

NORTH CAROLINA GENERAL ASSEMBLY



LEGISLATIVE COMMISSION ON THE FAIR TREATMENT OF COLLEGE STUDENT- ATHLETES

**REPORT TO THE
2019 SESSION
of the
GENERAL ASSEMBLY
OF NORTH CAROLINA**

FEBRUARY 20, 2019

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TRANSMITTAL LETTER

February 20, 2019

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TO THE MEMBERS OF THE 2019 SESSION
OF THE GENERAL ASSEMBLY OF NORTH CAROLINA

The LEGISLATIVE COMMISSION ON THE FAIR TREATMENT OF
COLLEGE STUDENT-ATHLETES, respectfully submits the following report to
the 2019 Session of the General Assembly of North Carolina.

A handwritten signature in dark ink, appearing to read 'Dan Forest', with a long horizontal flourish extending to the right.

Lt. Gov. Dan Forest (Chair)

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COMMITTEE PROCEEDINGS

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The Commission on Legislative Commission on the Fair Treatment of College Student-Athletes met 3 times after the 2018 Short Session of the 2017 Regular Session. The following is a brief summary of the Commission's proceedings. Detailed minutes and information from each Commission meeting are available in the Legislative Library.

October 3, 2018

The Legislative Commission on the Fair Treatment of College Student Athletes held its first meeting on October 3, 2018 at the Legislative Office Building in Raleigh.

Scott Bearby, Vice President and General Counsel with the Office of Legal Affairs for the National Collegiate Athletic Association (NCAA), provided an overview of the structure and governance of the NCAA. Mr. Bearby discussed the three divisions that form the NCAA, which are overseen by the NCAA Board of Governors that is responsible for policy-making over the core principles of the Association. He then moved to talk about Division I schools. There are two forms of governance allowed for Division I schools: 1) Council Governance, which allows the opportunity for institutions to bring forward proposals for consideration, and 2) Autonomy, which gives institutions the authority to enact additional mandates and requirements at their schools. Division II schools have a more democratic style of governance, where each institution has a vote on policies that govern Division II schools. Mr. Bearby also spoke about the functions and priorities of the National Office Administration and the Sports Science Institute. Information from this presentation can be found on the Commission's [website](#).

Dr. Phil Dubois, Chancellor of UNC-Charlotte, next spoke to the Commission on insurance, injury, and welfare of student-athletes in the UNC System. Dr. Dubois discussed the structure and divisional requirements of the NCAA; its administration and rules of financial aid and scholarship offers, renewals, and cancellations; and the difference between Division I and II as it pertains to these. Dr. Dubois shared with the Commission the limitations on when financial aid could be reduced or cancelled for student-athletes, and that aid was protected for the years covered by the award. Dr. Dubois moved on to talk about medical care of student-athletes, healthcare providers, medical management, and the NCAA's requirements regarding the health and wellness of student-athletes. He noted that the UNC System requires that all students have insurance coverage whether it is from parental insurance coverage, a private individual policy purchased by the student, or a UNC System policy purchased by the student. The student's policy is the primary insurance and the university's athletic insurance policy is secondary. Dr. Dubois concluded by providing a case study with examples of how student-athletic injuries are handled by constituent institutions. Information from these presentations can be found on the Commission's [website](#).

Dr. Johna K. Register-Mihalik, PhD, LAT, ATC, Assistant Professor of the Department of Exercise and Sport Science at Matthew Gfeller Sport-Related TBI Research Center at the University of North Carolina at Chapel Hill, spoke next on the welfare of athletes and injury prevention. The mission of the Research Center is to improve the prevention, evaluation, management, and rehabilitation of sports-related traumatic brain injuries through research, education, and clinical practice. She defined what a Sports Concussion is and explained the history of the injury, symptoms, and the potential issues (short-term and long-term) with mismanagement of the injury. Dr. Register-Mihalik discussed research based on data collection on concussions that has led to new protocols for return to play progression. Dr. Register-Mihalik concluded her presentation by highlighting areas of continued research on concussion management and the need for increased education and training on the issue, as well as providing healthcare providers with unchallenged authority in medical decisions in this area. Information from this presentation can be found on the Commission's [website](#).

The Commission then heard from Nina Walker, MA, LAT, ATC, Vice President, North Carolina Trainers' Association. Ms. Walker explained the role of athletic trainers as health care professionals who render services and treatment in collaboration and under the direction of physicians. She noted that athletic trainers are a regulated healthcare profession in North Carolina and require a certification examination and compliance with State law for licensure. As part of the healthcare team, the services provided by athletic trainers include injury and illness prevention; wellness promotion and education; examination, assessment, and diagnosis; immediate emergency care; and therapeutic intervention and rehabilitation. Student-athletes generally have open access to athletic trainers because they are present during practice every day and have daily interaction with athletes. In terms of policy making, Ms. Walker stated athletic trainers can be a balance between student-athletes and the institutions, making sure rules are implemented. Information from this presentation can be found on the Commission's [website](#).

Ramogi Huma, Executive Director of National College Players Association, spoke next about policy recommendations for student-athlete's welfare. The National College Players Association advocates for student-athletes throughout the nation. Mr. Huma discussed the history of concussions and CTE in contact sports, and how it affects current and former student-athletes. Mr. Huma noted that the NCAA has good guidelines and bylaws regarding safety standards and concussion protocols, but unfortunately they are not always enforced because institutions are allowed to "self-police". He stated that the problem with self-policing is that there is a conflict of interest between the student-athlete's health and well-being, and the pressure that is placed on student-athletes to win games. Mr. Huma noted statistics from several surveys related to this issue. Mr. Huma also discussed injuries and the issues student-athletes have in regard to health insurance while participating in collegiate sports. Mr. Huma ended his presentation by highlighting the importance of transparency, suggested the Commission consider a panel of independent experts to identify what health and safety standards should be mandatory instead of discretionary, and a fund or insurance policy to help pay for former student-athlete's sport-related medical bills. Information from this presentation can be found on the Commission's [website](#).

David Collins, former UNC-CH football player, addressed the Commission next. Mr. Collins reviewed his experience as a former student-athlete at UNC-CH, and discussed his career ending ankle injury during a training camp his senior year. He stated he believes the NCAA and universities can do more for student-athletes when it comes to paying for injury-related medical treatment and surgeries. Mr. Collins recommended the Commission develop a standardized protocol for concussions; consider enrollment of all students in the State Health Plan; and continue to investigate and look at the relationship between student-athletes, universities, and the NCAA from a healthcare perspective to ensure better outcome for student-athletes. Information from this presentation can be found on the Commission's [website](#).

Jay Allred, publisher of Triad & Triangle Golf Today and golf coach at Reagan High School, and Victoria Allred, former ECU golf player, provide the final presentation to the Commission. Mr. Allred gave the Commission a chronological history of Victoria's injury while playing golf at ECU and the events that followed after the injury. Mr. Allred discussed his concerns that the NCAA has declined to protect student-athletes, does not enforce rules to ensure the student-athlete is receiving an education, and has determined there is no rule violation for sexual assault of former athletes or for student-athletes suffering a heat stroke. Mr. Allred then reviewed specified recommendations for student-athlete safety legislation, including creation of an independent body to review issues with college athletics, establishment of codes of conduct, and adoption of health and safety standards. Victoria Allred then addressed the Commission by remote video. She recounted her experience as a student-athlete at ECU and talked about the physical, mental, and emotional toll she experienced with her back injury and the rehabilitation process. Although Ms. Allred completed her degree, she was eventually released from the team and filed a complaint over the treatment she received from her coach. She stated that her complaint was dismissed and the institution's findings were that there is no jurisdiction over the athletic department. Information from this presentation can be found on the Commission's [website](#).

November 8, 2018

The Legislative Commission on the Fair Treatment of College Student Athletes held its second meeting on November 8, 2018 at the Legislative Office Building in Raleigh.

J. Davis Winkie, former football player for Vanderbilt University (2014-2016), gave an overview of his experience and perspectives on academics as a former student-athlete. He stated that there is a "Graduation Crisis" among black male student-athletes in the State, with the State's two largest constituent institutions failing to graduate student-athletes at the same rate as the general student population. Mr. Winkie spoke about his personal experience as a student-athlete at Vanderbilt, and noted challenges such as having to give up extracurricular/social activities, scheduling classes around practice schedules, and dedicating an average of 40 hours per week to athletic activities. He noted this lack of flexibility often leads players to "cluster" in classes and easier majors, regardless of career inspirations. Mr. Winkie suggested that these academic challenges could be addressed by

protecting student-athletes' academic time and their right to determine their own academic schedule; mandating "academic redshirts", with reduced practice hours for freshman student-athletes who do not meet the minimum admission requirements; integrating the student-athletes' career interests and internship opportunities into the student-athletes' academic plans; and providing for "open-ended scholarships" through graduation. Information from this presentation can be found on the Commission's website.

