

Date of Hearing: June 13, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

SB 661 (Bradford) – As Amended April 20, 2023

SENATE VOTE: 39-0

SUBJECT: Student Athlete Bill of Rights

SUMMARY: Expands the rights that student athletes who attend an institution of higher education (IHE), as defined, and removes the requirement on IHE, to rely exclusively on revenue derived from media to defray any costs accrued from affording these benefits to student athletes. Specifically, **this bill:**

- 1) Strikes an exemption in current law for IHEs that make less than \$10 million, on average, in annual income derived from media right for intercollegiate athletics, to provide specified benefits to their student athletes (described in detail in Existing Law 1-4 below), thereby require those IHEs to provide benefits to their student athletes.
- 2) Removes the requirement that IHEs that make more than 10 million, on average, in annual income derived from media right for intercollegiate athletics, to use that revenue to defray any cost in providing specified benefits to their student athletes, thereby expanding the source of funds used by an IHE to defray the cost of these benefits.
- 3) Makes various technical changes.

EXISTING LAW:

- 1) Requires an athletic program that does not renew an athletic scholarship of a student athlete who suffers an incapacitating injury or illness resulting from his or her participation in the athletic program, and the IHE's medical staff determines that he or she is medically ineligible to participate in intercollegiate athletics, to provide an equivalent scholarship that, combined with the total duration of any previous athletic scholarship or scholarships received by the student athlete, will be provided for a total of up to five academic years or until the student athlete completes his or her undergraduate degree, whichever period is shorter.
 - a) Clarifies that if a student athlete takes a temporary leave of absence from an IHE, the duration of that leave of absence shall not count against the five-year limit on eligibility for an equivalent scholarship;
 - b) Requires an athletic program to provide an equivalent scholarship to a student athlete who was on an athletic scholarship and is in good standing, but has exhausted his or her athletic eligibility, for up to one year or until the student athlete completes his or her primary undergraduate degree, whichever is shorter, except that an athletic program with a graduation success rate that is above 60 percent, disaggregated by team, shall not be subject to the requirements of this paragraph; and,
 - c) States a student athlete whose athletic scholarship is not renewed for cause by an athletic program shall receive no benefits under this part, but may appeal this decision within the

IHE attended by the student or within the athletic conference or association of which that institution of higher education is a member, as appropriate. (Education Code (EDC) Section 67452 (a))

- 2) Requires each athletic program to conduct a financial and life skills workshop for all of its first-year and third-year student athletes at the beginning of the academic year. (EDC Section 67452 (b))
- 3) Requires an IHE 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))
- 4) Requires an athletic program to respond within seven business days with an answer to a student athlete's written request to transfer to another IHE. (EDC Section 67452 (d))
- 5) Specifies that an IHE that receives less than ten million dollars, on average, in media rights are exempt in providing benefits to their student athletes as specified in #1-4. (EDC § 67452 (e))
- 6) Requires an IHE that receives more than ten million dollars, on average, from intercollegiate media rights to exclusively use that revenue to provide benefits to their student athletes described in #1-4. (EDC 67452 (f))
- 7) Defines IHE to any campus of the University of California (UC) or the California State University (CSU), or any four-year private university located in California, that maintains an intercollegiate athletic program. (EDC Section 67451 (d))

FISCAL EFFECT: According to the Senate Committee on Appropriations, “the bill’s requirement for institutions to provide replacement scholarships for student athletes that suffer an incapacitating injury or illness could result in additional, unknown institutional costs and cost pressures to the CSU. A precise amount would depend on the number of students that would be impacted and the level of their scholarship support.” To the extent there are CSU campuses that do not employ the practice of providing replacement scholarships or there are student athletes that become injured and do not maintain satisfactory progress, there could be additional cost pressures on those campuses. The CSU indicates that the costs associated with financial literacy workshops would be relatively minor and absorbable, but could vary by campus depending on the size of their athletic programs.”

“The UC indicates there would be no costs because campuses already comply with scholarship replacement provisions. The UC estimates that any costs to provide financial literacy and life skills workshops would be minor.”

“This bill would apply to the private, independent colleges and universities that offer athletic scholarships in the state. While some already provide replacement scholarships, there are colleges that do not and therefore, would incur additional costs to comply. The amount per scholarship can range from \$15,000 to nearly \$80,000, with the total cost per college dependent on the number of replacement scholarships provided. The private, independent colleges may

also experience additional, unknown costs to provide financial literacy training for student athletes.”

COMMENTS: *Purpose.* According to the author, “SB 661 will remove the existing exemption for universities who receive on average less than \$10,000,000 in annual income derived from media rights, ensuring that all universities provide scholarship protections and finance/life skills workshops to their student athletes. After SB 206 was enacted into law authorizing name, image, and likeness promotion opportunities, many athletes across all sports have utilized this change in law to partner with companies on social media, provide coaching lessons and camps, and pursue other business endeavors. Given the massive increase in students utilizing these new opportunities, there is an increased need for student athletes to have financial literacy education, but existing law only imposes this requirement to a few universities. Additionally, no student athlete, regardless of which university they attend or sport they play should fear losing their scholarship as a result of an injury. It is crucial that all student athletes in California have these basic protections.”

Name, Image, Likeness (NIL): On June 30, 2021, the NCAA Division 1 Board of Directors approved an interim NIL policy. This new policy allows all NCAA Division I, II, and III student-athletes to be compensated for their NIL as of July 1, 2021, regardless of whether their state has a NIL law in place or not. California was one of the first states to establish an NIL policy, as passed by SB 206 (Skinner), Chapter 383, Statutes of 2019, and strongly influenced the implementation of NCAA’s policy.

