

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 91
Committee Substitute Favorable 2/23/21
Committee Substitute #2 Favorable 3/11/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H91-PCS40648-TCf-48

Short Title: Accountability and Fair Play in Athletics. (Public)

Sponsors:

Referred to:

February 17, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO RESTRUCTURE OVERSIGHT OF PUBLIC HIGH SCHOOL
3 INTERSCHOLASTIC ATHLETICS TO ENSURE ACCOUNTABILITY AND FAIR
4 PLAY.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. REGULATION OF INTERSCHOLASTIC ATHLETIC COMPETITIONS**

8 **SECTION 1.(a)** Chapter 115C of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 29E.

11 "Interscholastic Athletic Competition.

12 "Part 1. Definitions.

13 **"§ 115C-407.50. Definitions.**

14 The following definitions apply in this Article:

- 15 (1) Commission. – The North Carolina Interscholastic Athletic Commission.
16 (2) Director. – The Director of the North Carolina Interscholastic Athletic
17 Commission.
18 (3) Final Participation Appeal Board. – The Student Athletic Participation Final
19 Appeal Board appointed by the State Board of Education to review final
20 appeals of application of student participation rules.
21 (4) Fund. – The High School Interscholastic Athletic Fund.
22 (5) Gameplay Appeal Board. – The Interscholastic Athletic Gameplay Appeal
23 Board.
24 (6) Gameplay rules. – Rules adopted by the North Carolina Interscholastic
25 Athletic Commission in accordance with this Article governing oversight of
26 the administration, classification, scheduling, and conduct of interscholastic
27 athletic activities.
28 (7) Initial Participation Appeal Board. – The Student Athletic Participation Initial
29 Appeal Board appointed by the State Board of Education to review initial
30 appeals of application of student participation rules.
31 (8) Parent. – The parent or legal guardian of a student participating or seeking to
32 participate in interscholastic athletic activities.



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1 (9) Participating school. – A school serving any grade between six and 12 that is
2 (i) part of a public school unit or the North Carolina School of Science and
3 Mathematics and (ii) elects to offer interscholastic athletic activities.

4 (10) Student participation rules. – Rules adopted by the State Board of Education
5 in accordance with this Article governing student eligibility to participate in
6 interscholastic athletic activities. Student participation rules include both
7 student participation and student health and safety requirements.

8 "Part 2. Student Participation Rules.

9 **"§ 115C-407.60. Regulation of interscholastic athletic activities.**

10 (a) The State Board of Education shall adopt student participation rules governing student
11 eligibility for interscholastic athletic activities conducted by public school units in accordance
12 with the requirements of this Article. The rules adopted by the State Board of Education for
13 interscholastic athletic activities at the high school level shall be administered by the North
14 Carolina Interscholastic Athletic Commission. The rules adopted by the State Board of Education
15 for interscholastic athletic activities at the middle school level shall be administered by the
16 Department of Public Instruction.

17 (b) The student participation rules shall include standards for student participation and
18 student health and safety. Student participation rules shall include academic standards,
19 enrollment requirements, attendance requirements, medical eligibility requirements, recruiting
20 limitations, and hardship exceptions and shall ensure compliance with the requirements of
21 G.S. 115C-407.65 and G.S. 115C-407.70.

22 (c) All public school units shall conduct middle school interscholastic athletic activities
23 in accordance with the student participation rules adopted by the State Board of Education as
24 administered by the Department of Public Instruction. All public school units shall conduct high
25 school interscholastic athletic activities in accordance with the student participation rules adopted
26 by the State Board of Education as administered by the Commission. Public school units shall
27 not be regulated by entities other than the State Board of Education and Commission for regular
28 and postseason interscholastic athletics.

29 **"§ 115C-407.65. Rules on concussions and head injuries.**

30 (a) For the purpose of this section, a concussion is a traumatic brain injury caused by a
31 direct or indirect impact to the head that results in disruption of normal brain function which may
32 or may not result in loss of consciousness.

33 (b) With regard to middle schools and high schools, the State Board of Education shall
34 adopt rules that provide for the following:

35 (1) All coaches, school nurses, athletic directors, first responders, volunteers,
36 students who participate in interscholastic athletic activities, and the parents
37 of those students shall receive, on an annual basis, a concussion and head
38 injury information sheet. School employees, first responders, volunteers, and
39 students must sign the sheet and return it to the coach before they can
40 participate in interscholastic athletic activities, including tryouts, practices, or
41 competition. Parents must sign the sheet and return it to the coach before their
42 children can participate in any such interscholastic athletic activities. The
43 signed sheets shall be maintained in accordance with subsection (c) of this
44 section.

45 (2) If a student participating in an interscholastic athletic activity exhibits signs
46 or symptoms consistent with concussion, the student shall be removed from
47 the activity at that time and shall not be allowed to return to play or practice
48 that day. The student shall not return to play or practice on a subsequent day
49 until the student is evaluated by and receives written clearance for such
50 participation from one of the following:

- 1 a. A physician licensed under Article 1 of Chapter 90 of the General
2 Statutes with training in concussion management.
3 b. A neuropsychologist licensed under Article 18A of Chapter 90 of the
4 General Statutes with training in concussion management and working
5 in consultation with a physician licensed under Article 1 of Chapter 90
6 of the General Statutes.
7 c. An athletic trainer licensed under Article 34 of Chapter 90 of the
8 General Statutes.
9 d. A physician assistant, consistent with the limitations of G.S. 90-18.1.
10 e. A nurse practitioner, consistent with the limitations of G.S. 90-18.2.
11 (c) Each middle and high school shall maintain complete and accurate records of its
12 compliance with the requirements of this section.