The Commission then heard from Amy Perko, CEO of the Knight Commission on Intercollegiate Athletics, and former All-ACC and Academic All-American basketball player at Wake Forest University. Ms. Perko talked about the purpose and work of the Knight Commission. An example of the Commission's work is their recommendation for Greater Academic Accountability, where teams must be on track to graduate 50% of their players in order to be eligible for postseason championships. The NCAA adopted this recommendation in 2011. Ms. Perko said that the values that should guide the NCAA, conferences or institutions seeking reform for student-athletes should be to prioritize their education, health, safety and well-being; financial responsibility; and integrity in the governance and operation of programs. Ms. Perko closed with a discussion of the Knight Commission's current initiatives. Information from this presentation can be found on the Commission's website.

The Commission then heard from Dr. Philip L. Dubois, UNC-Charlotte Chancellor, on behalf of the entire UNC System. Dr. Dubois started his first presentation talking about the UNC System's admissions policies for all students, going over the Minimum Course Requirements (MCR) and Minimum Admissions Requirements (MAR). If either of these standards is lacking, a student may be accepted into the institution through the "Chancellor's special admission" process, where a chancellor is allowed to approve exceptions for up to 1% of accepted undergraduates. Dr. Dubois then talked about the NCAA Eligibility Requirements, which are broader than the MAR and MCR requirements, and determined by NCAA Eligibility Center.

Dr. Dubois' second presentation was on the subject of time limits of student-athletes. He discussed the NCAA by-laws that establish general and sport-specific limitations upon student-athlete participation during practice and playing seasons. He noted that institutions in the UNC System must have a "Time Management Plan" for each sport. The plan must specify the required countable activities per week for each student-athlete, require that the student-athlete be notified if a change is made, and the plan must be reviewed annually by the Athletic Director, Faculty Athletic Representative, Head Coach, and one student-athlete from that sport.

Dr. Dubois' final presentation was on the oversight of athletics by the UNC Board of Governors. Responsibility for intercollegiate athletics is delegated by the Board of Governors to the chancellors, and chancellors are required to give an annual report to the Board of Trustees and Board of Governors. Dr. Dubois talked about the Academic Integrity Review as specified by the Board, and its detailed oversight requirements on grading standards, student-athlete areas of study and course performance, non-standard courses, and faculty and administrator oversight.

Dr. Dubois then talked about Course Clustering and Transcript Analysis. "Course clustering" occurs when student-athletes make up 25% or more of the students enrolled in

a course section; when this happens, the course is “flagged” for further analysis. A review of courses is conducted every fall, spring, and summer terms under the supervision of the Chief Academic Officer. If irregularities of courses are identified, they will be reviewed by the Dean, Department Chair, and Faculty Athletic Representative to determine reasons for irregularities and to create a corrective plan of action. Dr. Dubois then provided some examples of academic oversight conducted by UNC Charlotte. Information from these presentations can be found on the Commission’s [website](#).

The Commission next watched a video provided by N.C. A&T highlighting Marcus Pettiford of N.C. A&T Men’s Football. Mr. Pettiford was signed to play football at N.C. A&T in 2015. By the spring of 2016 he was experiencing academic troubles, was placed on academic probation, and was deemed ineligible to play in the 2016 season. After attending summer school and participating in the Accelerating Academic Success Program funded by the NCAA, Mr. Pettiford was able to improve academically and join the team again in the fall of 2017. Mr. Pettiford credited the program and the Learning Specialists with providing more one-on-one help with school work than what he was able to get from his professors. He earned a 3.32 GPA for 2017-2018, was removed from academic probation, and made the Dean’s List. The video can be found on the Commission’s [website](#).

The Commission next heard from a panel of student-athletes who attend constituent institutions.

Austin Allen of ECU Men’s Tennis Team spoke first to the Commission. Mr. Allen is a senior and is enrolled in the Honor’s College at ECU with a major in Chemistry. Mr. Allen stated he has had a tremendous athletic and academic experience and stressed the value that athletics have had on his academics. Mr. Allen discussed his extracurricular activities, internships, and community service while competing as a student-athlete, and his involvement in the Student Athlete Advisory Committee (SAAC), which he credited with helping him develop leadership and planning skills. Based on his experience, Mr. Allen indicated he believes that it is possible to excel academically and athletically.

Haley Pace of UNC Charlotte Women’s Softball Team spoke next to the Commission. Ms. Pace played softball from 2015-2018 while obtaining her undergraduate degree in Accounting, and is a current graduate student assistant coach. Ms. Pace shared with the Commission her multiple academic and athletic honors, and credits her athletic experience for teaching her time management, which she says is the key for success. Ms. Pace talked about the resources provided by UNC Charlotte to facilitate academic success for athletes, and noted that she was the Vice President of the UNC-C SAAC and the secretary of the Conference USA SAAC. Ms. Pace believes that many of her fellow student-athletes can give similar testimony as to their academic and athletic experiences.

Eynde Frazier of Western Carolina Women’s Soccer Team, concluded the student panel by speaking to the Commission through remote video. Ms. Frazier is a senior Honor Scholar with a major in Parks and Recreation Management and a minor in Sports Management. During her 4 years at Western Carolina, Ms. Frazier completed a full summer

internship with the City of Wilson and 3 mini internships. She is the President of the Western Carolina's SAAC chapter.

January 10, 2018

The Legislative Commission on the Fair Treatment of College Student Athletes held its third meeting on January 10, 2019 at the Legislative Office Building in Raleigh.

Paul H. Haagen, Professor of Law and Co-Director of the Center for Sports Law and Policy at Duke University School of Law, spoke first to the Commission. Professor Haagen gave a background on the regulation of intercollegiate sports, and spoke about the current legal landscape for compensation and process of student-athletes. He noted that the current legal environment is very unsettled, with significant legal challenges to the current regulatory structure, and ongoing legislative investigations and initiatives. Professor Haagen also reviewed challenges to limits on student-athlete compensation, who gets to decide who would get paid, how much, and on what principle. He provided an overview of the application of antitrust laws to the NCAA, antitrust challenges and defenses, student-athlete's limitations on the marketing of their name and likeness, and limitations on scholarship amounts. Professor Haagen concluded by noting issues and difficulties that arise when institutions provide benefits beyond those provided by NCAA rules. Information from this presentation can be found on the Commission's [website](#).

Dr. Phil Dubois, Chancellor, UNC-Charlotte, next spoke to the Commission. Dr. Dubois talked about NCAA transfer rules and exceptions. A NCAA legislative change that went into effect October 2018 made transferring to another institution easier than before for student-athletes, with the "permission to contact" rule being replaced by the "notification of transfer". Dr. Dubois explained that the decision on transfers was shifted from the Athletic Director to the student-athlete. In general, a transfer requires a one-year residence at the new institution before a student-athlete can compete in games, unless an exception is granted. Dr. Dubois then talked about disciplinary proceedings. Each campus must have a Code of Conduct that is applicable to all students, defines categories of prohibited conduct, specifies sanctions that can be imposed, and describes the violation procedure process. He then moved on to talk about amateurism, agents, and advisors. The use of agents is inconsistent with the amateur model of intercollegiate athletics and employing an agent renders a student-athlete ineligible. Other things that would render a student-athlete ineligible include accepting pay for using their athletic skills in any form, receiving benefits from an agent, signing a contract to play professional athletics, and entering a professional draft except as permitted by NCAA rules. Dr. Dubois concluded by reviewing what are permissible and non-permissible promotional activities, and the rules for when a student-athlete may work for compensation. Information from this presentation can be found on the Commission's [website](#).

Maddie Salamone, attorney, former Duke Women's Lacrosse player and Chair of Division I SAAC, next spoke to the Commission. She stated that student-athletes have no meaningful representation on campus and that student-athlete's perspectives are not represented by colleges. Ms. Salamone noted that the length and complexity of the NCAA

rules manual created confusion on topics regarding insurance, transfers, and compensation of student-athletes, and that student-athletes, who are often minors, are expected to know and understand the rules, the exceptions, and the exceptions to the exceptions. Ms. Salamone noted that while transfer rules have been changed, the changes have created an issue for student-athletes by putting the current school on notice that the student-athlete is seeking to transfer, which may jeopardize the student-athlete's future in the institution if they do not end up transferring. Ms. Salamone pointed out that there is a double standard in requiring the restrictions of transfer rules for student-athletes but not requiring similar restrictions for coaches who move to another constituent institution. Ms. Salamone recommended that an independent body be appointed to give confidential advice to student-athletes on issues such as academics, health and mental wellbeing, and professional related issues. Information from this presentation can be found on the Commission's website.

