions

## IN SENATE

May 22, 2023

Introduced by Sens. PARKER, GOUNARDES, MANNION -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to permissible activities for athletic associations, conferences, or other groups or organizations with authority over intercollegiate athletics and the definition of student-athlete

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

1 Section 1. Section 6438-a of the education law, as added by chapter  
2 622 of the laws of 2022, is renumbered section 6438-c.

3 § 2. Paragraph (a) of subdivision 1 of section 6438-c of the education  
4 law, as added by chapter 622 of the laws of 2022 and such section as  
5 renumbered by section one of this act, is amended to read as follows:

6 (a) "student-athlete" shall mean (i) a student enrolled at a college  
7 and participating in intercollegiate athletics, or (ii) an individual  
8 who has completed at least their sophomore year of high school or inter-  
9 national equivalent and is eligible, or may in the future be eligible,  
10 to attend a college and participate in intercollegiate athletics. Such  
11 term shall not include an individual permanently ineligible to partic-  
12 ipate in a particular interscholastic or intercollegiate sport; and

13 § 3. Paragraph (c) of subdivision 2 of section 6438-c of the education  
14 law, as added by chapter 622 of the laws of 2022 and such section as  
15 renumbered by section one of this act, is amended and a new paragraph  
16 (d) is added to read as follows:

17 (c) An athletic association, conference, or other group or organiza-  
18 tion with authority over intercollegiate athletics, including, but not  
19 limited to, the [~~National Collegiate Athletic Association (NCAA)~~] NCAA,  
20 shall not prevent a college from: (i) participating in intercollegiate  
21 athletics as a result of allowing a student-athlete pursuant to this

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

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1 section from earning compensation as a result of the use of the student-  
2 athlete's name, image, or likeness; or (ii) identifying, facilitating,  
3 enabling, or supporting opportunities for a student-athlete to earn  
4 compensation for the student-athlete's name, image, or likeness.

5 (d) An athletic association, conference, or other group or organiza-  
6 tion with authority over intercollegiate athletics, including, but not  
7 limited to the NCAA, shall not and shall not authorize its member insti-  
8 tutions to:

9 (i) prevent a college from participation in intercollegiate athletics  
10 because a student-athlete in attendance has previously earned or intends  
11 to earn compensation for the use of his or her name, image, or likeness;

12 (ii) entertain a complaint, open an investigation, or take any other  
13 adverse action against a college for engaging in any activity protected  
14 in this section or for involvement in a student-athlete's name, image,  
15 or likeness; or

16 (iii) penalize or prevent a college from participation in intercolle-  
17 giate athletics because an individual or entity whose purpose includes  
18 supporting or benefitting the college or its athletic programs or  
19 student-athletes violates the collegiate athletic association's rules or  
20 regulations with regard to a student-athlete's name, image, or likeness.

21 § 4. This act shall take effect immediately.