13 **"§ 115C-407.70. Emergency action plans.**

14 (a) With regard to middle schools and high schools, the State Board of Education shall
15 adopt a rule that requires each school to develop a venue-specific emergency action plan to deal
16 with serious injuries and acute medical conditions in which the condition of the patient may
17 deteriorate rapidly. The plan shall include a delineation of roles, methods of communication,
18 available emergency equipment, and access to and plan for emergency transport.

19 (b) The rule required by subsection (a) of this section shall require the plan to be at least
20 the following:

- 21 (1) In writing.
22 (2) Reviewed by an athletic trainer licensed in North Carolina.
23 (3) Approved by the principal of the school.
24 (4) Distributed to all appropriate personnel.
25 (5) Posted conspicuously at all venues.
26 (6) Reviewed and rehearsed annually by all licensed athletic trainers, first
27 responders, coaches, school nurses, athletic directors, and volunteers for
28 interscholastic athletic activities.

29 "Part 3. North Carolina Interscholastic Athletic Commission.

30 **"§ 115C-407.75. North Carolina Interscholastic Athletic Commission.**

31 (a) There is created the North Carolina Interscholastic Athletic Commission. The purpose
32 of the Commission is to (i) apply and enforce the student participation rules adopted by the State
33 Board of Education, (ii) adopt, apply, and enforce gameplay rules, and (iii) oversee the conduct
34 of high school interscholastic athletic competition for public school units. The Commission shall
35 not oversee interscholastic athletic competition for nonpublic schools.

36 (b) The Commission shall be located administratively within the Department of
37 Administration. The Department of Administration shall provide administrative services, office
38 space, and meeting space for the Commission at no cost to the Commission. The Commission
39 shall exercise all of its prescribed statutory powers and management functions independently of
40 the Department of Administration. "Management functions," as used in this section, means
41 planning, organizing, staffing, directing, coordinating, and budgeting.

42 (c) The Commission shall consist of 17 members. All members of the Commission shall
43 be employed in a public school unit as an athletic director, superintendent, assistant or associate
44 superintendent, principal, or assistant principal, or full-time employee serving as a coach.
45 Members shall be appointed as follows:

- 46 (1) Nine members appointed by the Governor as follows:
47 a. No more than three appointees total may be from each of the following
48 categories:
49 1. Athletic director.
50 2. Superintendent or assistant or associate superintendent.
51 3. Principal or assistant principal.

- 1 4. Full-time employee serving as a coach.
- 2 b. No more than three appointees total shall be from a single athletic
- 3 division adopted as provided in G.S. 115C-407.80(a)(2).
- 4 (2) Four members appointed by the General Assembly, upon the recommendation
- 5 of the President Pro Tempore of the Senate, as follows:
- 6 a. No more than two appointees total may be from each of the following
- 7 categories:
- 8 1. Athletic director.
- 9 2. Superintendent or assistant or associate superintendent.
- 10 3. Principal or assistant principal.
- 11 4. Full-time employee serving as a coach.
- 12 b. No more than two appointees total shall be from a single athletic
- 13 division adopted as provided in G.S. 115C-407.80(a)(2).
- 14 (3) Four members appointed by the General Assembly, upon the recommendation
- 15 of the Speaker of the House of Representatives, as follows:
- 16 a. No more than two appointees total may be from each of the following
- 17 categories:
- 18 1. Athletic director.
- 19 2. Superintendent or assistant or associate superintendent.
- 20 3. Principal or assistant principal.
- 21 4. Full-time employee serving as a coach.
- 22 b. No more than two appointees total shall be from a single athletic
- 23 division adopted as provided in G.S. 115C-407.80(a)(2).
- 24 (d) Appointed members shall serve for four-year terms beginning on July 1 of
- 25 odd-numbered years. No appointed member shall serve more than two consecutive full terms. A
- 26 seat shall be considered vacant if the appointed member ceases to be employed by the public
- 27 school unit in the same position the member was employed in at the time of appointment.
- 28 Vacancies in the membership shall be filled by the appointing authority in accordance with the
- 29 criteria in subsection (c) of this section. Vacancies in appointments by the General Assembly
- 30 shall be filled, as provided in G.S. 120-122.
- 31 (e) The Commission shall annually elect a chair and a vice-chair from among its
- 32 membership. In the absence of the chair, the vice-chair shall preside over the Commission's
- 33 meetings. All members are voting members, and a majority of the Commission shall constitute a
- 34 quorum. The Commission shall adopt rules to govern its proceedings.
- 35 (f) The Commission shall meet at least 10 times a year and may meet more frequently
- 36 upon the call of the chair or the vice-chair in the absence of the chair.
- 37 (g) Members of the Commission shall receive compensation from the Fund for their
- 38 services and reimbursement for expenses incurred in the performance of their duties required by
- 39 this Article at the rate prescribed in G.S. 138-5 and G.S. 138-6.
- 40 **§ 115C-407.80. Powers, duties, and restrictions.**
- 41 (a) The Commission shall have the following powers and duties:
- 42 (1) Apply, enforce, and administer all student participation rules adopted by the
- 43 State Board.
- 44 (2) Adopt, apply, enforce, and administer gameplay rules as follows:
- 45 a. Classification of all participating schools in the State into one of four
- 46 athletic divisions based solely on average daily membership. For
- 47 charter schools, the rules shall classify those schools into the next
- 48 largest conference than the school would be assigned to based solely
- 49 on average daily membership.