John Shoop, history teacher and assistant coach at A.C. Reynolds High School in Asheville, next addressed the Commission. Mr. Shoop gave a timeline of his experience in athletics as a student-athlete, and his employment as an assistant coach with the NFL and as an assistant coach at UNC Chapel Hill. He talked about the time he spent with student-athletes, and some of the abuse, injustice, and lack of due process he saw student-athletes endure during the academic scandal at UNC-CH. Mr. Shoop expressed the need for student-athlete advocacy, fairness, and respect from universities' athletic departments, the school's legal counsel, and the NCAA. He proposed that there should be a pool of lawyers who are independent from the university who are willing to be advocates for student-athletes.

Bob Orr, former N.C. Supreme Court Justice and attorney for various college athletes, spoke to the Commission next. Justice Orr spoke of the flawed system of governance of intercollegiate athletics and the problem he sees with due process and NCAA's policy to allow institutions to self-police. He noted that the NCAA is a membership organization and the universities and colleges are really who are in charge. He expressed that the process to enforce NCAA rules against student-athletes is fundamentally unfair and that their approach is "guilty until proven innocent". Justice Orr described the problems with allowing institutions to self-police, where the first thing a school does at the risk of facing punishment by the NCAA is to protect the institution, making the student-athlete disposable. He described a case where he became involved in representing student-athletes, and spoke about how there are no rights within the NCAA to protect student-athletes. He concluded his presentation by restating that there is a need for student-athlete's rights that would apply to all NCAA membership sports.

The Commission then heard from Representative Ted Davis, sponsor of HB 230 (Revised Uniform Athlete Agents Act). The bill was introduced in the 2017 session but was not enacted. Representative Davis stated he plans to introduce it again for the upcoming 2019 long session. Representative Davis gave an overview of the bill, stating that it was to protect student-athletes and institutions from unscrupulous athlete agents who are trying to handle professional contracts and endorsement contracts. Current law requires agents to register with the Secretary of State's Office, and this legislation would further

enforce regulations, require agents to contact an institution before they can contact a student-athlete, extend protections for current and former athletes who exhausted their eligibility to compete within the last six months, add criminal penalties, and increase the amount of existing civil penalties, among other things. Representative Davis concluded by saying there are 12 other states that have passed similar legislation. A copy of the bill draft can be found on the Commission's website.

Paul Pogge, Associate Athletic Director at the University of North Carolina at Chapel Hill, spoke to the Commission in support of the proposed legislation regarding agents. Mr. Pogge said there are too many athletes getting bad representation from agents and ending up in hard financial situations. Agents recognize the large amounts of money involved in athletics, some are drawn to the lifestyle and being around professional athletes and many times don't have the student-athlete's best interest in mind. He provided some examples of some agents' unethical practice and conduct. Mr. Pogge said this proposed legislation would allow for greater transparency because agents would be required to provide more information when registering with the Secretary of State's Office and institutions would be notified when an agent wants to contact a student-athlete, allowing them the opportunity to help athletes vet the agent's background and the information that was presented to them. Mr. Pogge concluded that the proposed legislation would lead to greater accountability by those who identify themselves as agents and would also stiffen penalties. Information from this presentation can be found on the Commission's website.

Andy Schwarz, Partner at OSKR and Co-Founder of the Historical Basketball League, next spoke to the Commission about the economics of college sports. Mr. Schwartz began by saying that universities use accounting and budget management practices to create misleading information on the profit of sports, and talked about the many ways institutions hide athletic revenue to make it look like they are breaking even. Mr. Schwartz stated that large increases in team performance can have economically significant effects, especially increasing athletic donations. He recognized that athletic success is a way for institutions to increase their reputation, attract prospective students and coaches, and boost their diversity in their student population. Mr. Schwarz talked about the economic impact, differences, and requirements of Title IX and the Olympic Model. He closed his presentation by saying that student-athletes are adults, not children, they are residents of the State, and should not be confused as being property of the State. Mr. Schwarz advocated for financial literacy education for student-athletes, pointing out that many student-athletes are Pell Grant students below the poverty line and have not handled money before. He also said that agents are a benefit if they are regulated properly. Information from this presentation can be found on the Commission's website.

Justice Orr spoke again to the Commission on the models of student-athlete compensation. He noted that due to the NCAA's Impermissible Benefits Rule, all people associated with the institution, even those not involved in sports, can benefit from the athlete's talents without being penalized, except for the athlete. Justice Orr said there was a simple and straightforward reform: stop punishing athletes from benefiting financially from their skills and success in a sport. He suggested that student-athletes have a constitutional right in North Carolina to compensation for their efforts. He then spoke about

the NCAA and how they criminalize conduct they cannot enforce, and have convinced states to help them do it. Justice Orr stated that student-athletes should have access to trained professionals who can guide them without fear of being punished and being deemed ineligible. He concluded that those professionals should be heavily screened and regulated without a great deal of difficulty and student-athletes should not be punished for seeking their advice for long-term success.

February 20, 2019

The Legislative Commission on the Fair Treatment of College Student Athletes held its fourth meeting on February 20, 2019 at the Legislative Office Building in Raleigh to consider the Commission's final report. The Commission debated the final report and adopted four amendments to the draft legislation, as well as a motion to modify the second recommendation. The Commission then approved a motion to consider the final report and legislation separately. The Commission approved the motion to adopt the final report and approved the separate motion to adopt and include the recommended legislation in the final report.

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FINDINGS AND RECOMMENDATIONS

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FINDING AND RECOMMENDATION 1: UNIFORM AND CONSISTENT STANDARDS FOR ATHLETIC PROGRAMS AND AN INDEPENDENT ENTITY FOR IMPLEMENTATION ARE NEEDED FOR STUDENT-ATHLETES AT ALL CONSTITUENT INSTITUTIONS.

- a) **Inconsistent Regulation.** - The Commission finds that the National Collegiate Athletics Association (NCAA) regulates the conduct of intercollegiate athletics for fifteen of The University of North Carolina constituent institutions. However, the regulations that apply differ based on the division and conference for that constituent institution. The Commission finds that, as a result, there is inconsistency in requirements for intercollegiate athletics among the constituent institutions of The University of North Carolina.
- b) **Consistent Health and Safety Standards.** - The Commission finds that independent medical care and the unchallengeable autonomous authority of primary athletics healthcare providers to determine medical management and return-to-play decisions related to student-athletes are integral to the health and safety of student-athletes. The Commission finds that student-athletes report concerns about transparency, access to information, independence of medical professionals and pressure to return-to-play, even though NCAA rules require independent medical care and address issues such as access to services for mental health. The Commission supports the current and ongoing efforts of the NCAA and constituent institutions to provide more holistic services to support physical and mental health needs for student-athletes, but recommends that consistent health and safety standards be developed for student-athletes at all constituent institutions.
- c) **Consistent Standards for Athletic Trainers.** - The Commission finds that athletic trainers are healthcare providers who are a first point of contact for many student-athletes on issues related to health and safety due to trainers' daily interaction with athletes and their level of knowledge. The Commission recommends that athletic trainers employed at constituent institutions of The University of North Carolina be required to meet high quality standards and have autonomy to provide care and treatment to students as an important component in ensuring student-athlete health and safety.
- d) **Consistent Standards for Concussion Management Plans.** - The Commission finds that ongoing research on concussions and traumatic brain injuries at institutions such as the Matthew Gfeller Sports-Related TBI Research Center has

provided more information and updated protocols for treatment and recovery from sports-related impact injuries. Although the NCAA requires concussion management plans to be developed for all intercollegiate athletics programs, the Commission finds that student-athletes would benefit from implementation of a consistent and comprehensive plan for all constituent institutions in The University of North Carolina that reflects current research and best practice protocols for concussion management, and recommends development of that plan.

