

116TH CONGRESS
1ST SESSION

H. R. 2672

To amend section 487(a) of the Higher Education Act of 1965 to provide increased accountability of nonprofit athletic associations and to establish a commission to identify and examine issues of national concern related to the conduct of intercollegiate athletics, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2019

Mr. KATKO (for himself and Mr. RUSH) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend section 487(a) of the Higher Education Act of 1965 to provide increased accountability of nonprofit athletic associations and to establish a commission to identify and examine issues of national concern related to the conduct of intercollegiate athletics, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Collegiate Athletics Accountability Act”, or the
6 “NCAA Act”.

1 (b) FINDINGS.—The Congress finds as follows:

2 (1) In fiscal year 2019, approximately
3 \$130,400,000,000 of Federal aid was available for
4 higher education under title IV of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1070 et seq.), includ-
6 ing over \$29,000,000,000 in Federal Pell Grants.

7 (2) Funding under title IV of such Act is used
8 to provide grants, loans, and work-study funds from
9 the Federal Government to eligible students enrolled
10 in institutions of higher education, including career
11 schools.

12 (3) Many institutions of higher education par-
13 ticipate in voluntary, nonprofit athletic associations
14 and athletic conferences, with the largest such asso-
15 ciation having over 1,000 member institutions of
16 higher education with more than 470,000 students
17 participating in athletics.

18 (4) Athletic programs at institutions of higher
19 education are some of the largest revenue generators
20 for such institutions nationwide, accounting for bil-
21 lions of dollars in annual revenue from ticket sales,
22 radio and television receipts, alumni contributions,
23 guarantees, royalties, and association distributions.

1 **SEC. 2. PROGRAM PARTICIPATION AGREEMENTS.**

2 Section 487(a) of the Higher Education Act of 1965
3 (20 U.S.C. 1094(a)) is amended by adding at the end the
4 following:

5 “(30) In the case of an institution that has an
6 intercollegiate athletic program, the institution will
7 not be a member of a nonprofit athletic association
8 unless such association—

9 “(A) requires annual baseline concussion
10 testing of each student athlete on the active
11 roster of each team participating in a contact
12 or collision sport or a limited-contact or impact
13 sport (based on the most recent classification of
14 sports published by the Committee on Sports
15 Medicine of the American Academy of Pediatrics)
16 before such student athlete may partici-
17 pate in any contact drills or activities;

18 “(B) prior to enforcing any remedy for an
19 alleged infraction or violation of the policies of
20 such association—

21 “(i) provides institutions and student
22 athletes with the opportunity for a formal
23 administrative hearing, not less than one
24 appeal, and any other due process proce-
25 dure the Secretary determines by regula-
26 tion to be necessary; and

1 “(ii) holds in abeyance any such rem-
2 edy until all appeals have been exhausted
3 or until the deadline to appeal has passed,
4 whichever is sooner;

5 “(C) with respect to institutions attended
6 by students receiving athletically related stu-
7 dent aid (as defined in section 485(e)), requires
8 any such athletically related student aid pro-
9 vided to student athletes who play a contact or
10 collision sport (based on the most recent classi-
11 fication of sports published by the Committee
12 on Sports Medicine of the American Academy
13 of Pediatrics) to be—

14 “(i) guaranteed for the duration of
15 the student athlete’s attendance at the in-
16 stitution, up to 5 years; and

17 “(ii) irrevocable for reasons related to
18 athletic skill or injury of the student ath-
19 lete; and

20 “(D) does not have in place a policy re-
21 stricting the ability of institutions to pay sti-
22 pends to student athletes.”.

1 **SEC. 3. PRESIDENTIAL COMMISSION ON INTERCOLLEGIATE**
2 **ATHLETICS.**

3 (a) ESTABLISHMENT.—There is established a com-
4 mission to be known as the Presidential Commission on
5 Intercollegiate Athletics.