- 1 b. Classification of all participating schools in the State into conferences
2 based solely on geography, division classification, and average daily
3 membership.
4 c. Game rules, including rules specific to individual sports.
5 d. Game administration.
6 e. Coaching requirements.
7 f. Officiating requirements.
8 g. Sportsmanship requirements.
9 h. Season and conference schedules and requirements, including the
10 following:
11 1. Preseason calendars and requirements.
12 2. Regular season calendars and requirements.
13 3. Post-season conference and State tournament calendars and
14 requirements. The rules shall limit all conference and State
15 tournament participation to participating schools.
16 (3) Adopt a system of demerits for infractions of student participation rules and
17 gameplay rules which may result in reprimands, probations, suspensions,
18 forfeitures of contests, forfeitures of titles, and disqualifications.
19 (4) Make publicly available on the Commission's website all student participation
20 rules, gameplay rules, and information on the appeals process, including
21 specific information on how to make an initial and final appeal.
22 (5) Coordinate the appeals process established in Part 4 of this Article for the
23 Student Athletic Participation Initial Appeal Board and Student Athletic
24 Participation Final Appeal Board for appeals of the application of student
25 participation rules.
26 (6) Coordinate the appeals process established in Part 4 of this Article for the
27 Interscholastic Athletic Gameplay Appeal Board for appeals of the application
28 of gameplay rules.
29 (7) Apply the standards established by the federal Family Educational Rights and
30 Privacy Act, 20 U.S.C. § 1232g, to all student records containing personally
31 identifiable information in the possession of the Commission. The
32 Commission shall be authorized to display and share student information
33 designated by a participant school as directory information unless the
34 participant school indicates that a parent has opted out of disclosure of that
35 information. Other than directory information, all student records containing
36 personally identifiable information held by the Commission are not public
37 records under Chapter 132 of the General Statutes.
38 (8) Establish programs to recognize special achievement, including recognition
39 of outstanding scholar-athletes.
40 (9) Retain up to fifty percent (50%) of the net proceeds of any State tournament
41 game.
42 (10) Annually report by December 1 to the Joint Legislative Education Oversight
43 Committee and the State Board of Education on the following:
44 a. Activities during the prior school year and recommendations and
45 findings regarding improvement of high school interscholastic
46 athletics.
47 b. A copy of the most recent audit conducted by the State Auditor.
48 c. A schedule of current fees charged to participating schools.
49 d. The current balance of the High School Interscholastic Athletic Fund
50 and the amount of interest accrued in the Fund over the prior fiscal
51 year.

- 1 e. From the prior fiscal year:
2 1. The total of the Commission's expenses, including the
3 percentage of those expenses expended on personnel costs.
4 2. The amount of fees and gate receipts collected.
5 (11) Exercise the powers of a body corporate, including the power to sue and be
6 sued, to make contracts, to hold and own copyrights, and to adopt and use a
7 common seal.
8 (b) The Commission is not authorized to do the following:
9 (1) Solicit grant funding and sponsorships from third-party organizations, other
10 than for State tournament games.
11 (2) Provide grants to schools regulated by the Commission.
12 (3) Provide scholarships to players.
13 (4) Designate the use of specific or preferred vendors.
14 (5) Retain a percentage of gate receipts for games other than State tournament
15 games.
16 (6) Regulate or control the intellectual property of schools, including team logos,
17 mascots, and audio or video of any game other than the State tournament
18 game.
19 (7) Restrict the recording of audio or video at a State tournament game by any
20 parent of a student participating in the game or any employee of the school
21 participating in the game.
22 (8) Impose monetary penalties for rule violations.
23 (9) Prohibit participating schools from games against nonpublic schools prior to
24 the conclusion of regular season play.
25 (10) Retain any portion of receipts collected from ticket sales, concessions, or sale
26 of merchandise by a participating school.
27 (11) Delegate its statutory duties to the Director or other entities.

28 **"§ 115C-407.85. Director; other employees.**

29 (a) The Commission shall appoint a Director who shall perform all duties imposed by
30 statute and such duties as may be assigned by the Commission. Except for Articles 6 and 7 of
31 Chapter 126 of the General Statutes, the Director shall be exempt from all requirements of the
32 North Carolina Human Resources Act.

33 (b) The Commission shall employ and designate personnel to coordinate appeals, as
34 required in Part 4 of this Article.

35 (c) The Commission may employ, subject to Chapter 126 of the General Statutes, all
36 necessary personnel for the performance of its functions and shall fix compensation for all
37 employees within the limits of funds available to the Commission from the Fund.

38 (d) The Commission shall not employ or contract with a legislative lobbyist or liaison.

39 **"§ 115C-407.90. Fees; High School Interscholastic Athletic Fund; annual audit.**

40 (a) The Commission shall be solely supported by fees and a percentage of gate receipts
41 from State tournament games. The Commission shall adopt reasonable annual fees for
42 participating schools as needed to support the duties of the Commission, including fees
43 associated with student catastrophic insurance coverage. Annual fees may vary based on the
44 division to which the school is assigned.

