

116TH CONGRESS  
1ST SESSION

# H. R. 5528

To establish a Congressional Advisory Commission on Intercollegiate Athletics to investigate the relationship between institutions of higher education and intercollegiate athletic programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 2019

Ms. SHALALA (for herself and Mr. SPANO) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To establish a Congressional Advisory Commission on Intercollegiate Athletics to investigate the relationship between institutions of higher education and intercollegiate athletic programs, 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.**

4       This Act may be cited as the “Congressional Advisory  
5       Commission on Intercollegiate Athletics Act of 2019” or  
6       the “CACIA Act of 2019”.

7       **SEC. 2. FINDINGS.**

8       (a) FINDINGS.—Congress finds as follows:

1           (1) Under title IV of the Higher Education Act  
2           of 1965 (20 U.S.C. 1070 et seq.), in 2017–2018 in-  
3           stitutions of higher education received funds in ex-  
4           cess of \$184.1 billion for Federal student support,  
5           including approximately \$28.2 billion in Federal Pell  
6           Grants and over \$40 billion in research grants.

7           (2) Under title IV of the Higher Education Act  
8           of 1965 (20 U.S.C. 1070 et seq.), in fiscal year  
9           2019 approximately \$130.4 billion of Federal stu-  
10          dent support was available for higher education, in-  
11          cluding over \$29 billion in Federal Pell Grants.

12          (3) Many institutions of higher education volun-  
13          tarily participate in athletic governance associations.

14          (4) The largest athletic governance association  
15          includes over 1,100 institutions of higher education  
16          and more than 430,000 student athletes. This asso-  
17          ciation generates over \$1 billion annually and in  
18          2017–2018 it provided \$609,000,000 in revenue  
19          sharing to Division 1 member institutions of higher  
20          education.

21          (5) In 2018, intercollegiate athletic programs  
22          generated approximately \$14 billion in revenue from  
23          ticket sales, radio and television receipts, alumni  
24          contributions, guarantees, royalties, and athletic gov-  
25          ernance associations. This is a 226-percent increase

1 from 2003 when the revenue generated by such in-  
2 stitutions was approximately \$4 billion.

3 (6) Most institutions of higher education are  
4 tax-exempt organizations whose donors benefit from  
5 tax-exempt contributions, including contributions re-  
6 stricted by donors to support intercollegiate athletic  
7 programs.

8 (7) Most intercollegiate athletic programs are  
9 heavily subsidized by the institution of higher edu-  
10 cation that they represent, including support  
11 through institutional general funds, mandatory stu-  
12 dent fees, and athletic capital projects that benefit  
13 from tax-exempt bonds.

14 (8) The highest paid public employee in 41 out  
15 of 50 States is a head coach of an intercollegiate  
16 athletic program.

17 (9) Many intercollegiate athletics programs  
18 have built lavish locker rooms, practice facilities,  
19 competition facilities, and other facilities to entice  
20 talented high school student athletes to attend the  
21 institution of higher education, even though access  
22 to such facilities are restricted from use by non-stu-  
23 dent athletes.

24 (10) Serious questions have arisen regarding  
25 whether institutions of higher education with highly

1 commercialized intercollegiate athletic programs fol-  
2 low academic standards in admitting student ath-  
3 letes, have adequate faculty oversight to ensure that  
4 student athletes are provided a quality education,  
5 have encouraged student athletes to consider the  
6 long-term consequences of athletic related injuries,  
7 provided student athletes access to comprehensive  
8 healthcare programs, and ensure that student ath-  
9 letes have the same academic and employment op-  
10 portunities as non-student athletes attending the in-  
11 stitution of higher education.

12 **SEC. 3. CONGRESSIONAL ADVISORY COMMISSION ON**  
13 **INTERCOLLEGIATE ATHLETIC PROGRAMS.**

14 (a) ESTABLISHMENT.—There is established a com-  
15 mission to be known as the “Congressional Advisory Com-  
16 mission on Intercollegiate Athletics” (in this Act referred  
17 to as the “Commission”).

