



THE DRAKE GROUP

Advancing Positive Legislative
Change In College Athletics



PROPOSED AMENDMENTS TO S.4668, the PROTECT COLLEGE SPORTS ACT OF 2026

1. THE NCAA AS CURRENTLY STRUCTURED SHOULD NOT RECEIVE AN ANTITRUST EXEMPTION

SEC. 118 (c)

(c) Requirements for an Intercollegiate Athletic Association.—An intercollegiate athletic association shall not be entitled to the antitrust exemptions set forth in subsections (a) and (b) unless the intercollegiate athletic association has established rules, bylaws, or other regulations implementing paragraphs (1) through (9) of subsection (a) and paragraphs (1) through (4) of subsection (b) **and, if consisting of multiple competitive divisions or subdivisions with independent rulemaking authority, is governed by an independent board of directors meeting the requirements of this subsection.**

(1) INDEPENDENT DIRECTORS. Independent directors are individuals who have not held a position as a president, member of a governing board, faculty member, athletic director, and/or other paid employee of a higher education institution or non-profit collegiate athletic association or conference within the past five years, nor college athletes within the past 10 years prior to or at any time during their term or position as a director.

(2) COMPOSITION AND TERMS. No less than 12 members serving staggered terms, and at least 60 percent of whom have served as presidents or chancellors at institutions reflecting membership in each of the organization's competitive divisions, at least 50 percent have participated in intercollegiate athletics, and at least 40% of whom are recognized for their financial or legal acumen and revenue generation success, and all of whom have had experience directing the affairs of a multi-billion dollar organization. Directors shall be limited to serving three consecutive terms.

(3) DESIGNATED RESPONSIBILITIES. Directors are responsible for exercising governance duties in the educational and health interests of athletes in all competitive divisions, including but not limited to:

(A) ensuring that the controlling authority of member institutions and conferences is exercised through the following legislative processes:

(i) a one-member, one-vote process at an annual or special convention with no weighted voting, requiring a two-thirds majority for new or amended constitutional provisions applicable to all member institutions in all competitive divisions.

(ii) a one-member, one-vote process with no weighted voting and a majority vote requirement for adopting bylaws and other rules by competitive division or subdivision.

(iii) Constitutional provisions, bylaws, or other rules shall be consistent with federal laws that specify higher education institution obligations under the Protect College Sports Act of 2026, Title 20 of the U.S. Code, including those detailed as Title IV Higher Education Act “Program Participation Agreements.

(iv) composition and structure of division or subdivision boards of directors, which shall consist of no less than 40 percent current presidents or chancellors, 30 percent athletics managers, and 30 percent current or former college athletes who have graduated within the last 10 years, and shall operate on the principles of a one-member-one-vote and no weighted membership.

(v) all-division and division or subdivision committees with the authority to establish and enforce rules or bylaws shall be comprised of no less than 30 percent current or former student athletes who have graduated from their institutions during the preceding 10-year period.

(B) oversee maximizing the revenue yield of national organization assets

(C) determining the distribution of organization revenues consistent with constitutional policies

(D) approve all commercial sponsorships, media rights agreements, and service contracts;

(E) veto the actions and rulemaking of any division or subdivision that are inconsistent with the constitution or not in the best interest of the national organization as a whole.

(F) provide for a common rules enforcement structure for all member institutions consisting of independent investigators and adjudicators and a commitment to due process.

(G) maintain an organizational commitment to advancing education objectives, broad sports programs, the equitable treatment of men's and women's programs, and support of Olympic sports.

Rationale: Only by replacing the NCAA Board of Governors with an independent board acting in the best interest of all members, reinstating a one-member/one-vote governance, and prohibiting weighted voting will Congress send the message to the new Governors that they, not Congress, are responsible for reclaiming non-self-interested president control and ensuring an educationally sound course correction.

2. REASONABLE PUBLIC DISCLOSURE PROVISION AMENDMENT

Sec. 104(b)(1) IN GENERAL.—Not later than September of the first year beginning after the date of the enactment of this Act, each intercollegiate athletic association shall establish and maintain a publicly accessible, searchable database **which shall include data collected under subsection (a)(1) and (a) (2).** ~~for student athletes and their agents to estimate the fair market value for name, image, and likeness agreements, which shall include data collected under subsection (a)(2).~~

Rationale: Given the requirements that data be anonymized to protect individual athletes and types of individual agreements and only provided in the aggregate by sport, all data under (a)(1) and (a)(2) should be transparent by disclosure of each institution's annual reports. As currently written it is restrict to athletes and agents for a specific purpose.