45 (b) The High School Interscholastic Athletic Fund is established in the Department of
46 State Treasurer as a fund for deposit of fees charged by the Commission to participating schools
47 and gate receipts. Interest accruing to the Fund is credited to the Fund. The Commission
48 administers the Fund and may use the Fund to support the work of the Commission. If the Fund
49 reaches a balance that is two hundred fifty percent (250%) of the Commission's total expenses
50 from the prior fiscal year, the Commission shall reduce the annual fee to participating schools by
51 a minimum of twenty percent (20%). The Commission may increase annual fees if the Fund

1 reaches a balance that is one hundred fifty percent (150%) of the Commission's total expenses
2 from the prior fiscal year.

3 (c) All Commission funds shall be handled in accordance with the State Budget Act.

4 (d) The Commission shall be audited annually by the State Auditor pursuant to Article
5 5A of Chapter 147 of the General Statutes.

6 **"§ 115C-407.95. Student catastrophic insurance.**

7 (a) The Commission shall maintain a State-funded student-athlete catastrophic insurance
8 policy and shall notify public school units regarding the coverage provided by the policy annually
9 prior to the start of each school year. Notification shall include information regarding policy
10 coverage details, instructions on reporting claims, contact information for additional questions,
11 and instructions on obtaining a copy of the policy.

12 (b) The Commission shall include in the annual fees charged to each participating school
13 a per pupil share of the cost of the policy based on the number of students participating in
14 interscholastic athletics at that school in the immediately prior school year.

15 "Part 4. Appeals.

16 **"§ 115C-407.100. Student participation rules appeals process.**

17 (a) The State Board of Education shall appoint appeals boards as provided in this section
18 to provide initial and final decisions on appeals of a decision related to the application of student
19 participation rules for high school interscholastic athletic activities.

20 (b) The following shall apply to all members appointed by the State Board of Education
21 to the appeals boards established by this Article:

22 (1) A member must meet the following requirements.

23 a. Continuously reside in the education district the member is appointed
24 to represent.

25 b. Be an employee of a public school unit.

26 (2) Members shall serve four-year terms beginning on July 1 of even-numbered
27 years, and no appointed member shall serve more than two consecutive full
28 terms.

29 (3) Any vacancies shall be filled by the State Board of Education. A seat shall be
30 deemed vacant if the appointed member ceases to be employed by the public
31 school unit or reside in the same education district as at the time of
32 appointment.

33 (4) Members shall receive per diem and travel allowances in accordance with
34 G.S. 138-5 and G.S. 138-6 to be paid by the Commission from the Fund.

35 (c) The State Board of Education shall appoint a Student Athletic Participation Initial
36 Appeal Board to review initial appeals. The Initial Participation Appeal Board shall have two
37 members from each of the eight education districts established by G.S. 115C-65. Members of the
38 Initial Participation Appeal Board shall serve in three-member panels. Members shall be assigned
39 by the Commission through a method of random selection to serve on a panel, and panel
40 assignments shall be rotated at least once every three months.

41 (d) The State Board of Education shall appoint a Student Athletic Participation Final
42 Appeal Board to review final appeals. One member shall be appointed from each of the eight
43 education districts established by G.S. 115C-65 to the Final Participation Appeal Board. The
44 Final Participation Appeal Board shall decide all appeals en banc and shall not use panels. A
45 member shall recuse themselves from any appeal related to a school located in the education
46 district where the member resides.

47 (e) The Director of the Commission shall provide electronic written notice of a decision
48 related to the application of student participation rules to a school within two business days of
49 the decision. A school shall provide notice to the student and parent of any student affected by a
50 decision related to the application of student participation rules within two business days of the
51 earlier of the decision by the school or notice of a decision by the Director of the Commission.

1 Notifications by schools to the student and parent of the student may be made electronically with
2 the consent of the parent of that student.

3 (f) A school or student, including the parent of a student, may appeal an application of
4 the student participation rules by the Director of the Commission as follows:

5 (1) An initial appeal shall be made to the Initial Participation Appeal Board no
6 later than 14 days following the date of transmission of the notice of the
7 decision to the appealing party. The appeal shall be conducted in accordance
8 with the procedures in subsection (g) of this section. The notice of appeal shall
9 be submitted to the Commission's appeal coordinator who shall coordinate the
10 hearing and assign the appeal to a three-member panel that does not include
11 any members from the education district in which the appeal originated. A
12 hearing before a three-member panel of the Initial Participation Appeal Board
13 shall be scheduled within 14 days of the notice. The panel shall issue a written
14 decision within seven days of the hearing that shall be transmitted to the
15 parties electronically unless the parties request an alternative means of
16 notification. The decision of the panel shall be appealable to the Final
17 Participation Appeal Board.

18 (2) A final appeal from an Initial Participation Appeal Board panel decision shall
19 be made to the Final Participation Appeal Board no later than 14 days
20 following the date of transmission of the notice of the decision to the appealing
21 party. The appeal shall be conducted in accordance with the procedures in
22 subsection (g) of this section. The notice of appeal shall be submitted to the
23 Commission's appeal coordinator who shall coordinate the hearing. A hearing
24 before the Final Participation Appeal Board shall be scheduled within 14 days
25 of the notice. The Final Participation Appeal Board shall issue a written
26 decision within seven days of the hearing that shall be transmitted to the
27 parties electronically unless the parties request an alternative means of
28 notification. The decision of the Final Participation Appeal Board shall be
29 final.