- e) **Consistent Access to Medical Information.** - The Commission finds that student-athletes have concerns with the accessibility of health records and medical correspondence related to a student-athlete's injuries and return-to-play decision. The Commission recommends providing student-athletes access to medical records and medical correspondence between team medical professionals and athletic personnel to promote further transparency and accountability in the administration of health care to student-athletes.
- f) **Scholarships for Injured Student-Athletes.** - The Commission finds that NCAA rules prohibit the removal or reduction of financial aid for a student-athlete during the period of the award on the basis of the student-athlete's athletic ability or performance, injury, illness, other physical and mental condition, or any other athletic reason. However, the Commission also finds that not all constituent institutions may award multi-year athletic scholarships, leaving some student-athletes injured while playing without the necessary financial aid to complete their education in subsequent academic years. As a result, the Commission recommends that scholarships should be available for student-athletes to complete their education who are injured while playing and rendered medically ineligible to compete in athletics.
- g) **Additional Study of Health Care Needs.** - The Commission finds regulation and standards of the NCAA and constituent institutions related to student-athlete insurance, healthcare, and safety continue to develop in order to provide the highest care for student-athletes. The Commission recommends that, due to the complexity of these issues, additional study is needed to recommend further changes.
- h) **Student-Athlete Compensation.** - The Commission finds that 'successful intercollegiate athletic programs provide economic value to constituent institutions by increasing alumni athletic donations, enhancing a constituent institution's academic reputation, increasing number of applicants, providing a more balanced and diverse student population, and raising average incoming SAT scores of accepted students. The Commission also finds that there is not a common consensus on models and types of compensation for student-athletes, and that compensating student-athletes for athletic participation at constituent institutions is a complex issue that will require significant investigation of legal and economic

considerations. The Commission recommends that the issue of student-athlete compensation is one that warrants further study and analysis.

i) **Academic Challenges for Student-Athletes** - The Commission finds that most student-athletes perform well academically, but several student-athletes who spoke to the Commission highlighted the struggle to maintain their academic obligations due to their demanding athletic schedules. Additionally, student-athletes are not always aware that scheduling conflicts may make certain majors incompatible with being a student-athlete. In spring 2017, the average student-athlete GPA at constituent institutions ranged from 2.68 to 3.22. However, the federal 6-year graduation rate for black male student-athletes is lower than the graduation rate for other student-athletes at several constituent institutions. Current Board of Governors policy permits some student-athletes and others with special skills to be admitted to constituent institutions without meeting standard requirements. For the 2016-2017 academic year, fifty-four student-athletes were exempt from the minimum admissions requirements and twenty-two student-athletes were exempt from the minimum course requirements for acceptance to constituent institutions. The Commission finds that it is essential for student-athletes who did not meet the minimum admission requirements or the minimum course requirements to be continuously monitored academically and provided additional support. The Commission recommends the disclosure of the percentage of student-athletes enrolled in various academic majors to recruits, current student-athletes and the public to ensure greater academic transparency. The Commission also recommends that additional supports be required for special admission student-athletes, and that further study and recommendations be made on ways to ensuring meaningful education for student-athletes.

j) **Availability of Athletic Scholarships.** - The Commission finds that not all student-athletes receive full scholarships at constituent institutions. The financial aid package may include partial scholarships, or there may be no scholarship at all. Some student-athletes may receive one-year scholarships that are not renewed in future years. A constituent institution may not have funds available to provide multi-year scholarships, even when authorized by the NCAA. The Commission finds that the constituent institutions would benefit from counting out-of-state student-athletes who receive full athletic scholarships as residents of North Carolina in order to increase the availability of funding to provide additional scholarships for student-athletes. The Commission further finds that non-athletic full scholarships are counted in this matter, and recommends that authorizing constituent institutions be permitted to classify out-of-state student-athletes as in-state for purposes of awarding scholarships from recognized entities.

k) **Due Process and Adequate Representation.** - The Commission finds that athletic departments have a conflict of interest when addressing complaints raised by

student-athletes and athletic personnel, since their interests do not always align. Athletic departments are incentivized to self-report rules infractions quickly in order to avoid penalties from the NCAA. When a question over a student-athlete's athletic eligibility is raised, the resulting process followed by constituent institutions may be complicated, rushed, and confusing for student-athletes. The Commission finds that student-athletes may lack representation and due process in these eligibility investigations. Further, the Commission finds that each constituent institution establishes its own expectations for athletic personnel, which may result in inconsistent standards of conduct toward student-athletes between and within constituent institutions. Finally, the Commission finds that student-athletes and athletic personnel report concerns of retaliation for reports of unfair treatment. The Commission recommends the creation of a standardized process to determine student-athlete eligibility and the creation of an independent entity for investigation of complaints, conduct of hearings, and issuance of sanctions for violations.

- l) Limited Data on Student-Athletes.** - The Commission finds that constituent institutions annually survey student-athletes for information on their review of the athletic program, though this information is not publicly available due to confidentiality concerns. The results of these surveys are maintained for internal use by the constituent institutions. The Commission recommends an independent entity compile publicly accessible information about student-athletes and athletic programs to promote transparency and awareness. This should include standardized, uniform surveys of student-athletes about their experience in their athletic program, information on student-athlete injuries arising out of participation in athletic programs, and violations by athletic programs.
- m) Creation of the University Student-Athlete Protection Commission.** – The Commission recommends that an independent entity within The University of North Carolina is needed to provide uniform standards and a code for the conduct of student-athletes and athletic personnel across the System. The Commission therefore recommends that the University Student-Athlete Protection Commission be created to adopt uniform health and safety standards, to adopt a code of conduct for athletic personnel, and to develop a system for adjudicating complaints about the athletic programs at constituent institutions, while ensuring protections and rights of student-athletes. The Commission further recommends that the University Student-Athlete Protection Commission study additional issues in-depth related to student-athletes, including improving healthcare, academic opportunities, access to public records, and means of providing compensation, and report its findings to standing study committees of the General Assembly for further consideration. The recommendations of the Committee are presented specifically in the attached draft legislation 2019-TC-8.

FINDING AND RECOMMENDATION 2: CONSIDERATION OF THE REVISED UNIFORM ATHLETE AGENTS ACT.

The Commission finds that the proposed Revised Uniform Athlete Agents Act (RUAAA), as presented to the Commission, is a revised proposal from the Uniform Law Commission. The proposed draft provides for registration of athlete-agents, creates a form agency contract that includes information for student-athletes on actions that might endanger athletic eligibility, and requires notification to educational institutions when an enrolled student-athlete enters into an agency contract. The proposed draft also prohibits certain conduct by athlete-agents and provides for both criminal and civil penalties for those violations. The Commission supports the principles of the proposed RUAAA to provide protection for student-athletes from dishonest practices, and recommends that the proposed draft be considered through the committee process during the 2019 Session of the General Assembly, including providing sufficient resources to the Secretary of State to support enforcement of the RUAAA.

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COMMITTEE MEMBERSHIP

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2019-2020

President Pro Tempore of the Senate
Appointments:

Sen. Dan Bishop
Sen. Warren Daniel
Sen. Don Davis
Sen. Joyce Krawiec
Sen. Floyd B. McKissick, Jr.
Hon. Jeffery P. Tarte

Speaker of the House of Representatives
Appointments:

Rep. John R. Bell, IV
Rep. John A. Fraley
Rep. Ken Goodman
Rep. Jon Hardister
Rep. Gregory F. Murphy, MD
Rep. Robert T. Reives, II

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COMMITTEE CHARGE/STATUTORY AUTHORITY

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GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

SESSION LAW 2018-97 SENATE BILL 335

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS APPROPRIATIONS ACT OF 2018 AND TO CREATE THE LEGISLATIVE COMMISSION ON THE FAIR TREATMENT OF COLLEGE STUDENT-ATHLETES.

The General Assembly of North Carolina enacts:

...

PART XII. STUDY/FAIR TREATMENT OF COLLEGE ATHLETES

SECTION 12.1.(a) The Legislative Commission on the Fair Treatment of College Student-Athletes is created. The purpose of the Commission is to examine the needs and concerns of college students participating in athletics on behalf of the constituent institutions of The University of North Carolina and to propose appropriate legislation where needed to implement the objectives of this Commission.

SECTION 12.1.(b) The Commission shall consist of six members of the Senate, appointed by the President Pro Tempore of the Senate with political parties represented in proportion to the legislative makeup, and six members of the House of Representatives, appointed by the Speaker of the House of Representatives with political parties represented in proportion to the legislative makeup.

Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment.

SECTION 12.1.(c) The Lieutenant Governor shall be an ex officio voting member and shall also serve as the chair of the Commission. The Commission shall meet upon the call of the chair.

SECTION 12.1.(d) A quorum shall be a majority of the Commission members.

SECTION 12.1.(e) The Commission shall study issues related to the provision of health insurance, sports injuries and non-sports injuries, and profit-sharing for student athletes. In its study, the Commission shall consider all of the following:

- (1) Physical and mental health and safety concerns arising out of participation in athletic competition or resulting from injuries sustained during athletic competition, including, but not limited to, concussions and other life-impacting injuries.