6 (b) DUTIES.—

7 (1) REVIEW.—The Commission shall review and
8 analyze the following issues related to intercollegiate
9 athletics:

10 (A) The interaction of athletics and aca-
11 demics, including—

12 (i) the extent to which existing ath-
13 letic practices allow student athletes to
14 succeed as both students and athletes;

15 (ii) how athletics affect the academic
16 mission, academic integrity, and credit
17 worthiness of institutions of higher edu-
18 cation;

19 (iii) graduation rates of student ath-
20 letes; and

21 (iv) standards of academic eligibility
22 for participation in and terms of scholar-
23 ships for student athletes.

24 (B) The financing of intercollegiate ath-
25 letics, including—

- 1 (i) sources of revenue, including stu-
2 dent fees, media contracts, and licensing
3 agreements;
- 4 (ii) expenditures of revenue, including
5 compliance with title IX of the Education
6 Amendments of 1972, coaching salaries,
7 and facilities development;
- 8 (iii) the ability of institutions of high-
9 er education to finance intercollegiate ath-
10 letics;
- 11 (iv) the financial transparency of
12 intercollegiate athletics;
- 13 (v) the criteria for receipt of financial
14 disbursements or rewards from athletic
15 membership associations;
- 16 (vi) rules related to earnings and ben-
17 efits by student athletes, including the pos-
18 sibility of commercial compensation for the
19 use of the names, images, and likenesses of
20 student athletes and whether a student
21 athlete may retain a personal representa-
22 tive to negotiate on behalf of the student
23 athlete;
- 24 (vii) tax regulations related to revenue
25 from intercollegiate athletics; and

1 (viii) Federal judicial decisions that
2 affect compensation for student athletes or
3 the right of student athletes to organize as
4 a collective bargaining unit.

5 (C) Recruitment and retention of student
6 athletes, including rules related to—

7 (i) professional sports participation;

8 (ii) transfer of student athletes to
9 other institutions; and

10 (iii) recruitment and representations
11 made to potential student athletes.

12 (D) Oversight and governance practices.

13 (E) Health and safety protections for stu-
14 dent athletes.

15 (F) Due process and equal enforcement re-
16 lated to rules and regulations for student ath-
17 letes.

18 (G) Any other issues the Commission con-
19 siders relevant to understanding the state of
20 intercollegiate athletics.

21 (2) RECOMMENDATIONS.—The Commission
22 shall develop recommendations regarding the issues
23 identified in paragraph (1) based on the review and
24 analysis of the issues under such paragraph.

25 (c) MEMBERSHIP.—

1 (1) IN GENERAL.—The Commission shall be
2 composed of 17 members appointed as follows:

3 (A) Five members appointed by the Presi-
4 dent, in consultation with the Secretary of Edu-
5 cation and the Attorney General.

6 (B) Three members appointed by the
7 Speaker of the House of Representatives, in-
8 cluding—

9 (i) one Member of the House of Rep-
10 resentatives; and

11 (ii) two individuals who are not Mem-
12 bers of Congress.

13 (C) Three members appointed by the mi-
14 nority leader of the House of Representatives,
15 including—

16 (i) one Member of the House of Rep-
17 resentatives; and

18 (ii) two individuals who are not Mem-
19 bers of Congress.

20 (D) Three members appointed by the ma-
21 jority leader of the Senate, including—

22 (i) one Member of the Senate; and

23 (ii) two individuals who are not Mem-
24 bers of Congress.

1 (E) Three members appointed by the mi-
2 nority leader of the Senate, including—

3 (i) one Member of the Senate; and

4 (ii) two individuals who are not Mem-
5 bers of Congress.

6 (2) QUALIFICATIONS.—Appointments shall be
7 made from individuals who are specially qualified to
8 serve on the Commission by virtue of their edu-
9 cation, training, or experience.

