

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 840

By: McCortney

4  
5  
6 AS INTRODUCED

7 An Act relating to collegiate athletics; amending 70  
8 O.S. 2021, Sections 820.22, 820.23, 820.24, 820.25,  
9 and 820.26, which relate to the Student Athlete Name,  
10 Image and Likeness Rights Act; modifying definitions;  
11 modifying limitation on certain compensation;  
12 prohibiting postsecondary institution from providing  
13 certain representation or compensation; prohibiting  
14 collegiate athletic association from imposing certain  
15 restrictions on postsecondary institutions;  
16 construing provisions; removing limitation on certain  
17 representation; establishing requirements for certain  
18 agreements; requiring certain individual or entity to  
19 ensure certain disclosures; requiring disclosure of  
20 certain representation; modifying requirements for  
21 certain contracts; prohibiting use of certain marks  
22 for certain purposes; providing exception;  
23 authorizing adoption of certain restrictions;  
24 authorizing certain third-party agreements;  
25 authorizing certain educational or training  
26 requirements; modifying effective date of provisions;  
27 prohibiting collegiate athletic association and  
28 member institutions from taking certain actions  
29 against student athlete or postsecondary  
30 institutions; prohibiting liability for employees of  
31 postsecondary institution for certain decisions or  
32 actions; updating statutory language; providing for  
33 codification; and declaring an emergency.

34 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 70 O.S. 2021, Section 820.22, is  
2 amended to read as follows:

3 Section 820.22. As used in the Student Athlete Name, Image and  
4 Likeness Rights Act:

5 1. "Athletic grant-in-aid" shall have the meaning provided by  
6 the applicable collegiate athletic association as aid related to the  
7 student athlete's participation in an intercollegiate sport for a  
8 postsecondary institution. ~~"Athletic grant-in-aid"~~ Athletic grant-  
9 in-aid shall not include compensation for the use of the student-  
10 athlete's name, image, or likeness rights or athletic reputation;

11 2. "Collegiate athletic association" means any athletic  
12 association, conference, or other group or organization with  
13 authority over intercollegiate sports including but not limited to the  
14 National Collegiate Athletic Association;

15 3. "Postsecondary institution" means any state educational  
16 institution or private educational institution as defined in Section  
17 3102 of Title 70 of the Oklahoma Statutes;

18 4. "Professional representation" includes but is not limited  
19 to representation provided by an athlete agent holding a  
20 certificate of registration under the Revised Uniform Athlete Agents  
21 Act or an attorney duly admitted to practice law in this state by  
22 any individual or entity engaged by a student athlete for the  
23 purpose of securing compensation or benefits for a student athlete's  
24 name, image, or likeness activities. Any individual or entity

1 engaged for such purpose shall be a fiduciary for the represented  
2 student athlete;

3 5. ~~"Sponsor" means an individual or organization that receives~~  
4 ~~institutional recognition for its financial support or other~~  
5 ~~contributions in support of a postsecondary institution or its~~  
6 ~~departments or programs;~~

7 6. "Student athlete" shall have the same meaning as defined in  
8 the Revised Uniform Athlete Agents Act; and

9 7. ~~"Team contract" means a contract between a postsecondary~~  
10 ~~institution or a postsecondary institution's athletic department and~~  
11 ~~a sponsor or a third party authorized to enter into a sponsorship~~  
12 ~~agreement or agreements on behalf of a postsecondary institution~~

13 6. "Team activities" means student athlete participation in  
14 countable athletically related activities and required athletic  
15 activities as defined by the collegiate athletic association or as  
16 otherwise defined by the postsecondary institution.

17 SECTION 2. AMENDATORY 70 O.S. 2021, Section 820.23, is  
18 amended to read as follows:

19 Section 820.23. A. Except as otherwise provided in the Student  
20 Athlete Name, Image and Likeness Rights Act, a student athlete may  
21 earn compensation ~~commensurate with market value~~ for the use of the  
22 name, image, or likeness of the student athlete while enrolled at a  
23 postsecondary institution without penalty or resulting limitation on  
24 participation. Compensation for the use of a student athlete's

1 name, image, or likeness shall not affect the student athlete's  
2 eligibility for athletic grant-in-aid.

3 B. A student athlete shall not earn compensation in exchange  
4 for his or her athletic performance or participation in  
5 intercollegiate athletics or sports competition. Compensation shall  
6 not be provided as an inducement for athletic performance or to  
7 attend or enroll at a particular institution.

8 C. A postsecondary institution, ~~an entity whose purpose~~  
9 ~~includes supporting or benefitting the postsecondary institution or~~  
10 ~~its athletic programs~~ or an officer, director, or employee of such  
11 postsecondary institution ~~or entity~~ shall not provide professional  
12 representation, or compensate or cause compensation to be directed  
13 to a current or prospective student athlete for his or her name,  
14 image, or likeness. ~~A scholarship from a postsecondary institution~~  
15 ~~in which a student athlete is enrolled that provides him or her with~~  
16 ~~the cost of attendance, as defined by an applicable collegiate~~  
17 ~~athletic association, at the institution shall not be considered~~  
18 ~~compensation for purposes of this Act unless otherwise permitted by~~  
19 institutional policy or state law.