18 (b) DUTIES.—The duties of the Commission shall be  
19 to investigate and review the relationship between institu-  
20 tions of higher education and intercollegiate athletic pro-  
21 grams, including a review of—

22 (1) the policies maintained by athletic govern-  
23 ance associations and institutions of higher edu-  
24 cation with respect to ensuring that student athletes  
25 can succeed in academics and athletics;

1           (2) the impact of policies identified under para-  
2 graph (1) on—

3           (A) the education of undergraduate stu-  
4 dent athletes, as measured by Federal gradua-  
5 tion rates, compared to undergraduate non-stu-  
6 dent athletes as a whole and disaggregated by  
7 gender, race, sport, transfer rates, and competi-  
8 tion level;

9           (B) the ability of student athletes to select  
10 academic courses and a major; and

11           (C) the ability of student athletes to trans-  
12 fer, without a residency requirement, to other  
13 institutions of higher education;

14           (3) the impact of intercollegiate athletic pro-  
15 grams on the—

16           (A) academic mission of institutions of  
17 higher education; and

18           (B) academic integrity of institutions of  
19 higher education, including—

20           (i) whether academic support pro-  
21 grams are provided for student athletes by  
22 an athletic department or academic office  
23 at institutions of higher education;

1 (ii) a comparison between the percent-  
2 age student athletes and percentage of  
3 non-student athletes who are—

4 (I) taking independent studies  
5 classes; or

6 (II) taking online courses;

7 (iii) whether institutions of higher  
8 education conduct transparent and regular  
9 reviews of student athlete academic data;  
10 and

11 (iv) whether tenured faculty conduct  
12 oversight of intercollegiate athletic pro-  
13 grams with respect to student athlete aca-  
14 demic achievement, including whether stu-  
15 dent athletes has adequate time to prepare  
16 for and attend class;

17 (4) how the academic eligibility standards re-  
18 quired by athletic governance associations impact—

19 (A) athletic scholarships offered to student  
20 athletes; and

21 (B) the renewal of athletic scholarships of-  
22 fered to student athletes;

23 (5) how institutions of higher education finance  
24 intercollegiate athletic programs, disaggregated by  
25 competition level, including—

1 (A) the general measures taken by institu-  
2 tions of higher education to finance intercolle-  
3 giate athletic programs;

4 (B) whether student fees are used to fi-  
5 nance intercollegiate athletic programs;

6 (C) whether general funds are used to fi-  
7 nance intercollegiate athletic programs;

8 (D) whether institutions of higher edu-  
9 cation receive funds and the amount of such  
10 funds from—

11 (i) media contracts held by institu-  
12 tions of higher education with respect to  
13 intercollegiate athletic programs;

14 (ii) licensing agreements held by insti-  
15 tutions of higher education with respect to  
16 intercollegiate athletic programs; and

17 (iii) media conferences and other dis-  
18 tributions held by an athletic governance  
19 association;

20 (E) the amount of funds expended on  
21 coaching salaries and facilities development for  
22 intercollegiate athletic programs, disaggregated  
23 by gender, race, sport, and competition level;  
24 and

1 (F) policies held by athletic governance as-  
2 sociations with respect to the amount expended  
3 by institutions of higher education and the  
4 number of athletic participation opportunities  
5 provided by institutions of higher education to  
6 comply with—

7 (i) title IX of the Education Amend-  
8 ments of 1972 (20 U.S.C. 1681 et seq.),  
9 including—

10 (I) the percent of athletic partici-  
11 pation opportunities offered to female  
12 and male student athletes in compari-  
13 son to the enrollment of female and  
14 male non-student athletes, respec-  
15 tively, at institutions of higher edu-  
16 cation; and

17 (II) the percent of total athletic  
18 scholarship funds offered to female  
19 and male student athletes, respec-  
20 tively; and

21 (ii) the Rehabilitation Act of 1973 (29  
22 U.S.C. 701 et seq.), including—

23 (I) the percent of athletic partici-  
24 pation opportunities for students with  
25 disabilities compared to enrollment of

1 non-student athletes with disabilities  
2 at institutions of higher education;  
3 and

4 (II) the percent of total athletic  
5 scholarship funds provided to student  
6 athletes with disabilities;

7 (6) whether athletic governance associations re-  
8 quire or encourage institutions of higher education  
9 to be transparent in academic and financial matters  
10 with respect to intercollegiate athletic programs, in-  
11 cluding whether such institutions provide access to  
12 relevant data for independent research or inclusion  
13 in public reporting requirements;

14 (7) the interaction between athletic governance  
15 associations and institutions of higher education,  
16 with respect to—

17 (A) criteria for institutions of higher edu-  
18 cation to receive financial support from an ath-  
19 letic governance association;