- (2) Long-term physical and mental health and wellness issues grounded in participation in athletic competition but not manifesting until later in an athlete's life and the ability of former athletes to receive adequate long-term treatment for these issues.
- (3) The need for full-time enrolled college students to have adequate time to devote to educational responsibilities separate and apart from time demands for athletic competition.
- (4) Educational opportunities for choosing majors and classes consistent with the nonathletic participating students' opportunities at a constituent institution, including, but not limited to, academic choices and extracurricular abilities to participate in internships and study abroad.
- (5) The right to receive academic instruction from qualified faculty members at the constituent institutions and to be taught at an academic level consistent with the standards of accredited higher education institutions.
- (6) The right to a fair and impartial hearing and the right to be independently represented before being disciplined for alleged eligibility rules violations by any school, conference, or membership association governing participation in college athletics.
- (7) In exchange for his or her participation on behalf of any constituent institution, a fair and adequate financial aid or scholarship assistance package to the extent financial aid or scholarship sources are provided to selected students in exchange for their participation on institutional athletic teams.
- (8) Consideration of remuneration or profit-sharing for student athletes for the use by institutional or commercial entities of the students' image, or other identifiable source, such as television rights or collegiate apparel that produce commercial profit for the institutions, membership associations, or commercial entities.
- (9) The right of students participating in college athletics to be adequately represented by attorneys, agents, or financial advisors throughout their college careers (as do all other students) without being subject to losing their eligibility to participate in college athletics.
- (10) A review of regulatory rules and punishments imposed on student athletes by any governing membership organization, including, but not limited to, the National Collegiate Athletic Association, that limits a student's ability to transfer between schools, or participate on college athletic teams by restricting the student's ability to engage in outside work or compensatory services.
- (11) The obligation of the university to provide the means for a student-athlete to finish their academic requirements to obtain an undergraduate degree after their athletic eligibility or athletic scholarship has expired.
- (12) Any other issue the Commission deems relevant based on testimony or evidence presented to the Commission.

SECTION 12.1.(f) The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or the Legislative Office Building. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1 or G.S. 138-6, as appropriate.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support to the Task Force. The Commission may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

SECTION 12.1.(g) The Commission shall submit a report on the results of its study, including any proposed legislation, by March 1, 2019, to the members of the Senate and the House of Representatives by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Commission shall terminate on March 1, 2019, or upon the filing of its report, whichever occurs first.

PART XII. EFFECTIVE DATE

SECTION 12. Except as otherwise provided, this act becomes effective July 1, 2018.

In the General Assembly read three times and ratified this the 15th day of June, 2018.

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LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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BILL DRAFT 2019-TC-8 [v.33]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
02/20/2019 04:42:54 PM

Short Title: University Student-Athlete Protection Comm.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED
AN ACT TO CREATE PROTECTIONS FOR THE RIGHTS OF INTERCOLLEGIATE
STUDENT-ATHLETES AND TO ALLOW IN-STATE TUITION FOR CERTAIN
SCHOLARSHIPS FOR OUT-OF-STATE STUDENT-ATHLETES, AS
RECOMMENDED BY THE LEGISLATIVE COMMISSION ON THE FAIR
TREATMENT OF COLLEGE STUDENT ATHLETES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 37.

"Student-Athlete Protections.

"§ 116-400. Purpose and applicability.

(a) Purpose. – The General Assembly finds that independent oversight is needed to ensure consistent and fair treatment of student-athletes. The purpose of this Article is to provide protection and assistance for student-athletes who participate in interscholastic athletics at constituent institutions, and to ensure consistency in standards related to the health, welfare, academic opportunities, and treatment of student-athletes.

(b) Application. – This Article applies to all constituent institutions that have an athletic program. Constituent institutions with athletics programs shall comply with all rules and sanctions of the University Student-Athlete Protection Commission authorized by this Article.

"§ 116-405. Definitions.

As used in this Article, the following terms shall have the following meanings:

- (1) Athletic personnel. – Individuals employed or independently contracted by a constituent institution who work with an athletic program.
- (2) Athletic program. – A sport program played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics. The term "athletic program" shall not include any club sports or any student-led recreational organizations.

- (3) Athletic program event. – An event in which one or more student-athletes compete in connection with their participation in an athletic program.
- (4) Commission. – The University Student-Athlete Protection Commission.
- (5) Medical personnel. – Individuals providing primary athletic health care, such as a team physician or athletic trainer.
- (6) Student-athlete. – A student enrolled at a constituent institution who participates in an athletic program at that institution.

"§ 116-410. Rights of student-athletes.

In order to protect the rights of student-athletes, constituent institutions with an athletic program shall have the following duties:

- (1) Health and Safety. – Constituent institutions shall have the following duties related to health and safety:
 - a. Ensuring that athletic personnel follow the health and safety standards established pursuant to G.S. 116-435.
 - b. Ensuring that athletic personnel follow the code of conduct established pursuant to G.S. 116-435.
 - c. Requiring athletic trainers to meet the standards set by the North Carolina Association of Athletics Trainers.
 - d. Requiring applicants for athletic personnel positions to present documentation regarding any disciplinary action taken against them by previous employers.
 - e. Requiring contracts for athletic personnel to provide for immediate termination if the athletic personnel is found to have withheld documentation required by sub-subdivision d. of this subdivision.
- (2) Academic Opportunities. – Constituent institutions shall have the following duties related to academic opportunities:
 - a. Disclosing to recruits, current student-athletes, and the public the percentage of student-athletes enrolled in each academic major on each team.
 - b. Awarding an injured student-athlete scholarship to any qualifying student, as provided in G.S. 116-465.
 - c. Providing continuous academic monitoring and support for first-year student-athletes who were admitted without meeting minimum admission requirements or minimum course requirements for The University of North Carolina.
- (3) Due Process. – Constituent institutions shall have the following duties related to due process in an athletic investigation related to eligibility conducted by that institution:
 - a. Establishing and following a process for determining whether a student-athlete is ineligible for participation in an athletic program.
 - b. Providing student-athletes with notice and an opportunity to respond 24 hours prior to requesting any admission of responsibility that could impact athletic eligibility.

- c. Ensuring that a certified attorney is available to a student-athlete in accordance with G.S. 116-460. This requirement may be waived by a student-athlete if one of the following applies:
 - 1. The student-athlete elects to retain counsel independently, and a waiver of a certified attorney is signed by the student-athlete and the student-athlete's counsel.
 - 2. The student-athlete, after speaking with the certified attorney, elects to waive the right to a certified attorney, and a waiver of certified attorney is signed by the student-athlete and the certified attorney.
 - d. Requiring athletic investigations related to eligibility to take place in a timely manner.
- (4) Other Duties. – Constituent institutions shall have the following other duties:
- a. Preventing retaliation against individuals, including student-athletes, who report suspected violations of this Article.
 - b. Providing all data and reports requested by the Commission in a timely manner.
 - c. Ensuring that revenue is not derived by the constituent institution from the use of a student-athlete's name, image, or likeness, except as provided in G.S. 116-415.

"§ 116-415. Limiting revenue derived from a student-athlete's name, image, or likeness.

(a) Revenue Limitations. – Constituent institutions shall only derive revenue from the use of a student-athlete's name, image, or likeness if both of the following criteria are met:

- (1) The student-athlete consents in writing to the constituent institution's use of the student-athlete's name, image, or likeness.
- (2) The revenue is derived from an athletic program event, including through ticket sales, media rights, advertising or sponsorship rights, event programs, or parking permits.

(b) Conditioning Participation. – Constituent institutions may condition a student-athlete's participation in an athletic program on the student-athlete granting permission to use his or her name, image, or likeness, as described in subsection (a) of this section.

"§ 116-420. University Student-Athlete Protection Commission.

(a) Creation. – There is created the University Student-Athlete Protection Commission, which shall be administratively located as a part of The University of North Carolina System.

(b) Membership. – The Commission shall have nine members, appointed as follows:

- (1) Three members shall be appointed by the Board of Governors. One member appointed by the Board of Governors shall have experience and expertise with an athletic program.

(2) Three members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. One member appointed upon the recommendation of the President Pro Tempore of the Senate shall have experience and expertise with employment law and human resources.

(3) Three members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. One member appointed upon the recommendation of the Speaker of the House of Representatives shall have experience and expertise with sports medicine.

(c) Membership Disqualifications. – No member of the General Assembly or officer or employee of The University of North Carolina, or any constituent institution, or the board of trustees of any constituent institution may be appointed as a member of the Commission. No current officer or employee of a private college or university in the State may be appointed as a member of the Commission.

(d) Terms. – Members shall serve for a term of four years and until their successors are appointed and duly qualified. Terms of office shall begin July 1 of odd-numbered years. No member shall serve more than two full terms of office.

(e) Vacancies. – Vacancies on the Commission shall be filled by the appointing authority for the remainder of the unexpired term.