30 (g) The State Board of Education shall adopt by rule the procedures for conduct of
31 appeals consistent with the requirements of this section. Appeal hearings may be conducted
32 virtually, in the discretion of the reviewing entity, to facilitate timely hearings and access for
33 parties. The rules, at a minimum, shall provide for the following:

34 (1) The right of the parties to be represented at the appeal by a nonattorney
35 advocate.

36 (2) The right of the parties to be present at the hearing.

37 (3) If the appeal is made by a student, the right of the student to be accompanied
38 by his or her parents.

39 (4) The right of the parties to question witnesses appearing at the hearing.

40 (5) The right to present evidence on the parties' behalf, which may include written
41 statements or oral testimony.

42 (6) The right of the parties to make an audio or video recording of the hearing.

43 (7) The right to a written decision, based on substantial evidence presented at the
44 hearing, either upholding, modifying, or rejecting the application of the
45 student participation rule, including the basis for the decision, and the right to
46 appeal the decision and notice of the procedures for such appeal, when
47 applicable.

48 **"§ 115C-407.105. Gameplay rules appeals process.**

49 (a) The Commission shall appoint an appeals board as provided in this section to provide
50 initial decisions on appeals of a decision related to the application of gameplay rules.

- 1 **(b)** The Commission shall appoint the Interscholastic Athletic Gameplay Appeal Board
2 as follows:
- 3 **(1)** The Gameplay Appeal Board shall have one member who meets the following
4 qualifications from each of the eight education districts established by
5 G.S. 115C-65:
- 6 a. Resides in the education district the member is appointed to represent.
7 b. Is an employee of a public school unit.
- 8 **(2)** Appointed members shall serve four-year terms beginning on July 1 in
9 even-numbered years. No member shall serve more than two consecutive full
10 terms.
- 11 **(3)** Any vacancies shall be filled by the Commission. A seat shall be deemed
12 vacant if the appointed member ceases to be employed by the public school
13 unit or reside in the same education district as at the time of appointment.
- 14 **(4)** A member shall recuse themselves from any appeal related to a school located
15 in the education district where the member resides.
- 16 **(5)** Members shall receive per diem and travel allowances in accordance with
17 G.S. 138-5 and G.S. 138-6 to be paid by the Commission from the Fund.
- 18 **(c)** The Director of the Commission shall provide electronic written notice of a decision
19 related to the application of gameplay rules to a school within two business days of the decision.
20 A school shall provide notice to the student and parent of any student affected by a decision
21 related to the application of gameplay rules within two business days of the earlier of the decision
22 by the school or notice of a decision by the Director of the Commission. Notifications by schools
23 to the student and parent of the student may be made electronically with the consent of the parent
24 of that student.
- 25 **(d)** A school or student, including the parent of the student, may appeal an application of
26 gameplay rules as follows:
- 27 **(1)** An initial appeal shall be made to the Gameplay Appeal Board no later than
28 14 days following the date of transmission of the notice of the decision to the
29 appealing party. The appeal shall be conducted in accordance with the
30 procedures in subsection (e) of this section. The notice of appeal shall be
31 submitted to the Commission's appeal coordinator who shall coordinate the
32 hearing. A hearing before the Gameplay Appeal Board shall be scheduled
33 within 14 days of the notice. The Gameplay Appeal Board shall issue a written
34 decision within seven days of the hearing that shall be transmitted to the
35 parties electronically unless the parties request an alternative means of
36 notification. The decision of the Gameplay Appeal Board shall be appealable
37 to the Commission.
- 38 **(2)** A final appeal from the Gameplay Appeal Board panel decision shall be made
39 to the Commission no later than 14 days following the date of transmission of
40 the notice of the decision to the appealing party. The final appeal shall be
41 conducted in accordance with the procedures in subsection (e) of this section.
42 The notice of appeal shall be submitted to the Commission's appeal
43 coordinator who shall coordinate the hearing. A member shall recuse
44 themselves from any appeal related to a school located in the education district
45 where the member resides. A hearing before the Commission shall be
46 scheduled within 14 days of the notice. The Commission shall issue a written
47 decision within seven days of the hearing that shall be transmitted to the
48 parties electronically unless the parties request an alternative means of
49 notification. The decision of the Commission shall be final.
- 50 **(e)** The Commission shall adopt by rule the procedures for conduct of appeals consistent
51 with this section. Appeal hearings may be conducted virtually, in the discretion of the reviewing

1 entity, to facilitate timely hearings and access for parties. The rules, at a minimum, shall provide
2 for the following:

- 3 (1) The right of the parties to be represented at the appeal by a nonattorney
4 advocate.
- 5 (2) The right of the parties to be present at the hearing.
- 6 (3) If the appeal is made by a student, the right of the student to be accompanied
7 by his or her parents.
- 8 (4) The right of the parties to question witnesses appearing at the hearing.
- 9 (5) The right to present evidence on the parties' behalf, which may include written
10 statements or oral testimony.
- 11 (6) The right of the parties to make an audio or video recording of the hearing.
- 12 (7) The right to a written decision, based on substantial evidence presented at the
13 hearing, either upholding, modifying, or rejecting the application of the
14 gameplay rule, including the basis for the decision, and the right to appeal the
15 decision and notice of the procedures for such appeal, when applicable.

16 "Part 5. Public School Unit Reports.