20 (B) criteria for institutions of higher edu-  
21 cation to participate in a post-season champion-  
22 ship competition;

23 (C) the policies related to—

1 (i) whether criteria established under  
2 subparagraphs (A) and (B) comply with  
3 Federal law;

4 (ii) the award, renewal, or withdrawal  
5 of athletic scholarship funds, including—

6 (I) multi-year financial aid  
7 awards;

8 (II) whether cost of attendance is  
9 considered during the renewal or with-  
10 drawal of an athletic scholarship;

11 (III) whether awards of athletic  
12 scholarships are equally available to  
13 male and female student athletes; and

14 (IV) whether gender neutral  
15 methods are used to determine eligi-  
16 bility for an athletic scholarship;

17 (iii) the award, renewal, and with-  
18 drawal of summer school financial assist-  
19 ance for student athletes, including—

20 (I) whether awards of summer  
21 school financial assistance are equally  
22 available to male and female student  
23 athletes; and

1 (II) whether gender neutral  
2 methods are used to determine eligi-  
3 bility for such assistance; and

4 (iv) employment, earnings and bene-  
5 fits, and personal representation by mar-  
6 keting agents of student athletes, including  
7 commercial compensation for the use of  
8 the name, image, or likeness of student  
9 athletes by themselves or institutions of  
10 higher education attended by such athlete;

11 (8) policies held by institutions of higher edu-  
12 cation with respect to recruitment and retention of  
13 student athletes, including—

14 (A) policies governing the recruitment  
15 process of student athletes, including policies  
16 with respect to letters of intent;

17 (B) policies governing individuals allowed  
18 to recruit prospective student athletes;

19 (C) policies governing the transfer and  
20 dropout rate of student athletes;

21 (D) the impact of the policies identified in  
22 subparagraphs (A) through (C) on prospective  
23 student athletes; and

1 (E) the contractual terms of an athletic  
2 scholarship with respect to the ability of stu-  
3 dent athletes to—

4 (i) transfer to different institutions of  
5 higher education; and

6 (ii) participate in professional sports;

7 (9) oversight and guidance provided by athletic  
8 governance associations on—

9 (A) academic support programs only avail-  
10 able to student athletes, including tutoring and  
11 academic advising services; and

12 (B) policies on the professional and ethical  
13 conduct of coaches and staff associated with  
14 student athletes;

15 (10) policies held by intercollegiate athletic pro-  
16 grams that encourage diverse leadership of such pro-  
17 grams;

18 (11) policies on the health and safety of student  
19 athletes, including the impact of—

20 (A) medical policies implemented by ath-  
21 letic governance associations, disaggregated by  
22 gender, race, sport, and competition level;

23 (B) policies implemented by an intercolle-  
24 giate athletic program to minimize the risk of

1 injury to student athletes, disaggregated by  
2 gender, race, sport and competition level; and

3 (C) the provision of adequate athletic in-  
4 jury insurance and medical services, including  
5 the extent to which such insurance coverage is  
6 provided beyond the exhaustion of athletic eligi-  
7 bility, disaggregated by competition level;

8 (12) whether athletic governance associations  
9 maintain a mechanism for addressing complaints  
10 that ensures due process protections for an indi-  
11 vidual accused and is equally enforced with respect  
12 to—

13 (A) all student athletes, institutional em-  
14 ployees, and representatives;

15 (B) student athletes accused of violence,  
16 sexual abuse, sexual harassment, or criminal  
17 conduct;

18 (C) the professional and ethical conduct of  
19 coaches, athletic trainers, and other athletic de-  
20 partment student development personnel; and

21 (D) student athletes or faculty and staff of  
22 institutions of higher education involved in aca-  
23 demic fraud;

1           (13) the impact of the Internal Revenue Code  
2           of 1986 on revenue generated by intercollegiate ath-  
3           letic programs;

4           (14) the impact of Federal and State judicial  
5           decisions that affect—

6                     (A) compensation for student athletes; or

7                     (B) the right of student athletes to receive  
8           workplace protections; and

9           (15) any other issue the Commission considers  
10          relevant to understanding the relationship between  
11          intercollegiate athletic programs and institutions of  
12          higher education.