The NCAA NIL rules do not override state, college/university or conference specific NIL rules. This means student-athletes need to review the NIL rules in the state where their school is located and check with their athletic department for any school and conference-specific rules to understand what limitations they will have on their NIL.

The author contends that extending the financial literacy provisions currently included in the Student Athlete’s Bill of Rights (SABR) to all students would allow them to better navigate the post-NIL collegiate athletics landscape.

SABR. SB 1525 (Padilla) Chapter 625, Statutes of 2012, established the SABR. Several of the protections provided for California student athletes contained in the SABR (specifically EDC Sections 67452 and 67453) are limited to universities that receive, on average, at least \$10 million in annual income from media rights for intercollegiate athletics. This number is a minority of California colleges and universities, and has traditionally only included UC Berkeley, Stanford, the University of Southern California (USC), and UC Los Angeles. The rapid increase in athletics media rights deals – and the lack of inflation growth built into current law – means that other universities with robust athletics programs might also soon fall under these specific provisions of SABR.

Specifically, these SABR provisions requires an intercollegiate athletic program at any campus of the UC, CSU, or private four-year university in California to provide to students whose athletic scholarship is not renewed due to an incapacitating injury or illness resulting from his or her participation in the athletic program, 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. 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.

SB 661 would remove the \$10 million media rights cap, thereby requiring all CSU, UC, and independent private institutions in the specific provisions of the SABR detailed in "Existing Law".

Current policies. According to information provided to the Senate Committee on Appropriations, the CSU does not currently have a policy to provide student athletes with an extension of their scholarship following a determination that they are medically ineligible to play. However, it has been CSU's general practice to do so contingent upon the student athlete maintaining satisfactory progress toward degree and in some instances, a requirement that the student athlete work in the department in which they have an interest.

UC indicates that it is bound by Regents Policy 3105 which states that, "for those campuses that provide athletic scholarships if a student sustains an incapacitating injury while participating in intercollegiate athletic activities and is medically unable to continue his/her athletic commitments, the campus shall not revoke financial aid or scholarships, and shall provide the student-athlete with an equivalent grant or scholarship to finish his/her degree."

Committee Staff understands that policies vary throughout independent colleges, and thus complying with the provisions of SB 661 (Bradford) would constitute an expansion. Committee Staff also notes that numerous institutions participate in NCAA Division III, and generally do not offer scholarships for athletes.

Arguments in support. The California Faculty Association wrote that "existing legislation, while a significant step forward, contains an unfortunate exemption for institutions that receive less than \$10,000,000 in annual income from media rights for intercollegiate athletics. This exemption inadvertently creates a two-tier system for student athletes, where the rights and protections provided under the Bill of Rights are only accessible to those attending institutions with substantial media revenues. SB 661 rectifies this inequity, ensuring that all student athletes, regardless of the size or wealth of their institutions, receive the rights and protections they deserve. The provision to remove the requirement on institutions to rely exclusively on revenue derived from media rights to cover the costs of these benefits is also welcome. This will allow for more financial flexibility, enabling institutions to fully implement the Student Athlete Bill of Rights."

"Student athletes contribute significantly to their schools and communities, yet they often face unique academic and personal challenges due to the demands of their athletic commitments. These challenges necessitate comprehensive institutional support for these students. By extending the full benefits of the Student Athlete Bill of Rights to all student athletes, SB 661 will enhance their academic success, personal wellbeing, and overall college experience."

Similar and prior legislation. AB 252 (Holden, 2023) would establish the College Athlete Protection Act for purposes of providing various rights, benefits, and protections to college athletes. This bill is currently pending referral in the Senate.

SB 1401 (Bradford, 2022) would have required postsecondary institutions to establish degree completion funds for their student athletes that take into account the revenues generated by the sport in question and the amount of athletic scholarship aid provided to athletes participating in that sport. This bill was held on the Suspense File in the Assembly Committee on Appropriations.

SB 26 (Skinner) Chapter 159, Statutes of 2021, expands the existing authority for a collegiate student athlete to receive compensation to also include compensation earned from the use of the student's athletic reputation, and moves up the implementation date of existing statutes relative to compensation earned from the use of a student athlete's NIL.

AB 609 (Kamlager, 2021) would have required institutions of higher learning to (1) pay their athletes in sports generating high revenue in comparison to the amount of scholarships awarded; (2) comply with federal law requiring equal opportunity to participate in college athletics, regardless of gender and to suspend an athletic director from intercollegiate athletics responsibilities in the state for three years if such compliance is not achieved; and (3) limit compensation for athletics administrative personnel. AB 609 died in the Assembly Committee on Arts, Entertainment, Sports, Tourism, and Internet Media.

SB 206 (Skinner), Chapter 383, Statutes of 2019, allows, commencing on January 1, 2023, college student athletes to earn compensation for the use of their own name, image, or likeness (athletic endorsements). This bill allows student athletes to obtain professional legal representation, such as that provided by a sports agent, in relation to their college athletics. This bill provides protections for student athletes that elect to engage in the compensation and representation activities described therein.

SB 1525 (Padilla) Chapter 625, Statutes of 2012, enacted a SABR and places specified requirements on collegiate athletic programs commencing with the 2013-14 academic year and ending January 1, 2021.

REGISTERED SUPPORT / OPPOSITION:

Support

California Faculty Association
California Teachers Association

Opposition

None on file.

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