3. PROVIDE AN INCENTIVE TO FUND WOMEN'S AND NON-REVENUE SPORTS FROM THE TITLE II SPORTS BROADCAST REVENUE POOL

SEC. 203. (d)(2) (C) REVENUE ALLOCATION FORMULA

(C) distribute the collective media rights revenue that remains after compliance with sub-paragraphs (A) and (B), **50 percent** to member institutions based on the performance of each institution during the academic year with respect to the institution's contribution to the collective media rights revenue **and 50% to member institutions that sponsor sports programs above the minimum specified in SEC. 125.(a).**

Rationale: This amendment would provide an incentive to sponsor women's and non-revenue sports above the minimum level required for Division I membership and reward institutions who are currently doing so only after first ensuring that institutions be made whole at pre-Broadcast Act levels (SEC. 205 (d) (2) (A) and (B)).

4. **REMOVE LOOPHOLDS IN PROVISIONS GUARANTEEING PARTICIPATION NUMBERS AND SCHOLARSHIP FUNDING OF WOMEN'S AND NON-REVENUE SPORTS AT 2024-2025 LEVELS**

SEC. 125 (a) GENERAL. An intercollegiate athletic association or conference comprised of Division I institutions, as defined by bylaw 20.9 of the National Collegiate Athletic Association, or a successor bylaw, shall not reduce the minimum intercollegiate athletic competitions, minimum **number of** participants **that comprise** a varsity sports team **in order to be considered a countable sport under Division minimum sports sponsorship requirements**, and the number of varsity sports teams, including the number of men's and women's varsity sports teams or Olympic varsity sports teams, that an institution must sponsor for membership within-

- (1) Division I of the National Collegiate Athletic Association, or a successor bylaw; or
- (2) The Football Bowl Subdivision, as defined by bylaw 20.9.9 of the National Collegiate Athletic Association, or successor bylaw.

Rationale: This more precisely specifies the requirement.

SEC. 125. (b)(1) and (2) LARGE-SIZED INSTITUTIONS.

- (1) IN GENERAL. Except as provided in paragraph (2), an intercollegiate athletic association or conference comprised of institutions shall provide that each institution shall, consistent with applicable intercollegiate athletic association rules, offer and maintain at least **1) as many total full grant-in-aid equivalencies opportunities, 2) as much other payments then permitted in addition to grants-in-aid,** and 3) **as many** roster spots for non-revenue generating intercollegiate sports programs including women's and Olympic intercollegiate sports programs, during each academic year as the member institution provided during the academic year 2024-2025.

SEC. 125. (c) TRANSITIONAL PROTECTION FOR WOMEN'S AND OLYMPIC SPORTS AT MID-SIZED INSTITUTIONS.

(1) IN GENERAL. Except as provided in paragraph (2), an intercollegiate athletic association or conference comprised of covered mid-sized institutions shall provide that each such institution shall, consistent with applicable intercollegiate athletic association rules, offer and maintain at least **1) as many total ~~full~~ grant-in-aid equivalencies opportunities, 2) as much other payments then permitted in addition to grants-in-aid**, and 3) **as many** roster spots for non-revenue generating intercollegiate sports programs, including women's and Olympic intercollegiate sports programs, during each academic year as the institution provided during the academic year 2024-25.

Rationale: Title IX applies to all financial assistance, not only grants-in-aid. Financial assistance is money, not the number of individuals who may receive a grant-in-aid. The 2024-25 NCAA grant-in-aid limit for each sport was set by rule as the maximum number of full-cost-of-education scholarship equivalencies, with most sports able to award partial and full grants. Grants-in-aid did not include other important forms of financial assistance, such as summer school aid, special assistance funds, academic awards, and summer training expenses that women and Olympic athletes received in 2024-25. Thus, there is no reason to limit the 2024-25 financial aid category to grants-in-aid only. Doing so would establish a floor of financial support lower than what women's sports and Olympic sports actually received in 2024-25. Further, we note that this bill establishes a roster spots floor (total number of participants) that the GAO 2024 research report showed did not meet the Title IX sex equity standard of "proportional to undergraduate enrollment" at 93% of all higher education institutions with athletics programs.