(f) Removal. – The appointing authority may remove any member for misfeasance, malfeasance, or nonfeasance. The Board of Governors may remove a member by resolution. The General Assembly may remove a member by joint resolution.

(g) Officers. – The Commission shall elect a chair, vice-chair, and secretary at the first meeting held after July 1 in each year for a one-year term of office. The chair, or in the chair's absence, the vice-chair, shall preside at all meetings of the Commission. In the absence of the chair or vice-chair, the chair shall appoint a chair pro tempore to preside.

(h) Meetings. – The Commission shall meet at least quarterly and at other times as called by its chair or by five of its members.

(i) Quorum. – Five members shall constitute a quorum for the transaction of business of the Commission. The favorable vote of at least a majority of the members of the Commission present at any meeting is required for the adoption of any official action.

(j) Expenses. – The members of the Commission shall receive per diem and allowances as provided in G.S. 138-5 and G.S. 138-6. These expenses and compensation shall be paid from fund collected as provided in G.S. 116-430.

"§ 116-425. Commission Director.

(a) Director. – There is hereby created the position of Director of the Commission, who shall perform all duties imposed by statute and such duties as may be assigned by the Commission.

(b) Term and Vacancies. – The Commission shall appoint a Director for a term of two years. The Director shall serve beginning August 1 after the first meeting held after new appointments to the Commission are made in odd-numbered years, unless removed for cause, until a successor is appointed. In the event of a vacancy, the vacancy shall be filled for the remainder of the term.

(c) Duties. – The Director shall be responsible for staffing, administration, and execution of the Commission's decisions and orders and shall perform such other

responsibilities as may be assigned by the Commission. In the discretion of the Commission, the Director may be authorized to hire additional staff to the extent funds are available. The Commission shall have the authority to fix the compensation of the Director and other authorized staff to be payable from funds made available to the Commission as provided in G.S. 116-430.

"§ 116-430. University Student-Athlete Protection Commission Trust Fund.

(a) Trust Fund. – There is established the University Student-Athlete Protection Commission Trust Fund to be administered by the Commission.

(b) Required Contributions. – Each constituent institution that has an athletic program shall provide one percent of all revenue derived from the sale of tickets to athletic program events in the prior academic year by the constituent institution to the Commission Trust Fund for its support no later than July 1 annually.

(c) Commission Expenses. – All funds (i) received from constituent institutions as provided in subdivision (b) of this section and (ii) earned as interest on these funds shall be placed in the Commission Trust Fund. The purpose of the Commission Trust Fund is to provide for the Commission's administrative costs, the salary of the Director of the Commission and other Commission staff, and to provide the Commission with funds to use for conduct of investigations required by this Article.

"§ 116-435. Powers and duties.

The powers and duties of the Commission shall include the following:

- (1) Health and Safety Standards. – Establishing and updating health and safety standards for student-athletes, in consultation with the North Carolina Athletic Trainers Association, the Matthew Gfeller Sport-Related Traumatic Brain Injury Research Center, and medical personnel from constituent institutions. Health and safety standards shall include at least the following:
 - a. Medical personnel shall be independent of the athletics program and shall not report to the athletics department of a constituent institution.
 - b. Student-athletes shall have access to medical records for all treatments in the course of the student-athlete's participation in the athletic program.
 - c. Standard concussion protocol shall be required across athletic programs at all constituent institutions.
 - d. A student-athlete shall be copied on all correspondence regarding the student-athlete between athletic personnel and medical personnel.
- (2) Code of Conduct. – Establishing and updating a code of conduct for athletic personnel. The code of conduct shall include at least the following:
 - a. Athletic personnel shall not engage in bullying or harassing behavior, including sexual misconduct.
 - b. Athletic personnel shall report any instance of reasonably suspected violations of the health and safety standards or the code of conduct developed pursuant to this section to the Commission.

- c. Athletic personnel shall not retaliate against individuals, including student-athletes, who report suspected violations of the health and safety standards or the code of conduct developed pursuant to this section.
- (3) Publicly-Accessible Databases. – Creating and maintaining publicly-accessible databases related to the protection of student-athletes. The databases shall not include information otherwise protected by State or federal law. Databases shall be created and maintained for each of the following:
 - a. Injuries to student-athletes arising out of participation in an athletic program at a constituent institution.
 - b. Aggregate results of the surveys required by sub-subdivision a. of subdivision (4) of this section.
 - c. Violations of this Article.
- (4) Other Duties. –
 - a. Conducting surveys of student-athletes regarding their experiences in their athletic program.
 - b. Requiring reports from constituent institutions related to the well-being of student-athletes.
 - c. Coordinating with the Secretary of State to monitor athlete agents operating within the State.
 - d. Adopting rules to implement this Article.
 - e. Performing other duties as may be necessary to accomplish the purposes of this Article.

"§ 116-440. Complaints, investigations, and hearings.

(a) Jurisdiction. – A student-athlete or athletic personnel at a constituent institution may submit a complaint with the Commission alleging a violation of any of the following:

- (1) The health and safety standards for student-athletes established by the Commission, as provided in G.S. 116-435.
- (2) The code of conduct for athletic personnel established by the Commission, as provided in G.S. 116-435.
- (3) The duties of constituent institutions to student-athletes, as required by G.S. 116-410.

(b) Complaint Process. – The Commission shall establish a process for student-athletes and athletic personnel to file complaints and may require complaints to include specific information and to be submitted within a specified time after the occurrence or discovery of the violation for investigation by the Commission. The Commission shall require that a student-athlete or athletic personnel must verify that either (i) the contents of the complaint are within the knowledge of the student-athlete or athletic personnel verifying the complaint, or (ii) the basis upon which the student-athlete verifying the complaint believes the allegations to be true.

(c) Complaints on Its Own Motion. – Upon receipt of a report by athletic personnel of reasonably suspected violations of the health and safety standards or the code of conduct adopted by the Commission as provided in G.S. 116-435, the Commission may conduct an investigation under this section on its own motion. An investigation initiated by the

Commission on its own motion shall be treated as a complaint for purposes of this section and need not be sworn or verified.

(d) Complaints Declined. – The Commission may decline to investigate any complaint that does not meet all of the requirements of the process established by the Commission, or in its sole discretion, may request additional information to be provided by the student-athlete or athletic personnel within a specified period of time of no less than five business days. The Commission may also decline to investigate an alleged violation if it determines that any of the following apply:

- (1) The complaint is frivolous or brought in bad faith.
- (2) The specific alleged violation had already been the subject of a prior complaint.
- (3) The violation is primarily a matter more appropriately and adequately addressed and handled by other federal, State, or local agencies or authorities, including law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed under this section, the Commission may stay its investigation pending final resolution of the other investigation.

If the Commission declines to investigate a complaint, the Commission shall notify the student-athlete or athletic personnel in writing of the dismissal of the complaint within 10 business days of the decision.

(e) Conduct of Investigation of Complaints by the Commission. – The Commission shall conduct an investigation of any alleged violation not dismissed as provided in subsection (d) of this section. The Commission shall notify the constituent institution of the alleged violation in writing within 10 business days of the determination to investigate the complaint. The Commission shall conduct the investigation in a timely manner.

(f) Constituent Institution Cooperation. – The Commission may request that any student-athlete filing a complaint complete a waiver with the constituent institution of the Family Educational Rights and Privacy Act (FERPA) of 1974, 20 U.S.C. § 1232g, for release of that student's education records relevant to the investigation to the Commission. Constituent institutions shall promptly and fully cooperate with the Commission in any investigation by providing the following upon request by the Commission:

- (1) Notwithstanding G.S. 126-24, all information, documents, and data within the constituent institution's possession, or ascertainable from the constituent institution's records, including any internal investigation or personnel documentation.
- (2) Any athletic or other personnel of the constituent institution for interview.
- (3) Access to athletic facilities for inspection. Notwithstanding G.S. 126-24, constituent institutions shall provide personnel records relevant to the investigation to the Commission upon request.

Failure to cooperate fully with the Commission in any investigation shall be grounds for sanctions as set forth in G.S. 116-445.

(g) Dismissal of Complaint after Preliminary Investigation. – The Commission shall conclude the preliminary investigation within 20 business days. The Commission

shall dismiss the complaint, if at the end of its preliminary investigation the Commission determines that any of the following apply:

(1) The complaint does not allege facts sufficient to constitute a violation under subsection (a) of this section.

(2) The complaint is determined to be frivolous or brought in bad faith.

(h) Commission Investigation. – If at the end of its preliminary investigation, the Commission determines to proceed with further inquiry into the alleged violation, the Commission shall provide written notice to the student-athlete or athletic personnel who filed the complaint and the constituent institution as to the fact of the investigation and the alleged violation. The constituent institution shall be given an opportunity to file a written response with the Commission.