20 D. A collegiate athletic association shall not, ~~and shall not~~  
21 ~~authorize its member institutions to:~~

22 1. ~~Prevent a student athlete at a postsecondary institution~~  
23 ~~from earning compensation from the use of his or her name, image or~~  
24 ~~likeness;~~

1           2. ~~Prevent a postsecondary institution from participation in~~  
2 ~~intercollegiate athletics because a student athlete in attendance~~  
3 ~~has previously earned or intends to earn compensation for the use of~~  
4 ~~his or her name, image or likeness;~~

5           3. ~~Provide a prospective student athlete with compensation in~~  
6 ~~relation to the use of his or her name, image or likeness;~~

7           4. ~~Penalize a student athlete or prevent a student athlete from~~  
8 ~~full participation in an intercollegiate sport because he or she~~  
9 ~~obtains professional representation in relation to a contract or~~  
10 ~~other legal matter; or~~

11           5. ~~Allow compensation earned by a student athlete for the use~~  
12 ~~of his or her name, image or likeness or athletic reputation to~~  
13 ~~affect the amount, duration or renewal of or eligibility for any~~  
14 ~~athletic grant-in-aid or other institutional scholarship; provided,~~  
15 ~~however, compensation earned by a student athlete for the use of his~~  
16 ~~or her name, image or likeness or athletic reputation may be used~~  
17 ~~for the calculation of income for determining eligibility for need-~~  
18 ~~based financial aid prohibit a postsecondary institution from~~  
19 ~~identifying, facilitating, enabling, or supporting opportunities for~~  
20 ~~a student athlete to earn compensation for the student athlete's~~  
21 ~~name, image, or likeness activities.~~

22           E. The provisions of this section shall not be construed to  
23 qualify a student athlete as an employee of a postsecondary  
24 institution.

1 SECTION 3. AMENDATORY 70 O.S. 2021, Section 820.24, is

2 amended to read as follows:

3 Section 820.24. A. 1. A student athlete may obtain  
4 professional representation ~~by an athlete agent or attorney~~ for the  
5 purpose of securing compensation for the use of his or her name,  
6 image, or likeness without penalty, resulting limitation on  
7 participation or effect on the student-athlete's athletic grant-in-  
8 aid eligibility.

9 2. Any professional representation agreement shall:

10 a. be in writing,

11 b. be executed by both parties,

12 c. clearly describe the obligations of the parties, and

13 d. outline fees for the professional representation.

14 3. An individual or entity engaged for professional  
15 representation by a student athlete shall ensure the student athlete  
16 discloses the professional relationship to the postsecondary  
17 institution as required by this section.

18 ~~B. Professional representation provided by athlete agents shall~~  
19 ~~be by persons licensed pursuant to the Revised Uniform Athlete~~  
20 ~~Agents Act or superseding law. An athlete agent representing a~~  
21 ~~student athlete shall comply with the federal Sports Agent~~  
22 ~~Responsibility and Trust Act, Chapter 104, Section 7801 et seq. of~~  
23 ~~Title 15 of the United States Code.~~

1       ~~C.~~ A student athlete who enters into a contract providing  
2 compensation to the student athlete for use of his or her name,  
3 image, or likeness or for professional representation shall disclose  
4 the contract in a manner designated by the postsecondary  
5 institution, but in any event within seventy-two (72) hours after  
6 entering into the contract or before the next athletic event in  
7 which the student athlete is eligible to participate, whichever  
8 occurs first.

9       SECTION 4.       AMENDATORY       70 O.S. 2021, Section 820.25, is  
10 amended to read as follows:

11       Section 820.25. A. ~~A student athlete shall not enter into a~~  
12 ~~contract that provides compensation to the student athlete for use~~  
13 ~~of his or her name, image or likeness if a provision of the contract~~  
14 ~~is in conflict with a provision of the postsecondary institution's~~  
15 ~~team contract.~~

16       ~~B.~~ A student athlete shall not enter into a contract with a  
17 ~~third party that provides compensation to the student athlete~~ use a  
18 postsecondary institution's marks for the purpose of securing  
19 compensation for use of his or her name, image, or likeness ~~or~~  
20 ~~athletic reputation if:~~

21       1. ~~The contract requires the student athlete to display the~~  
22 ~~third party's apparel or to otherwise advertise for the third party~~  
23 ~~during team activities;~~

1 ~~2. Compliance with the third party contract would conflict with~~  
2 ~~a team contract; or~~

3 ~~3. The contract allows for the use or consents to the use of~~  
4 ~~any institutional marks during the student athlete's third party~~  
5 ~~contract activities.~~

6 ~~C. A team contract of a postsecondary institution entered into,~~  
7 ~~modified or renewed on or after the effective date of this Act shall~~  
8 ~~not prevent a student athlete from using his or her name, image or~~  
9 ~~likeness for a commercial purpose when the student athlete is not~~  
10 ~~engaged in team activities unless authorized by the institution.~~

11 ~~D. B.~~ A student athlete shall not enter into a name, image, and  
12 likeness agreement involving a commercial product or service that  
13 conflicts with a written policy of the postsecondary institution  
14 ~~which is in compliance with the bylaws and legislation of the~~  
15 ~~applicable collegiate athletic association including, but not~~  
16 ~~limited to, sports wagering or banned substances or that negatively~~  
17 impacts or reflects adversely on the postsecondary institution or  
18 its athletic programs including, but not limited to, generating  
19 public disrepute, embarrassment, scandal, ridicule or otherwise  
20 negatively impacting the reputation or the moral or ethical  
21 standards of the postsecondary institution.

