

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1573 (Holden) – As Amended April 8, 2019

**SUBJECT:** Collegiate athletes: Student Athlete Bill of Rights

**SUMMARY:** Adds to the Student Athlete Bill of Rights (SABR) provisions authorizing institutions of higher education to establish a degree completion fund, prepare notices containing pertinent data relating to the rights of students, as specified, and provisions prohibiting institutions of higher education from intentionally retaliating, as defined, against a student athlete as provided. Specifically, **this bill**:

- 1) Allows institutions of higher education to establish degree completion funds.
- 2) Requires every institution of higher education to prepare a notice containing pertinent data regarding the following information:
  - a) A student athlete's rights pursuant to Title IX of the federal Education Amendments of 1972 (20 United States Code (USC) Section 1681 et seq.); and,
  - b) A student athlete's reporting rights pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC Section 1092(f)).
- 3) Requires the notice of rights to identify the contact information through which a student athlete can file a complaint for a violation of any of the rights identified in the notice, including but not necessarily limited to, all of the following:
  - a) The Office for Civil Rights, as well as appropriate Office for Civil Rights regional enforcement office;
  - b) The Office for Civil Rights Title IX enforcement; and,
  - c) The enforcement contact for the United States Department of Education Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- 4) Requires every institution of higher education to post and keep posted the notice of rights in a conspicuous location in its athletic department frequented by student athletes, where it is easily accessible and readable during campus hours, including, but not necessarily limited to, athletic training facilities.
- 5) Requires every institution of higher education, at the beginning of every academic year, to provide every student athlete each of the following:
  - a) A copy of the rights notice;
  - b) A current copy of the National Collegiate Athletic Association Concussion Diagnosis and Management of Sports-Related Concussion Best Practices; and,

- c) A copy of any written policies related to concussions or other sports medicine practices specific to the institution of higher education.
- 6) Prohibits institutions of higher education from intentionally retaliating against a student athlete for making a complaint in good faith or for reporting, in good faith, a violation of the student athlete's rights granted under any applicable statute, regulation, or policy.
- 7) For purposes of this section, contains the following definitions:
  - a) "Office for Civil Rights" means the Office for Civil Rights within the United States Department of Education; and,
  - b) "Retaliation" includes but is not limited to any of the following:
    - i) A reduction in or loss of any education benefits, including scholarships and stipends.
    - ii) A reduction in or loss of any meal benefits provided to a student athlete.
    - iii) A reduction in or loss of any housing benefits provided to a student athlete, including the relocation of a student athlete to different housing owned by the institution of higher education.

**EXISTING LAW:**

- 1) Provides in Title IX of the Education Amendments of 1972 (Title IX) that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Title IX of the federal Education Amendments of 1972 (20 U.S.C Section 1681 et seq.).
- 2) Requires in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 ("Clery Act"), that colleges and universities that receive federal funding to disseminate a public annual security report (ASR) to employees and students every October 1st (20 U.S.C. Section 1092(f)).
- 3) Establishes the Student Athlete Bill of Rights, which establishes certain protections for student athletes at institutions that receive, on average, more than \$10 million in annual income derived from media rights for intercollegiate athletics. (Education Code (EDC) Section 67450 et seq.)
- 4) Defines a "student athlete" as any college student who participates in an intercollegiate athletic program of an institution of higher education, and includes student athletes who participate in basketball, football, and other intercollegiate sports. (EDC Section 67451(f))
- 5) Requires an institution of higher education to grant a student athlete the same rights as other students with regard to any and all matters related to possible adverse or disciplinary actions, including, but not necessarily limited to, actions involving athletically related financial aid. (EDC Section 67452(c))

- 6) Requires an athletic program to adopt and implement guidelines to prevent, assess, and treat sports-related concussions and dehydration. In addition, an athletic program must adopt and implement exercise and supervision guidelines for any student athlete identified with potentially life-threatening health conditions who participates in an athletic program. (EDC Section 67453(b))
- 7) Declares that the legislature believes colleges should provide special sexual assault seminars for student athletes. (EDC Section 67390)

**FISCAL EFFECT:** Unknown.

**COMMENTS:** *Need for the bill.* According to the author, “The bill addresses long standing issues concerning the treatment of student athletes who are faced with tremendous challenges as they balance a demanding practice and game schedule with fulltime course work. These athletes are also expected to maintain a strict code of conduct dictated by more than just their coach or school, but by the NCAA. Even as these high expectations are maintained, the performance of athletes earns recognition or funding for the school, but athletes’ needs are not always paid attention to. For example, there are reports of physical abuse, most notably at Michigan State, where students were uncomfortable speaking about the violations or did not have the violation adequately addressed. ... the Larry Nassar case showed there is a deficiency in the system where responsible adults obligated to report abuse under the current Title IX and Clery Act requirements failed to report the crime effectively and the Title IX office failed to properly investigate it or report it.

“Current law includes the SABR which is a good start (but which only applies to 4 Universities), however there has been evidence that students are not clear of their rights under this law or other options when faced with abuse or unethical treatment. There is also no explicit law against the type of retaliation athletes often and uniquely face. Students should be protected in all arenas but because participation in athletics can often include a scholarship or a condition of admission, student athletes are financially vulnerable as well as academically.