17 **"§ 115C-407.110. Public school units annual interscholastic athletic reports.**

18 (a) Each public school unit with one or more participating schools shall annually report
19 the following information for the three school years completed prior to July 15 to the State Board
20 of Education:

- 21 (1) The total dollar amount spent on interscholastic athletic activities, by the
22 following categories:
 - 23 a. Commission fees.
 - 24 b. Salaries or stipends for coaches and faculties for duties associated
25 solely with interscholastic athletics.
 - 26 c. Capital costs, including new construction, repair and renovation, and
27 maintenance costs for existing athletic facilities.
 - 28 d. Uniform and equipment costs.
 - 29 e. Travel and transportation costs.
 - 30 f. Officiating costs.
 - 31 g. Other identified costs.
- 32 (2) The total dollar amount received from interscholastic athletic activities,
33 including funds held in special funds of individual schools, by the following
34 categories:
 - 35 a. Gate receipts.
 - 36 b. Concession sales.
 - 37 c. Merchandise sales or sales of items directly related to interscholastic
38 athletics, including apparel and audiovisual materials.
 - 39 d. Student fees.
 - 40 e. Monetary and in-kind contributions from third-party organizations.
 - 41 f. State or local funding expended on capital costs for athletics facilities.
 - 42 g. Other identified sources of funds.

43 (b) The State Board shall provide a summary of the reports by public school units and a
44 copy of each public school unit report to the Joint Legislative Education Oversight Committee
45 no later than October 15 annually."

46 **SECTION 1.(b)** The State Board of Education shall review and adopt new or revised
47 rules on interscholastic athletics in accordance with the requirements of Article 29E of Chapter
48 115C of the General Statutes, as enacted by this act, no later than January 31, 2022. The State
49 Board of Education is authorized to adopt temporary rules as provided in G.S. 150B-21.1 for use
50 in the 2022-2023 school year.

1 **SECTION 1.(c)** The State Board of Education shall make appointments to the
2 Student Athletic Participation Initial Appeal Board and Student Athletic Participation Final
3 Appeal Board no later than March 1, 2022. Notwithstanding G.S. 115C-407.100, as enacted by
4 this act, for the initial appointments to the boards, the State Board of Education shall designate
5 eight of the 16 appointments to the Student Athletic Participation Initial Appeal Board to
6 two-year terms of office and four of the eight appointments to the Student Athletic Participation
7 Final Appeal Board to two-year terms of office. Thereafter, all appointments shall be for
8 four-year terms of office.

9 **SECTION 1.(d)** The State Board of Education shall not designate the North Carolina
10 High School Athletic Association (NCHSAA) as the designated organization to apply and
11 enforce the State Board of Education's rules governing participation in interscholastic athletic
12 activities at the high school level for the 2021-2022 school year unless the NCHSAA agrees to
13 discontinue all financial penalties for rules violations for participating schools during the
14 2021-2022 school year through a memorandum of understanding signed by August 15, 2021.

15 **SECTION 1.(e)** In the event the NCHSAA is not designated by the State Board of
16 Education to apply and enforce the State Board of Education's rules governing participation in
17 interscholastic athletic activities at the high school level for the 2021-2022 school year, or if the
18 NCHSAA elects to not be the State Board of Education's designee, the State Board of Education
19 shall direct the Department of Public Instruction to apply and enforce its rules for high schools
20 for the 2021-2022 school year. Notwithstanding the requirements of Article 2A of Chapter 150B
21 of the General Statutes, the Department of Public Instruction shall apply and enforce the existing
22 rules adopted by the State Board of Education as of July 1, 2021, and the existing rules and
23 policies adopted by the NCHSAA as of July 1, 2021, for the 2021-2022 school year, with the
24 exception that the Department of Public Instruction shall not apply any financial penalties for
25 rules violations for participating schools during the 2021-2022 school year. The State Board of
26 Education is authorized to charge participating schools reasonable fees to cover the costs of
27 administration for the 2021-2022 school year. The State Board of Education may use fees
28 collected from participating schools to contract with an independent contractor with experience
29 in managing athletics competitions for students of high school age to assist with administration
30 of interscholastic athletic activities for the 2021-2022 school year.

31 **SECTION 1.(f)** A public school unit shall not pay dues to the North Carolina High
32 School Athletic Association for the 2021-2022 school year prior to the date the North Carolina
33 High School Athletic Association enters into a memorandum of understanding with the State
34 Board of Education as provided in subsection (d) of this section. A public school unit is
35 authorized to participate in interscholastic athletic activities as follows:

- 36 (1) During the 2021-2022 school year, under the regulation of one of the
37 following:
- 38 a. The North Carolina High School Athletic Association, if operating
39 under a memorandum of understanding with the State Board of
40 Education as required by subsection (d) of this section.
 - 41 b. The Department of Public Instruction.
- 42 (2) Beginning with the 2022-2023 school year, under the regulation of the State
43 Board of Education and North Carolina Interscholastic Athletic Commission,
44 as provided in Article 29E of Chapter 115C of the General Statutes, as enacted
45 by this act.

46 **SECTION 1.(g)** Initial appointments to the North Carolina Interscholastic Athletic
47 Commission shall be made by all appointing entities no later than September 15, 2021.
48 Notwithstanding the terms of office and division requirements of G.S. 115C-407.75, as enacted
49 by this act, the following shall apply to the initial appointments made in 2021:

- 50 (1) Of the members appointed by the Governor, four of the nine appointments
51 shall be designated to serve a two-year term, and no more than three members

1 shall be employed by a school classified as Class A, AA, AAA, or AAAA,
2 respectively, as of the date of appointment.