13         (c) MEMBERSHIP.—

14                 (1) NUMBER AND APPOINTMENT.—The Com-  
15          mission shall be composed of 17 members appointed  
16          as follows:

17                     (A) Four members appointed by the  
18                     Speaker of the House of Representatives, in-  
19                     cluding—

20                             (i) one Member of the House of Rep-  
21                             resentatives; and

22                             (ii) three individuals who are not  
23                     Members of Congress.

1 (B) Four members appointed by the mi-  
2 nority leader of the House of Representatives,  
3 including—

4 (i) one Member of the House of Rep-  
5 resentatives; and

6 (ii) three individuals who are not  
7 Members of Congress.

8 (C) Four members appointed by the major-  
9 ity leader of the Senate, including—

10 (i) one Member of the Senate; and

11 (ii) three individuals who are not  
12 Members of Congress.

13 (D) Four members appointed by the mi-  
14 nority leader of the Senate, including—

15 (i) one Member of the Senate; and

16 (ii) three individuals who are not  
17 Members of Congress.

18 (E) One member appointed by the Sec-  
19 retary of Education.

20 (2) QUALIFICATIONS.—

21 (A) IN GENERAL.—Individuals appointed  
22 under paragraph (1) shall be specially qualified  
23 to serve on the Commission by virtue of their  
24 education or experience on issues related to

1 intercollegiate athletic programs, higher edu-  
2 cation, and civil rights.

3 (B) COORDINATION TO ENSURE DIVER-  
4 SITY.—Individuals appointed under paragraph  
5 (1) shall be coordinated to ensure diversity.

6 (3) CHAIR OF THE COMMISSION.—The Chair of  
7 the Commission shall be elected by a majority of the  
8 members of the Commission.

9 (4) CONTINUATION OF MEMBERSHIP.—If a  
10 member was appointed to the Commission as a  
11 Member of Congress, that member may continue to  
12 serve on the Commission.

13 (5) TERMS.—Each member shall be appointed  
14 for the term of the Commission.

15 (6) VACANCIES.—A vacancy in the Commission  
16 shall be filled in the manner in which the original  
17 appointment was made.

18 (7) BASIC PAY.—

19 (A) IN GENERAL.—Except as provided in  
20 subparagraph (B), members of the Commission  
21 shall serve without pay.

22 (B) TRAVEL EXPENSES.—In carrying out  
23 the duties of the Commission, each member of  
24 the Commission shall receive travel expenses,  
25 including per diem in lieu of subsistence, and

1           other necessary expenses in accordance with ap-  
2           plicable provisions under subchapter I of chap-  
3           ter 57 of title 5, United States Code.

4           (d) MEETINGS.—Beginning not later than 90 days  
5   after the enactment of this Act, the Commission shall meet  
6   at the call of the Chair or a majority of its members.

7           (e) DIRECTOR AND STAFF OF COMMISSION.—

8           (1) DIRECTOR.—The Commission shall have a  
9   Director, appointed by the Chair of the Commission.

10          (2) STAFF.—The Commission may appoint and  
11   fix the pay of personnel as necessary to carry out  
12   the duties of this Act.

13          (3) APPLICABILITY OF CERTAIN CIVIL SERVICE  
14   LAWS.—The Director and staff of the Commission  
15   shall be appointed without regard to the provisions  
16   of title 5, United States Code, governing appoint-  
17   ments in the competitive service, and without regard  
18   to the provisions of chapter 51 and subchapter III  
19   of chapter 53 of such title relating to classification  
20   and General Schedules pay rates, except that no rate  
21   of pay fixed under this paragraph may exceed the  
22   equivalent of that payable for a position at level V  
23   of the Executive Schedule under section 5316 of title  
24   5, United States Code.

1           (4) STAFF OF FEDERAL AGENCIES.—Upon re-  
2       quest of the Commission, the head of any Federal  
3       department or agency may detail, on a reimbursable  
4       basis, any of the personnel of that department or  
5       agency to the Commission to assist it in carrying out  
6       its duties under this Act.

7       (f) USE OF MAILS.—The Commission may use the  
8       United States mails in the same manner and under the  
9       same conditions as other departments and agencies of the  
10      United States.

11      (g) ADMINISTRATIVE SUPPORT.—Upon the request  
12      of the Commission, the Administrator of General Services  
13      shall provide to the Commission, on a reimbursable basis,  
14      the administrative support services necessary for the Com-  
15      mission to carry out its responsibilities under this Act.