(i) Action on Inquiries. – The Commission shall conduct investigations into complaints to the extent necessary to either dismiss the complaint for lack of probable cause of a violation under this Article, or to decide to proceed with a hearing under subsection (j) of this section.

(j) Hearing. –

(1) The Commission shall give full and fair consideration to all complaints received. If the Commission determines that the complaint cannot be resolved without a hearing, or if the constituent institution requests a hearing, a hearing shall be held.

(2) The Commission shall send a notice of the hearing to the student-athlete or athletic personnel and the constituent institution. The notice shall contain the time and place for a hearing on the matter, which shall begin no less than 30 days and no more than 90 days after the date of the notice.

(3) The Commission shall make available to the constituent institution all documents or other evidence which are intended to be presented at the hearing to the Commission at least 30 days prior to the date of the hearing held in connection with the investigation of a complaint. Any documents or other evidence discovered within less than 30 days of the hearing shall be furnished as soon as possible after discovery but prior to the hearing.

(4) At any hearing held by the Commission:

a. Oral evidence shall be taken only on oath or affirmation.

b. Notwithstanding Article 33 of Chapter 143 of the General Statutes, the hearing shall not be open to the public, but shall be held in closed session, unless the student-athlete requests the hearing be open to the public.

c. The student-athlete or athletic personnel who filed the complaint shall have the right to present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits, and be represented by counsel.

d. The constituent institution being investigated shall have the right to present evidence, call and examine witnesses, cross-examine witnesses, introduce exhibits, and be represented by counsel.

(k) Settlement of Investigations. – The constituent institution who is the subject of the complaint, the student-athlete or athletic personnel who filed the complaint, and the Director of the Commission may meet by mutual consent before the hearing to discuss the possibility of settlement of the investigation or the stipulation of any issues, facts, or matters of law. Any proposed settlement of the investigation is subject to the approval of the Commission.

(l) Disposition of Investigations. – After the hearing, the Commission shall dispose of the matter in one or more of the following ways:

- (1) If the Commission finds substantial evidence of an alleged violation of a criminal statute, the Commission shall refer the matter to the Attorney General for investigation and referral to the district attorney for possible prosecution.
- (2) If the Commission finds that the alleged violation is not established by clear and convincing evidence, the Commission shall dismiss the complaint.
- (3) If the Commission finds that the alleged violation of this Article is established by clear and convincing evidence, the Commission shall determine the appropriate sanction for the violation, as provided in G.S. 116-445.

(m) Notice of Dismissal. – Upon the dismissal of a complaint under this section, the Commission shall provide written notice of the dismissal to the student-athlete or athletic personnel who filed the complaint and the constituent institution against whom the complaint was filed. Except as provided in subsection (o) of this section, the complaint and notice of dismissal are confidential and not public records.

(n) Final Decision. – Except for an appeal of sanctions as provided in G.S. 116-450, the decision of the Commission as to any complaint is final, and is not subject to appeal.

(o) Confidentiality. – Complaints and responses filed with the Commission and findings, reports and other investigative documents and records of the Commission connected to an inquiry under this section, shall be confidential and not matters of public record, except as otherwise provided in this section or when the student-athlete requests in writing that the complaint, response, and findings be made public. The Commission shall render the findings of its inquiry in writing. If the Commission finds that a violation of this Article has occurred, the complaint, response, and findings shall be made public.

"§ 116-445. Sanctions.

(a) Sanctions. – In addition to any other remedy or penalty authorized by law, a constituent institution that commits a violation of this Article shall be subject to sanctions established pursuant to rules adopted by the Commission. The Commission is authorized to issue one or more of the following sanctions:

- (1) Requiring the constituent institution to participate in mediation with the Commission.
- (2) Requiring additional reporting to the Commission.
- (3) Appointing a monitor to participate in athletic program decision-making and reporting back to the Commission.
- (4) Requiring an athletic program to obtain a professional services contract with another entity.
- (5) Restricting the sales price of tickets to athletic program events.

- (6) Restricting participation in post-season events.
 - (7) Terminating one or more teams within the athletic program.
- (b) Factors for Consideration. – The Commission shall consider all of the following factors when establishing sanctions for a violation of this Article:
 - (1) The number and duration of violations.
 - (2) Whether the violation was the result of an intentional or negligent action.
 - (3) The nature and extent of harm caused by the violation.
- (c) Payment of Costs. – Any costs associated with the sanctions under subsection (a) of this section shall be paid by the constituent institution.
- (d) Notwithstanding subsection (a) of this section, the Commission shall have the authority to enter into an alternative agreement with a constituent institution in lieu of sanctions.

"§ 116-450. Appeal of sanctions to Board of Governors.

- (a) Appeal. – If the Commission finds that a constituent institution has violated this Article, and has issued a sanction for the violation, the constituent institution may appeal the sanction to the Board of Governors.
- (b) Notice. – A notice of appeal shall be submitted to the Board of Governors within 10 days of the Commission's issuance of the sanction. The Board of Governors shall establish a process for constituent institutions to submit appeals and may require appeals to include specific information.
- (c) Commission Documentation. – The Commission shall provide to the Board of Governors within 10 days of the request any investigative documents and records related to the violation.
- (d) Reconsideration of Sanctions. – If two-thirds of the membership of the Board of Governors determines that the sanctions assessed by the Commission are arbitrary or capricious, the Board of Governors shall vacate the sanctions assessed by the Commission, and shall direct the Commission to reconsider the appropriate sanctions for the violation.

"§ 116-455. No retaliation against student-athletes or athletic personnel.

- (a) Organization Retaliation. – No interscholastic or amateur athletic organization that sponsors, oversees, or conducts athletic competitions in North Carolina may penalize or retaliate against any student-athlete or that student-athlete's constituent institution in the event a court issues a valid injunctive order permitting said student-athlete to compete in that organization's event regardless of whether the injunction is later vacated, stayed, or reversed. Any entity violating this section shall be liable to the State for a civil penalty of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each violation.
- (b) Constituent Institution Retaliation. – No constituent institution shall penalize or retaliate against any student-athlete or athletic personnel for filing a complaint with the Commission as provided in G.S. 116-440. The Commission may issue sanctions, as provided in G.S. 116-445, upon a finding that a constituent institution has penalized or retaliated against a student-athlete or athletic personnel for filing a complaint.

"§ 116-460. Pro bono legal assistance for student-athletes.

- (a) Certified Attorneys. – The Commission, in consultation with the North Carolina State Bar, shall establish a process to certify attorneys to provide pro bono legal assistance

for student-athletes. At a minimum, the Commission shall require the following for certification:

- (1) The individual must be an active member of the Bar of the State of North Carolina admitted and licensed to practice as an attorney at law.
- (2) The individual must have completed training recognized by the Commission on legal issues related to rights of student-athletes.
- (3) The individual shall verify that they will receive no compensation, whether monetary or otherwise, for their services.

(b) Assignment of Certified Attorneys. – The Commission shall maintain a list of certified attorneys. Constituent institutions shall contact the Commission to request assignment of a certified attorney to a student-athlete for any athletic investigation by a constituent institution related to a student-athlete's athletic eligibility. The constituent institution is only required to ensure the availability of a certified attorney to protect rights established under G.S. 116-410(3), and is not required to ensure access to an attorney for any other criminal or civil matter. The constituent institution shall provide the student-athlete the opportunity to speak with the certified attorney prior to proceeding with the investigation. The opportunity to speak with the certified attorney may be satisfied by confidential in-person, telephonic, or video communications between the certified attorney and the student-athlete.

(c) Waiver. – A constituent institution may request a waiver of the requirement to ensure availability of a certified attorney to a student-athlete prior to beginning an investigation, as provided in G.S. 116-410, if the Commission determines that no certified attorney is available to initially speak with a student-athlete within 48 hours of the request by the constituent institution. The Commission shall assign a certified attorney to the student-athlete as soon as one is available, and shall notify the constituent institution that a certified attorney has been assigned and that the student-athlete should be permitted to speak with the certified attorney prior to proceeding with the investigation.

(d) Civil Liability. – Any attorney serving as a certified attorney under this section shall not be civilly liable for acts or omissions committed in connection with any assistance provided to a student-athlete in an investigation if the attorney acted in good faith and was not guilty of gross negligence.

"§ 116-465. Injured Student-Athlete Scholarship Trust Fund.

(a) Scholarship Trust Fund. – There is established the Injured Student-Athlete Scholarship Trust Fund to be maintained by the Commission.