5. THE FOLLOWING PROVISIONS SHOULD BE OPPOSED/STRIKEN AS THEY IMPLICITLY UNDERMINE EQUITY PRINCIPLES OF FEDERAL LAWS

SEC. 125. (b) (2)-(4) LARGE-SIZED INSTITUTIONS.

~~(2) WAIVER:~~

~~(A) IN GENERAL. An institution may be granted a waiver from compliance with paragraph (1) for not more than one academic year at a time by an intercollegiate athletic association if the institution provides evidence that~~

~~(i) Annual athletics revenues have declined not less than 15 percent based on the average of the preceding three academic years, and total grant-in-aid accounts for not less than 45 percent of the total expenses of the athletic department of the institution;~~

~~(ii) Compliance with paragraph (1) would materially impair the ability of the institution to comply with federal law; or~~

~~(iii) There are extraordinary circumstances relating to financial hardship, including from natural disaster, act of war, or another catastrophe, that are beyond the control of the institution or materially impair the ability of the institution to comply with paragraph (1).~~

~~(B) CONDITION. As a condition of seeking a waiver under subparagraph (A)(i), an institution shall first reduce the total compensation of the coaching staff of its revenue-generating varsity sports programs by the same proportion as any planned reduction in expenditures for its non-revenue-generating intercollegiate sports program during the waiver period.~~

~~(3) DEFINITIONS. In this subsection~~

~~(A) INSTITUTION. The term “institution” means an institution, as defined by bylaw 20.9 of the National Collegiate Athletic Association, or a successor bylaw, that, upon the date of enactment of this Act, reports, as required under section 485(g) of the Higher Education Act of 1965 (20 U.S.C. 1092(g), having generated not less than \$80,000,000 in total annual athletics revenues during the preceding academic year.~~

~~(B) NON-REVENUE GENERATING INTERCOLLEGIATE SPORTS PROGRAM. The term “non-revenue-generating intercollegiate sports program at an institution for which during an academic year, the revenues generated specifically attributable to that sports program are less than the direct and allocated operating expenses of that sports program.~~

~~(4) SUNSET. This subsection shall terminate on the date that is 9 years after the date of the enactment of this Act.~~

SEC. 125. (c) (2) TRANSITIONAL PROTECTION FOR WOMEN’S AND OLYMPIC SPORTS AT MID-SIZED INSTITUTIONS.

~~(2) EXEMPTIONS. An institution shall be exempt from the requirement under paragraph (1) for an academic year if~~

~~(A) the total annual athletics revenue of the institution, as reported under section 485(g) of the Higher Education Act of 1965 (20 U.S.C. 1092(g)), declined by not less than 15 percent from the immediately preceding academic year;~~

~~(B) the institution petitions the relevant intercollegiate athletic association for, and is granted, an exemption based on a demonstrable financial hardship;~~

~~(C) compliance with that paragraph would materially impair the ability of the institution to comply with Federal law; or~~

~~(D) There are extraordinary circumstances relating to financial hardship, including from natural disaster, act of war, or another catastrophe, that are beyond the control of the institution or materially impair the ability of the institution to comply with that paragraph.~~

~~(3) COVERED MID-SIZED INSTITUTION DEFINED. In this subsection, the term “covered mid-sized institution” means an institution, as defined by bylaw 20.9 of the National Collegiate Athletic Association, or a successor bylaw, that, upon the date of enactment of this Act, reports, as required under section 485(g) of the Higher Education Act of 1965 (20 U.S.C. 1092(g), having generated not less than \$50,000,000 but less than \$80,000,000 in total annual athletics revenues during the preceding academic year.~~

~~(1) SUNSET. This subsection shall terminate on the date that is 4 years after the date of the enactment of this Act.~~

Rationale: Federal laws that prohibit discrimination on the basis of sex, race, and disability do not allow financial insufficiency as a justification.

6. ADDRESS INSUFFICIENT ATHLETE PROTECTION FROM ABUSIVE CONDUCT

SEC. 107. (b) MEASURES TO PREVENT, ASSESS, AND REMEDIATE ABUSE OR MISCONDUCT. ~~Each institution, conference, and intercollegiate athletic association shall take reasonable actions to prevent, assess, and remediate—~~

~~(1) abuse or hazing of any student athlete, including physical and sexual abuse; and~~

~~(2) sexual assault, sexual misconduct, and sexual harassment.~~

National collegiate athletic associations shall establish codes of conduct applicable to athletes, coaches, and staff of all member institutions that are at least as stringent as the U.S. Center for Safe Sport [SafeSport Code](#). Institutions shall be responsible for educating athletes, coaches, and staff and enforcing the code.