3 (2) Of the members appointed by the General Assembly upon the
4 recommendation of the President Pro Tempore of the Senate, two of the four
5 appointments shall be designated to serve a two-year term, and no more than
6 two members shall be employed by a school classified as Class A, AA, AAA,
7 or AAAA, respectively, as of the date of appointment.

8 (3) Of the members appointed by the General Assembly upon the
9 recommendation of the Speaker of the House of Representatives, two of the
10 four appointments shall be designated to serve a two-year term, and no more
11 than two members shall be employed by a school classified as Class A, AA,
12 AAA, or AAAA, respectively, as of the date of appointment.

13 **SECTION 1.(h)** The Secretary of the Department of Administration shall convene
14 the first meeting of the Commission no later than 21 days after all appointments to the
15 Commission have been made by the General Assembly and shall provide temporary staff to the
16 Commission through December 1, 2021.

17 **SECTION 1.(i)** The Commission shall adopt rules and fees in accordance with the
18 requirements of Article 29E of Chapter 115C of the General Statutes, as enacted by this act, no
19 later than February 15, 2022. The Commission is authorized to adopt temporary rules as provided
20 in G.S. 150B-21.1 for use in the 2022-2023 school year. In adopting rules and fees, the
21 Commission may establish workgroups of athletic directors, principals, coaches, and parents to
22 provide input to the Commission.

23 **SECTION 1.(j)** The Commission shall study and make findings and
24 recommendations on the following issues and report on its findings and recommendations to the
25 State Board of Education and the Joint Legislative Education Oversight Committee by April 1,
26 2022:

27 (1) Whether the Commission should be responsible for overseeing the conduct of
28 middle school interscholastic athletics for public school units, including
29 enforcing student participation rules and adopting and enforcing gameplay
30 rules. The Commission shall include in its deliberations an examination of the
31 potential costs to public school units for oversight of middle school
32 interscholastic athletics by the Commission. The Commission shall establish
33 workgroups of athletic directors, principals, and coaches employed by schools
34 serving students in grades six through eight and parents of students in grades
35 six through eight to provide input to the Commission on this recommendation.

36 (2) Factors that should be considered in home school students' participation in
37 interscholastic athletics, including how to address insurance and liability
38 issues for those students while participating in interscholastic athletics. The
39 Commission shall establish workgroups of athletic directors, principals, and
40 parents of home schooled students to provide input to the Commission on this
41 recommendation.

42 **SECTION 1.(k)** The Commission shall provide information to all public school units
43 in the State on the adopted rules and fees no later than February 28, 2022.

44 **SECTION 1.(l)** Notwithstanding the requirements of G.S. 115C-407.110, as enacted
45 by this act, all public school units shall submit the first annual interscholastic athletic report to
46 the State Board of Education no later than July 15, 2023, and shall include data from the
47 2018-2019, 2019-2020, 2020-2021, 2021-2022, and 2022-2023 school years.

48 **SECTION 1.(m)** This section is effective when it becomes law. Subsection (a) of
49 this section applies beginning with interscholastic athletic competitions occurring during the
50 2022-2023 school year.
51

PART II. CONFORMING CHANGES

SECTION 2.(a) G.S. 115C-12(23) reads as rewritten:

"(23) Power to Adopt Eligibility Rules for Interscholastic Athletic Competition. – ~~The~~ In accordance with Article 29E of this Chapter, the State Board of Education shall adopt rules governing interscholastic athletic activities conducted by local boards of education, including eligibility for student participation. With regard to middle schools and high schools, the rules shall provide for the following: public school units.

a. ~~All coaches, school nurses, athletic directors, first responders, volunteers, students who participate in interscholastic athletic activities, and the parents of those students shall receive, on an annual basis, a concussion and head injury information sheet. School employees, first responders, volunteers, and students must sign the sheet and return it to the coach before they can participate in interscholastic athletic activities, including tryouts, practices, or competition. Parents must sign the sheet and return it to the coach before their children can participate in any such interscholastic athletic activities. The signed sheets shall be maintained in accordance with sub-subdivision d. of this subdivision.~~

~~For the purpose of this subdivision, a concussion is a traumatic brain injury caused by a direct or indirect impact to the head that results in disruption of normal brain function, which may or may not result in loss of consciousness.~~

b. ~~If a student participating in an interscholastic athletic activity exhibits signs or symptoms consistent with concussion, the student shall be removed from the activity at that time and shall not be allowed to return to play or practice that day. The student shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance for such participation from (i) a physician licensed under Article 1 of Chapter 90 of the General Statutes with training in concussion management, (ii) a neuropsychologist licensed under Article 18A of Chapter 90 of the General Statutes with training in concussion management and working in consultation with a physician licensed under Article 1 of Chapter 90 of the General Statutes, (iii) an athletic trainer licensed under Article 34 of Chapter 90 of the General Statutes, (iv) a physician assistant, consistent with the limitations of G.S. 90-18.1, or (v) a nurse practitioner, consistent with the limitations of G.S. 90-18.2.~~

e. ~~Each school shall develop a venue specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan shall include a delineation of roles, methods of communication, available emergency equipment, and access to and plan for emergency transport. This plan must be (i) in writing, (ii) reviewed by an athletic trainer licensed in North Carolina, (iii) approved by the principal of the school, (iv) distributed to all appropriate personnel, (v) posted conspicuously at all venues, and (vi) reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities.~~

1 d. ~~Each school shall maintain complete and accurate records of its~~
2 ~~compliance with the requirements of this subdivision pertaining to~~
3 ~~head injuries.~~

4 The State Board of Education may authorize a designated organization to
5 apply and enforce the Board's rules governing participation in interscholastic
6 athletic activities at the high school level."