(b) Contributions. – Each constituent institution that has an athletic program shall provide one percent of all revenue derived from the sale of tickets to athletic program events in the prior academic year by the constituent institution to the Scholarship Trust Fund no later than July 1 annually.

(c) Investment of Funds. – All funds (i) received from constituent institutions as provided in subsection (b) of this section and (ii) earned as interest on these funds shall be placed in the Scholarship Trust Fund. The purpose of the Scholarship Trust Fund is to provide scholarships to constituent institutions to award to qualifying students.

(d) Qualifying Students. – A student is a qualifying student for purposes of this section if the student meets the following qualifications:

- (1) At the time of injury, was a member of an athletic program at the constituent institution.

- (2) Sustained an injury in connection with participation in the athletic program that resulted in a determination by medical personnel that the student was not medically eligible to participate in the athletic program during the remainder of the student's period of athletic eligibility.

(e) Award of Scholarship. – A qualifying student shall be awarded by the constituent institution an injured student-athlete scholarship that covers at least the same percentage of the cost of attendance as the qualifying student's prior athletic scholarship. The scholarship shall be awarded for the following duration, whichever is earlier:

- (1) Through the completion of the student-athlete's undergraduate degree.
(2) Five years from the student-athlete's first semester of athletic eligibility.

(f) Scholarship Funding. – A constituent institution shall provide documentation on the qualifying student and amount of the injured student-athlete scholarship to be awarded to that student, and an amount equivalent to that scholarship shall be awarded to the constituent institution from the Scholarship Trust Fund. In the event that there are insufficient funds in the Scholarship Trust Fund for all requests received from constituent institutions, funds shall be distributed by pro rata share.

(g) Rules. – The Commission shall adopt rules to implement this section.

"§ 116-470. Annual report.

The Commission shall report to the Board of Governors of The University of North Carolina and the Joint Legislative Education Oversight Committee annually, no later than August 15 each year, on the status of student-athlete protection under this Article. The report shall include at least the following:

- (1) Number of complaints made to the Commission under G.S. 116-440, including a breakdown of complaints based on the following:
a. Type of complainant (student-athlete or athletic personnel).
b. Constituent institution identified in the complaint.
c. Sport or sports affected by the alleged violation.
d. Type of alleged violation.
- (2) Number of violations found by the Commission under G.S. 116-440, including a breakdown of violations based on the following:
a. Type of complainant (student-athlete or athletic personnel).
b. Constituent institution identified in the complaint.
c. Sport or sports affected by the violation.
d. Type of violation.
- (3) Number and dollar amount of injured student scholarships awarded under G.S. 116-465.
- (4) Data from databases maintained under G.S. 116-435 not otherwise required by subdivision (2) of this section.
- (5) Any recommended changes in law to better protect the rights of student-athletes.

SECTION 1.(b) G.S. 163A-152(70) reads as rewritten:

"(70) Public servants. – All of the following:

...

- w. The director of the University Student-Athlete Protection Commission."

SECTION 1.(c) Notwithstanding G.S. 116-420, as enacted by this act, initial appointments to the University Student-Athlete Protection Commission shall be made by the appointing authority no later than July 1, 2019, and shall be as follows:

- (1) The Board of Governors shall appoint:
 - a. Two members to a term to expire July 1, 2021.
 - b. One member to a term to expire July 1, 2023.
- (2) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint:
 - a. One member to a term to expire July 1, 2021.
 - b. Two members to a term to expire July 1, 2023.
- (3) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint:
 - a. One member to a term to expire July 1, 2021.
 - b. Two members to a term to expire July 1, 2023.

SECTION 1.(d) Notwithstanding G.S. 116-420, as enacted by this act, the University Student-Athlete Protection Commission shall hold an initial meeting no later than August 1, 2019. The University of North Carolina General Administration shall provide temporary staff and meeting space for the Commission until October 1, 2019.

SECTION 2.(a) The University Student-Athlete Protection Commission shall study the relationship between student-athletes, constituent institutions and the National Collegiate Athletic Association from a healthcare perspective. In conducting the study, the Commission shall evaluate and make recommendations to improve the health, safety and welfare of student-athletes by examining such topics as:

- (1) Health insurance coverage.
- (2) Athletic injuries, including return to play decisions and medical management.
- (3) Consistency in health and safety standards.
- (4) Any other relevant topics the Commission deems appropriate.

SECTION 2.(b) The study may include input from other states, stakeholders and experts on health care, as deemed necessary. The Commission's recommendations shall include a proposed timeline for implementation of any suggested changes.

SECTION 2.(c) The Commission shall submit a final report of its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Education Oversight Committee by December 1, 2020.

SECTION 3.(a) The University Student-Athlete Protection Commission shall collaborate with the chief academic officers at each constituent institution to study ways to improve academic support provided to student-athletes by constituent institutions. In conducting the study, the Commission shall consider the following:

- (1) Evaluating ways athletic time constraints interact with academic time requirements and recommending any criteria or restrictions in order to ensure student-athletes have the necessary time available to devote to academic pursuits.
- (2) Studying student-athlete's selection of courses and majors for the past three academic years, and identifying any necessary reform to ensure independence when courses and majors are selected by student athletes.

- (3) Examining the creation of a summer internship program specifically designed to accommodate student-athletes and to provide opportunities to explore career interests.

- (4) Any other relevant topics the Commission deems appropriate.

SECTION 3.(b) The Commission shall submit a final report of its findings and recommendations to the Joint Legislative Education Oversight Committee by December 1, 2020.

SECTION 4.(a) The University Student-Athlete Protection Commission shall study ways to compensate student-athletes for participation in athletic programs at constituent institutions. The Commission shall consider the following in conducting the study:

- (1) Feasibility and obstacles of constituent institutions awarding grant-in-aid up to the full cost of attendance to student-athletes.

- (2) Exploring substantially less restrictive alternatives to the National Collegiate Athletic Association's current rules on compensating student-athletes.

- (3) Ongoing and recent litigation involving the compensation of student-athletes.

- (4) Any other relevant topics the Commission deems appropriate.

SECTION 4.(b). The Commission shall submit a final report of its findings and recommendations to the Joint Legislative Education Oversight Committee by December 1, 2021.

SECTION 5.(a) The University Student-Athlete Protection Commission shall study how to create a system for a student-athlete to request and receive records pertaining to an investigation by the constituent institution of the student-athlete in a timely manner. In conducting the study, the Commission shall consider all of the following:

- (1) Establishing a streamlined method for student-athletes to submit record requests to a constituent institution.

- (2) Setting reasonable deadlines for a constituent institution to provide records to student-athletes.

- (3) Reviewing issues related to confidentiality.

- (4) Any other relevant topics the Commission deems appropriate.

SECTION 5.(b) The Commission shall submit a final report of its findings and recommendations to the Joint Legislative Education Oversight Committee by December 1, 2021.

SECTION 6. G.S. 116-143.6 reads as rewritten:

"§ 116-143.6. Full scholarship students attending constituent institutions.

(a) Notwithstanding any other provision of law, if the Board of Trustees of a constituent institution of The University of North Carolina elects to do so, it may by resolution adopted consider as residents of North Carolina all persons who receive full scholarships, ~~unless the scholarship is for athletics~~ scholarships to the institution from entities recognized by the institution and attend the institution as undergraduate students. The aforesaid persons shall be considered residents of North Carolina for all purposes by The University of North Carolina.

- (b) The following definitions apply in this section:

- (1) "Full cost" means an amount calculated by the constituent institution that is no less than the sum of tuition, required fees, and on-campus room and board.
- (2) "Full scholarship" means a grant that meets the full cost for a student to attend the constituent institution for an academic year.
- (c) This section shall not be applied in any manner that violates federal law.
- (d) This section shall be administered by the electing constituent institution so as to have no fiscal impact.
- (e) In administering this section, the electing constituent institution shall maintain at least the current number of North Carolina residents admitted to that constituent institution."

SECTION 7. The University Student-Athlete Protection Commission shall adopt rules for health and safety standards and athletic personnel codes of conduct as required by G.S. 116-435, as enacted by this act, by January 1, 2020. Constituent institutions shall comply with G.S. 116-410, as enacted by this act, and with the rules for health and safety standards and athletic personnel codes of conduct established by the Commission as provided in G.S. 116-435, as enacted by this act, beginning July 1, 2020. Complaints for violations as provided in G.S. 116-440, as enacted by this act, occurring on or after July 1, 2020, shall be submitted to the University Student-Athlete Protection Commission on or after August 1, 2020. G.S. 116-465, as enacted by this act, applies to qualifying students who sustained injuries during or after the 2016-2017 academic year.

SECTION 8. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 9. This act is effective when it becomes law.