16      (h) POWERS OF THE COMMISSION.—

17           (1) HEARINGS AND SESSIONS.—The Commis-  
18      sion may, for the purpose of carrying out this Act,  
19      hold hearings, sit and act at times and places, take  
20      testimony, and receive evidence as the Commission  
21      considers appropriate.

22           (2) SUBPOENA POWER.—

23           (A) IN GENERAL.—The Commission may  
24      issue subpoenas requiring the attendance and  
25      testimony of witnesses and the production of

1 any evidence relating to any matter under in-  
2 vestigation by the Commission. The attendance  
3 of witnesses and the production of evidence may  
4 be required from any place within the United  
5 States at any designated place of hearing within  
6 the United States.

7 (B) FAILURE TO OBEY A SUBPOENA.—If a  
8 person refuses to obey a subpoena issued under  
9 subparagraph (A), the Commission may apply  
10 to a United States district court for an order  
11 requiring that person to appear before the Com-  
12 mission to give testimony, produce evidence, or  
13 both, relating to the matter under investigation.  
14 The application may be made within the judicial  
15 district where the hearing is conducted or where  
16 that person is found, resides, or transacts busi-  
17 ness. Any failure to obey the order of the court  
18 may be punished by the court as civil contempt.

19 (C) SERVICE OF SUBPOENAS.—The sub-  
20 poenas of the Commission shall be served in the  
21 manner provided for subpoenas issued by a  
22 United States district court under the Federal  
23 Rules of Civil Procedure for the United States  
24 district courts.

1 (D) SERVICE OF PROCESS.—All process of  
2 any court to which application is made under  
3 paragraph (2) may be served in the judicial dis-  
4 trict in which the person required to be served  
5 resides or may be found.

6 (3) POWERS OF MEMBERS AND AGENTS.—Any  
7 member or agent of the Commission may, if author-  
8 ized by the Commission, take any action which the  
9 Commission is authorized to take by this subsection.

10 (4) CONTRACT AUTHORITY.—

11 (A) IN GENERAL.—To the extent or in the  
12 amounts provided in advance in appropriation  
13 Acts, the Commission may enter into contracts  
14 with and compensate government and private  
15 entities or persons for the purpose of con-  
16 ducting research or surveys necessary for the  
17 Commission to carry out its duties under this  
18 Act.

19 (B) EXCEPTION FOR ATHLETIC GOVERN-  
20 ANCE ASSOCIATIONS.—Athletic governance as-  
21 sociations shall not be eligible for compensation  
22 under subparagraph (A).

23 (i) REPORT.—Not later than two years after the date  
24 on which the Committee meets for the first time, the Com-  
25 mission shall submit a report to Congress, including—

1           (1) a summary of the review conducted and  
2       findings derived under subsection (b); and

3           (2) recommendations based on the review and  
4       analysis conducted under this section.

5       (j) TERMINATION.—The Commission shall terminate  
6       on the date that is 30 days after the report required under  
7       subsection (i) is submitted to Congress.

8       (k) AUTHORIZATION OF APPROPRIATIONS.—There is  
9       authorized to be appropriated for each of fiscal years 2021  
10      to 2022 \$2,000,000 to carry out this Act.

11      (l) DEFINITIONS.—In this section:

12           (1) ATHLETIC GOVERNANCE ASSOCIATION.—  
13       The term “athletic governance association” means a  
14       governing body that sets rules for intercollegiate ath-  
15       letic programs and manages topics for members of  
16       the association, including rules of the sport, cham-  
17       pionships, health and safety, matters impacting  
18       women in athletics, and other related issues.

19           (2) COMPETITION LEVEL.—The term “competi-  
20       tion level” means the skill level of the student ath-  
21       letes participating within a national competitive divi-  
22       sion, subdivision, and conference affiliation.

23           (3) INSTITUTIONS OF HIGHER EDUCATION.—  
24       The term “institutions of higher education” means  
25       an institution that—

1                   (A) meets the definition in section  
2                   102(a)(1) of the Higher Education Act of 1965  
3                   (20 U.S.C. 1002(a)(1)); and

4                   (B) has student athletes who are eligible  
5                   for Federal student support.

6                   (4) INTERCOLLEGIATE ATHLETIC PROGRAM.—

7                   The term “intercollegiate athletic program” means a  
8                   collegiate level sport that requires student athletes to  
9                   meet eligibility requirements established by an ath-  
10                  letic governance association for the promotion and  
11                  regulation of such sport.

○