7 **SECTION 2.(b)** G.S. 115C-47(4) reads as rewritten:

8 "(4) To Regulate Extracurricular Activities. – Local boards of education shall
9 make all rules and regulations necessary for the conducting of extracurricular
10 activities in the schools under their supervision, including a program of
11 athletics, where desired, without assuming liability therefor; provided, that all
12 interscholastic athletic activities shall be conducted in accordance with rules
13 ~~and regulations prescribed adopted~~ by the State Board of ~~Education~~. Education
14 and the North Carolina Interscholastic Athletic Commission, in accordance
15 with Article 29E of this Chapter. For any sport for which the North Carolina
16 Interscholastic Athletic Commission has adopted gameplay rules, a local
17 board of education shall only participate in interscholastic athletic activities
18 regulated by the Commission."

19 **SECTION 2.(c)** G.S. 115C-366(f) reads as rewritten:

20 "(f) This section shall not be construed to allow students to transfer from one local school
21 administrative unit to another for athletic participation purposes in violation of eligibility
22 requirements ~~established adopted~~ by the State Board of ~~Education and the North Carolina High~~
23 ~~School Athletic Association~~. Education."

24 **SECTION 2.(d)** G.S. 116-235(b) is amended by adding a new subdivision to read:

25 "(4) Interscholastic Athletics. – If the Board of Trustees elects to provide a
26 program of interscholastic athletics, that program shall be conducted in
27 accordance with rules adopted by the State Board of Education and the North
28 Carolina Interscholastic Athletic Commission, in accordance with Article 29E
29 of Chapter 115C of the General Statutes. For any sport for which the North
30 Carolina Interscholastic Athletic Commission has adopted gameplay rules, the
31 School shall only participate in interscholastic athletic activities regulated by
32 the Commission."

33 **SECTION 2.(e)** G.S. 126-5(c1) is amended by adding a new subdivision to read:

34 "(37) The Director of the North Carolina Interscholastic Athletic Commission."

35 **SECTION 2.(f)** G.S. 143-291(c) is repealed.

36 **SECTION 2.(g)** This section becomes effective July 1, 2022.

37 38 **PART III. AUTHORIZE USE OF NEEDS-BASED PUBLIC SCHOOL CAPITAL FUND** 39 **GRANTS FOR ATHLETIC FACILITIES**

40 **SECTION 3.(a)** Section 5.3(e) of S.L. 2017-57, as amended by Section 1.1(a) of
41 S.L. 2017-187, Section 1.1 of S.L. 2017-212, Section 5.3(a) of S.L. 2018-5, and Section 3A.1 of
42 S.L. 2018-80, reads as rewritten:

43 "**SECTION 5.3.(e)** Grant funds awarded under this section shall be subject to a matching
44 requirement from the recipient county as follows:

- 45 (1) For a county designated as a development tier one area, the grant shall not
46 exceed three dollars (\$3.00) in grant funds for every one dollar (\$1.00)
47 provided by the county. Grant funds awarded to a county designated as a
48 development tier one area shall not exceed fifteen million dollars
49 (\$15,000,000).
50 (2) For a county designated as a development tier two area, the grant shall not
51 exceed one dollar (\$1.00) for every one dollar (\$1.00) in grant funds provided

1 by the county. Grant funds awarded to a county designated as a tier two area
2 shall not exceed ten million dollars (\$10,000,000).
3 Grant funds shall be used for the construction of new school buildings and school athletic
4 facilities only. Grant funds shall not be used for real property acquisition. Grant funds shall be
5 disbursed in a series of payments based on the progress of the project. To obtain a payment, the
6 grantee shall submit a request for payment along with documentation of the expenditures for
7 which the payment is requested and evidence that the matching requirement contained in
8 subsection (b) of this section has been met. Grant funds shall not be awarded to any county that
9 has received an aggregate amount exceeding eight million seven hundred fifty thousand dollars
10 (\$8,750,000) in funds from the Public School Building Capital Fund from the 2012-2013 fiscal
11 year to the 2016-2017 fiscal year. No county may receive grant funds under this section more
12 than once every five years. No portion of grant funds may be used to acquire a Leadership in
13 Energy and Environmental Design (LEED) certification. For fiscal year 2018-2019, for the
14 purposes of this section, a county shall be considered to be designated as a development tier one
15 area if (i) it was so designated by the Department of Commerce in 2017 or 2018 and (ii) the
16 county filed a grant application under this section in 2017."

17 **SECTION 3.(b)** This section is effective July 1, 2021.

18
19 **PART IV. FUNDING FOR NORTH CAROLINA INTERSCHOLASTIC ATHLETIC**
20 **COMMISSION**

21 **SECTION 4.** It is the intent of the General Assembly to provide funding to be used
22 for the establishment of the North Carolina Interscholastic Athletic Commission and initial
23 personnel costs during the 2021-2022 fiscal year.

24
25 **PART V. EFFECTIVE DATE**

26 **SECTION 5.** Except as otherwise provided herein, this act is effective when it
27 becomes law.