Rationale: There is no need to reinvent the wheel after Congress recently addressed the same issue of sport-specific athlete abuse policies in non-school sports by establishing the U.S. Center for Safe Sport. We recommend adding a SafeSport Code for school sports. This would not be costly. Higher education institutions already operate personnel offices and are required to have a Title IX compliance officer, providing the investigation and adjudication mechanisms that are not present in non-school sports. Also, the PCSA establishes a new Ombuds Office and a Health and Safety Officer position that will be able to provide greater health, medical, mental health, and safety oversight, in addition to SafeSport Code enforcement, to address and prevent professional misconduct. This is an issue of particular concern to women, with one in five experiencing sexual assault in college.

7. MEDICAL AND MENTAL HEALTH WAIVERS AND OTHER EXTENUATING CIRCUMSTANCES MUST BE REQUIRED UNDER THE NEW 5-YEAR ELIGIBILITY RULE

SEC.113 (b)(2)(D)

(D) Other periods of absence, ~~which may include serious athletic injury or medical condition, adopted by rule or bylaw by an intercollegiate athletic association that apply uniformly to all student athletes.~~ **created by serious athletic injury, medical or mental health condition or significant extenuating circumstances unrelated to the loss of potential earnings or economic benefits, with waivers determined by an independent panel of medical experts and certified health counselors.**

Rationale: The absence of a mandated (rather than “may”) exception for athletic injury, medical or health conditions disincentivizes reporting or seeking treatment for athletic injuries or medical or mental health conditions and incentivizes premature return to play. The NCAA appears reluctant to take on the workload of reasonable waivers for participation in an educational activity. A separate committee on rules waivers, composed of independent medical, academic, and other experts, to ensure consistent rulings and to prohibit waivers based on loss of potential earnings or economic benefits.

8. REASONABLE PROTECTION OF ATHLETE FROM CHILLING EFFECT OF PAYING PENALTIES FOR OTHER THAN FRIVOLOUS COMPLAINTS

SEC. 102. (a) under “SEC. 5A. PRIVATE RIGHT OF ACTION” (c) Attorney’s Fees and Costs.—In a civil action brought under subsection (a) in which the defendant is not an institution (as defined in section 100 of the Protect College Sports Act of 2026), the court may, in its discretion, award reasonable attorney’s fees and litigation costs, **provided, however, reasonable attorney’s fees and litigation costs may be awarded against a student only if the student’s claim was frivolous, unreasonable, or without foundation.**

SEC. 119. (c) RELIEF.—In a civil action brought under subsection (a) in which the plaintiff prevails, the court may award the plaintiff-

(1) actual damages; and

(2) any other relief, including equitable relief or declaratory relief, that the court determines appropriate (including attorney’s fees, if otherwise allowed under

applicable law), **provided, however, reasonable attorney's fees and litigation costs may be awarded against a student only if the student's claim was frivolous, unreasonable, or without foundation.**

Rationale: Institutions cannot be trusted NOT to seek student payment of costs as a deterrent to future student lawsuits. Neither should we trust the courts to do so without this type of explicit instruction as part of the law in this post-Chevron climate. The fees and costs provisions of Sections 102(c) [relative to agents] and 119 above need to be amended to apply the asymmetrical standard from the US Supreme Court's decision in Christiansburg Garment Co. v. EEOC, 434 U.S. 412 (1978).

9. ATHLETES SHOULD HAVE THE RIGHT TO CHOOSE ARBITRATION IN PRE-DISPUTE ARBITRATION AGREEMENTS WITHOUT THE AGREEMENT OF THE INSTITUTION

SEC. 119(d)(1)(B) TREATMENT OF CLAIM.—If a claim for a violation of this title arises, a student athlete has the option to arbitrate the dispute. **~~if the intercollegiate athletic association, conference, or institution agrees to the arbitration.~~**

Rationale: Arbitration is a cheaper and faster way to resolve disputes. If the institution is required to approve, it can force the athlete into expensive litigation, creating a major chilling effect on efforts to reach a resolution. Women, who are overrepresented among non-revenue sport athletes, are less likely than revenue sport athletes to have the money to sue.