“AB 1573 creates another layer of protection by prohibiting retaliation by college athletic programs, in a number of ways, for making a complaint in good faith. It also takes additional steps to inform students of their options to make complaints. The bill also allows schools to create a fund for college athletes that can be used during college or after graduation. The rules and amount of funds are left up to the schools.”

*The Student Athlete’s Bill of Rights.* The protections for California student athletes contained in the SABR are limited to universities that receive, on average, at least \$10 million in annual income from media rights for intercollegiate athletics. Based on annual revenues from media rights, the Student Athlete Bill of Rights currently only applies to four institutions of higher education: the University of California at Berkeley and Los Angeles, Stanford University, and the University of Southern California.

The SABR requires an intercollegiate athletic program at any campus of the University of California, California State University, or private four-year university in California to provide to students whose athletic scholarship is not renewed, an equivalent scholarship (when combined

with the total duration of any previous athletic or other scholarship received by the student) for a total of at least five years or until the student completes his or her undergraduate degree, whichever period is shorter. The law also requires athletic programs to promptly approve a qualifying student athlete's written request to transfer to another institution without actively or passively imposing any restrictions or condition. Implementation must include granting other institutions permission to contact the student athlete and waiving residency requirements, as permitted by athletic association rules.

The SABR also requires an athletic program to be responsible for any and all medical expenses of its student athletes resulting from their participation in the athletic program, irrespective of whether the student athlete is still in school, has graduated or is no longer enrolled in the school, so long as the medical expenses result from the student athlete's participation in the athletic program, and to adopt and implement guidelines to prevent, assess, and treat sports-related concussions and dehydration, and exercise and supervision guidelines for any student athlete identified with potentially life-threatening health conditions who participates in an athletic program.

Colleges must also grant a student athlete the same rights as other students with regard to any and all matters related to possible adverse or disciplinary actions, including actions involving his or her participation in the athletic program.

*Title IX.* Title IX prohibits sex discrimination in all educational institutions that receive federal funding. This applies to all aspects of education and types of sex discrimination including athletics, sexual harassment and assault, harassment based on gender identity, science and math education, and facilities and course offerings.

*The Clery Act.* The Clery Act requires colleges and universities that receive federal funding to disseminate a public annual security report (ASR) to employees and students every October 1st. This ASR must include statistics of campus crime for the preceding three calendar years, plus details about efforts taken to improve campus safety.

ASRs must also include policy statements regarding (but not limited to) crime reporting, campus facility security and access, law enforcement authority, incidence of alcohol and drug use, and the prevention of/response to sexual assault, domestic or dating violence, and stalking.

*Committee Comments.* Committee staff recommends, and the author has accepted, technical amendments to Section 67452.3 to clarify that, "An institution of higher education may establish a degree completion fund, **in accordance with rules and bylaws of any applicable governing body.**"

*Double referral.* AB 1573 was heard on April 10, 2019 in the Assembly Committee on Arts, Entertainment, Sports, Tourism, & Internet Media, where it passed out with unanimous support.

*Prior legislation.* AB 2747 (Holden, 2018) would have authorized college athletes to self-organize, as specified, required campuses to establish a process by which the complaints of student athletes may be reported and investigated, as specified, prohibited a student athlete from being penalized for receiving gifts or income, as specified, and established and defined collegiate mandated reporters, as specified. AB 2747 was held in Senate Appropriations Committee.

AB 2220 (Bonta, 2017) would have expanded the Student Athlete Bill of Rights (SABR) from four universities to all intercollegiate athletic programs that provide athletic scholarships, as defined, and would have removed the limitation in existing law for funding of SABR provisions to media rights revenues derived from the university athletic department. It would further have provided a private right of action, as specified, to college athletes who claim to have had any rights established under the SABR violated by an institution of higher education, including any of its personnel, as defined, and changed references from "student athlete" to "college athlete." AB 2220 was held in the Senate Appropriations Committee.

AB 1435 (Gonzalez-Fletcher, 2017) would have established the College Athlete Protection Act under the administration of the College Athlete Protection Commission, which would be established by the bill, for the protection of college or university athletes participating in intercollegiate athletic programs offered by institutions of higher education located in California. AB 1435 was held in the Senate Education Committee.

SB 1575 (Padilla), Chapter 625, Statutes of 2012 established the SABR, required public and private four-year universities that do not renew a student's athletic scholarship to provide an equivalent scholarship to that student, required an athletic program to be responsible for medical expenses of its student athletes resulting from their participation in the athletic program, and establishing a trust fund into which institutions of higher education that receive at least \$10 million in annual revenue from media rights for intercollegiate athletics contribute funds.

AB 365 (Roybal-Allard), Chapter 1068, Statutes of 1991, added provisions to the Donahoe Higher Education Act requiring the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California to adopt and implement a rape and sexual assault education program for, and ensure maximum feasible participation of, students and student services professional staff members or student affairs professional staff members at each of their respective campuses or other facilities.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Labor Federation, AFL-CIO  
Inland Empire Labor Council, AFL-CIO

### **Opposition**

None on file.

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