22 ~~E. C.~~ A contract for the use of a student athlete's name,  
23 image, or likeness or a contract for professional representation  
24 related to name, image, or likeness that is formed while the student

1 athlete is participating in an intercollegiate sport at a  
2 postsecondary educational institution may not extend beyond the  
3 student athlete's participation in the sport at the institution.

4 ~~F. Nothing in the Student Athlete Name, Image and Likeness  
5 Rights Act shall be construed to authorize a student athlete to  
6 assert any right or interest as a party to or intended beneficiary  
7 of team contracts or to create a right of one or more student  
8 athletes to participate in the negotiation, awarding or earnings of  
9 team contracts.~~

10 D. A postsecondary institution may adopt reasonable time,  
11 place, and manner restrictions to prevent a student athlete's name,  
12 image, or likeness activities from interfering with team activities,  
13 the postsecondary institution's operations, or the use of the  
14 institution's facilities. A postsecondary institution may receive  
15 compensation for the use of its institutional marks or facilities in  
16 conjunction with a student athlete's name, image, and likeness  
17 activities.

18 E. A collegiate athletic association shall not prohibit a  
19 postsecondary institution from establishing agreements with a third-  
20 party entity to act on its behalf to identify, facilitate, enable,  
21 or support student athlete name, image, and likeness activities.

22 F. An institution may require a student athlete to take courses  
23 or receive education or training in contracts, financial literacy,  
24 or any other subject the postsecondary institution deems necessary

1 to prepare a student athlete to engage in name, image, and likeness  
2 activities.

3 SECTION 5. AMENDATORY 70 O.S. 2021, Section 820.26, is  
4 amended to read as follows:

5 Section 820.26. ~~Each postsecondary institution shall determine~~  
6 ~~a date on or before July 1, 2023, upon which the~~ The provisions of  
7 the Student Athlete Name, Image and Likeness Rights Act ~~will~~ shall  
8 be ~~recognized by the postsecondary institution~~ effective  
9 immediately.

10 SECTION 6. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 820.27 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. A collegiate athletic association shall not and shall not  
14 authorize its member institutions to:

15 1. Prevent a student athlete at a postsecondary institution  
16 from earning compensation from the use of his or her name, image, or  
17 likeness;

18 2. Provide a prospective student athlete with compensation in  
19 relation to the use of his or her name, image, or likeness;

20 3. Penalize a student athlete or prevent a student athlete from  
21 full participation in an intercollegiate sport because he or she  
22 obtains professional representation or receives assistance with  
23 services associated with name, image, or likeness activities  
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1 including with contracts or other legal matters from an individual,  
2 entity, or a postsecondary institution; or

3 4. Allow compensation earned by a student athlete for the use  
4 of his or her name, image, or likeness or athletic reputation to  
5 affect the amount, duration, or renewal of or eligibility for any  
6 athletic grant-in-aid or other institutional scholarship; provided,  
7 however, compensation earned by a student athlete for the use of his  
8 or her name, image, or likeness or athletic reputation may be used  
9 for the calculation of income for determining eligibility for need-  
10 based financial aid.

11 B. A collegiate athletic association shall not and shall not  
12 authorize its member institutions to:

13 1. Prevent a postsecondary institution from participation in  
14 intercollegiate athletics because a student athlete in attendance  
15 has previously earned or intends to earn compensation for the use of  
16 his or her name, image, or likeness;

17 2. Entertain a complaint, open an investigation, or take any  
18 other adverse action against a postsecondary institution for  
19 engaging in any activity protected in the Student Athlete Name,  
20 Image and Likeness Rights Act or for involvement in student athlete  
21 name, image, or likeness activities; or

22 3. Penalize a postsecondary institution from participation in  
23 intercollegiate athletics because an individual or entity whose  
24 purpose includes supporting or benefitting the postsecondary

1 institution or its athletic programs violates the collegiate  
2 athletic association's rules or regulations with regard to student  
3 athlete name, image, or likeness activities.

4 C. No postsecondary institution's employees, including  
5 athletics coaching staff, shall be liable for any damages to a  
6 student athlete's ability to earn compensation for the use of the  
7 student athlete's name, image, or likeness resulting from decisions  
8 and actions routinely taken in the course of intercollegiate  
9 athletics.

10 SECTION 7. It being immediately necessary for the preservation  
11 of the public peace, health or safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

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