
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 1573 **Hearing Date:** June 19, 2019
Author: Holden
Version: April 29, 2019
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Collegiate athletes: Student Athlete Bill of Rights.

NOTE: This bill has been referred to the Committees on Education and Judiciary. A "do pass" motion should include referral to the Committee on Judiciary.

SUMMARY

This bill, within the Student Athlete Bill of Rights, (1) requires institutions of higher education to provide student athletes with specified information, including information detailing certain rights, (2) authorizes institutions of higher education to establish a degree completion fund, and (3) prohibits institutions of higher education from intentionally retaliating against a student athlete.

BACKGROUND

Existing federal law:

- 1) Provides at 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. (20 U.S.C. Sec. 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. § 1092(f))

Existing state law:

- 1) Establishes the Student Athlete Bill of Rights, which establishes certain protections for student athletes at institutions that receive, on average, more than \$10,000,000 in annual income derived from media rights for intercollegiate athletics. (Education Code § 67450 et seq.)
- 2) 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. (EC § 67451(f))

- 3) 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. (EC § 67452(c))
- 4) 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. (EC § 67453(b))
- 5) Declares that the legislature believes colleges should provide special sexual assault seminars for student athletes. (EC § 67390)

ANALYSIS

This bill, within the Student Athlete Bill of Rights, (1) requires institutions of higher education to provide student athletes with specified information, including information detailing certain rights, (2) authorizes institutions of higher education to establish a degree completion fund, and (3) prohibits institutions of higher education from intentionally retaliating against a student athlete. Specifically, this bill:

- 1) Authorizes institutions of higher education to establish degree completion funds, in accordance with applicable rules and bylaws of the governing body of the institution and applicable rules and bylaws of any athletic association of which the institution is a member.
- 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 U.S.C. Sec. 1681 et seq.)
 - b) A student athlete's reporting rights pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. (20 U.S.C. Sec. 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.
 - 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.
 - 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.
 - 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.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "the bill addresses long standing issues concerning the treatment of student athletes. Student athletes 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. Many athletes are also prohibited from having jobs so they have limited resources to cover their

everyday needs. For many athletes at Division one schools, a violation of NCAA bylaws means they not only lose their place on the team, but they lose their scholarship and access to an education. The current college athletics system creates a world where students assume all of the risk—physically, emotionally, financially, and academically—but colleges and the NCAA receive almost all the reward.

Current law includes the Student Athlete Bill of Rights 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 areas but because participation in athletics can often include a scholarship or a condition of admission, student athletes are financially vulnerable as well as academically.”

- 2) ***The Student Athlete’s Bill of Rights (SABR)***. 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 (UC) 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 UC, 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.

- 3) ***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.

- 4) **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.
- 5) **NCAA bylaw changes.** This bill authorizes an institution of higher education to establish a degree completion fund, in accordance with applicable rules and bylaws of the governing body of the institution and applicable rules and bylaws of any athletic association of which the institution is a member. The NCAA adopted a new bylaw (3.2.4.22) on August 8, 2018, which takes effect on August 1, 2019, and provides that “an active member institution shall provide a former basketball student-athlete with financial aid to complete his or her first baccalaureate degree.” NCAA bylaw 15.01.5.2.1 implements that requirement and further provides that “an institution that provides athletically related financial aid to basketball student-athletes shall provide, at a minimum, tuition and fees, and course-related books to a former basketball student-athlete who requests financial aid to complete his or her first baccalaureate degree, provided:
 - a) The former student-athlete received athletically related financial aid while previously enrolled at the institution;
 - b) Fewer than 10 years have elapsed since the former student-athlete's departure from the institution;
 - c) The former student-athlete's most recent enrollment as a full-time student occurred at the institution;
 - d) The former student-athlete was previously enrolled as a full-time student at the institution for a minimum of two academic years (four semesters or six quarters);
 - e) The former student-athlete meets all institutional admissions and financial aid requirements;
 - f) The former student-athlete has exhausted other available degree completion funding options (e.g., funds from a professional league or contract); and
 - g) The former student-athlete is in good academic standing at the institution and meets NCAA and institutional progress-toward-degree requirements. This requirement applies to initial and continuing eligibility for degree completion funds.”

This bill enables institutions to fulfill this requirement.

- 6) ***These provisions are not subject to the \$10,000,000 media rights trigger.*** As indicated above, provisions within the Student Athlete Bill of Rights limit its applicability to only those California institutions that receive, on average, more than \$10,000,000 in annual income derived from media rights for intercollegiate athletics. Currently, only the University of California (UC) at Berkeley and Los Angeles, Stanford University, and the University of Southern California meet that revenue threshold. However, the provisions proposed by this bill do not include the same revenue trigger, and accordingly, they would be applicable to any campus of the UC or the California State University, or any four-year private university located in California that maintains an intercollegiate athletic program.
- 7) ***Related and previous legislation.*** SB 206 (Skinner, 2019), (1) allows student-athletes at colleges and universities to receive athletic endorsements, but prohibits colleges and universities from providing athletic endorsements to prospective student athletes; (2) allows student athletes to obtain professional representation; (3) prohibits the revocation of a student-athlete's scholarship as a consequence of receiving endorsements, or as a consequence of obtaining legal representation as authorized under these provisions; (4) prohibits any group with authority over intercollegiate athletics from preventing a postsecondary educational institution from participating in intercollegiate athletics as a consequence of that institution allowing its student-athletes to receive athletic endorsements; and (5) takes effect in January 2023. SB 206 is pending in the Assembly Arts, Entertainment, Sports, Tourism and Internet Media Committee.

AB 1518 (Chu, 2019) authorizes an athlete agent to offer or provide money or any other thing of benefit or value to a student athlete if it is authorized by, and is in compliance with, an official written policy of the student athlete's school and the terms of the contract comply with the bylaws of the National Collegiate Athletic Association. AB 1518 is pending in this committee.

AB 2747 (Holden, of the 2017-18 Legislative Session) 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. The bill was held in Senate Appropriations Committee.

AB 2220 (Bonta, of the 2017-18 Legislative Session) would have expanded applicability of the 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 Student Athlete Bill of Rights (SABR) violated by an institution of higher education, including any of its personnel. The bill was held in the Senate Appropriations Committee.

AB 1435 (Gonzalez Fletcher, of the 2017-18 Legislative Session) 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. The bill was held in the Senate Education Committee.

SUPPORT

California Labor Federation
California State University
University of California Student Association

OPPOSITION

None received

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