10 (3) VACANCY.—Any vacancy on the Commis-
11 sion shall not affect the powers of the Commission,
12 but shall be filled in the manner in which the origi-
13 nal appointment was made.

14 (4) CHAIR.—The Chair of the Commission shall
15 be elected by the members.

16 (5) REIMBURSEMENT; SERVICE WITHOUT
17 PAY.—Members of the Commission shall serve with-
18 out pay, except members of the Commission shall be
19 entitled to reimbursement for travel, subsistence,
20 and other necessary expenses incurred by them in
21 carrying out the functions of the Commission, in the
22 same manner as persons employed intermittently by
23 the Federal Government are allowed expenses under
24 section 5703 of title 5, United States Code.

1 (d) STAFF.—The Commission may appoint and fix
2 the compensation of a staff director and such other per-
3 sonnel as may be necessary to enable the Commission to
4 carry out its functions, without regard to the provisions
5 of title 5, United States Code, governing appointments in
6 the competitive service, and without regard to the provi-
7 sions of chapter 51 and subchapter III of chapter 53 of
8 such title relating to classification and General Schedule
9 pay rates, except that no rate of pay fixed under this para-
10 graph may exceed the equivalent of that payable for a po-
11 sition at level V of the Executive Schedule under section
12 5316 of title 5, United States Code.

13 (e) MEETINGS.—

14 (1) IN GENERAL.—The Commission shall meet
15 at the call of the Chair or of a majority of its mem-
16 bers. The Commission shall meet on at least a bian-
17 nual basis.

18 (2) FIRST MEETING.—The first such meeting
19 shall occur not later than 90 days after the date of
20 the enactment of this Act.

21 (f) POWERS.—

22 (1) IN GENERAL.—The Commission may, for
23 the purpose of carrying out this section, hold hear-
24 ings, sit and act at times and places, take testimony,

1 and receive evidence as the Commission considers
2 appropriate.

3 (2) DELEGATION.—Any member or agent of
4 the Commission may, if authorized by the Commis-
5 sion, take any action which the Commission is au-
6 thORIZED to take by this subsection.

7 (3) ACCESS TO INFORMATION.—The Commis-
8 sion may secure directly from any department or
9 agency of the United States information necessary
10 to enable it to carry out this section. Upon request
11 of the Commission, the head of such department or
12 agency shall furnish such information to the Com-
13 mission.

14 (4) USE OF MAILS.—The Commission may use
15 the United States mails in the same manner and
16 under the same conditions as other departments and
17 agencies of the United States.

18 (5) ADMINISTRATIVE SUPPORT.—The Adminis-
19 trator of General Services shall provide to the Com-
20 mission on a reimbursable basis such administrative
21 support services as the Commission may request
22 that are necessary for the Commission to carry out
23 its responsibilities under this section.

24 (g) REPORT.—Not later than the date that is 1 year
25 after the date of the first meeting of the Commission, the

1 Commission shall submit to the President, the Chair and
2 Ranking Member of the Committee on Education and
3 Labor of the House of Representatives, and the Chair and
4 Ranking Member of the Committee on Health, Education,
5 Labor, and Pensions of the Senate, a written report of
6 its findings and recommendations based on the review and
7 analysis required by subsection (b).

8 (h) TERMINATION.—The Commission shall terminate
9 on the date that is 30 days after the date on which the
10 Commission submits the report required by subsection (g).

11 (i) DEFINITIONS.—In this section:

12 (1) COMMISSION.—The term “Commission”
13 means the Presidential Commission on Intercolle-
14 giate Athletics established by subsection (a).

15 (2) INSTITUTION OF HIGHER EDUCATION.—The
16 term “institution of higher education” means any in-
17 stitution of higher education that—

18 (A) meets the definition in section
19 102(a)(1) of the Higher Education Act of 1965
20 (20 U.S.C. 1002(a)(1)); and

21 (B) has student athletes who are eligible
22 for Federal student loans.

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