WEST VIRGINIA CODE CHAPTER 18B ARTICLE 22

WV Legislature

§18B-22-1. Definitions.

For purposes of this article:

"Athlete agent" means an individual who holds a valid certificate of registration as an athlete agent issued pursuant to §30-39-5 of this code.

"Attorney" means an attorney licensed to practice law in the State of West Virginia.

"Compensation" means any type of remuneration or anything of value: *Provided*, That compensation does not include any (i) scholarship provided to a student-athlete that covers some or all of the cost of attendance at an institution at which the student-athlete is enrolled or (ii) benefit a student-athlete may receive in accordance with the rules of the relevant athletic association or conference.

"Institution" means a state institution of higher education as defined in §18B-1-2 of this code.

"Institutional marks" means the name, logo, trademarks, mascot, unique colors, copyrights, and other defining insignia of an institution.

"Intercollegiate athletics" means programs at an institution for sports played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of college athletics.

"Name, image, or likeness" means a student-athlete’s name, image, or likeness, including but not limited to caricature, nicknames, pseudonyms, voice, live or recorded performances, photographs, videos, audio recordings, signatures, quotations, biographical data or information and any other personal characteristics or physical or vocal likenesses of student-athlete; any and all intellectual property rights owned by or on behalf of student-athlete relating to, based on or derived from any of the foregoing; and any and all other materials originating or relating to the student-athlete or any of the foregoing, including services and activities of the student-athlete related to the use of the foregoing.

"Official team activities" means all games, practices, exhibitions, scrimmages, team appearances, team photograph sessions, sports campus sponsored by the institution, and other team-organized activities, including, but not limited to, individual photograph sessions, news media interviews, and other related activities as specified by the institution.

"Student-athlete" means an individual enrolled at an institution who participates in intercollegiate athletics.

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§18B-22-2. Authority of institutions relating to name, image, and likeness.

(a) Under the provisions of this article, institutions may

(1) Enter into agreements providing for the compensation of student-athletes for the use of the student-athlete's name, image, or likeness;

(2) Share a portion of the revenues generated by an intercollegiate athletic department with the student-athlete;

(3) Condition such compensation based on terms and conditions established by the institution, including provisions limiting the ability of the student-athlete to earn compensation from other persons or entities, including, but not limited to, prohibited endorsements, conflicting endorsements, and activities during official team activities and a requirement that the student-athlete disclose any similar agreements with other persons or entities; and

(4) Identify, create, negotiate, facilitate, support, engage with, or otherwise assist a student-athlete with respect to a name, image, or likeness opportunity:

(b) Subject to the authority in subsection (a) of this section, student-athletes may earn compensation for the student athlete's name, image, or likeness; endorsement; or related activity, including directly from the institution where the student-athlete is enrolled, and the student-athlete may retain an athlete agent or attorney in connection with issues related to name, image, or likeness; endorsement; and related activity: *Provided*, That nothing in this article may be construed to qualify a student-athlete as an employee of an institution because the student-athlete engages in name, image, or likeness; endorsement, or revenue sharing opportunities; *Provided, however*, That institutions may not use any moneys appropriated by the Legislature to compensate a student-athlete for the student-athlete's name, image, or likeness; endorsement, or revenue sharing activities.

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§18B-22-3. Limitations on the authority of athletics associations, athletic conferences, or other organizations over intercollegiate athletics.

(a) As a result of a student-athlete engaging in activities authorized by this article, no institution, athletic association, athletic conference, or other organization with authority over intercollegiate athletics may:

(1) Open an investigation, penalize, suspend, take other adverse action, or declare a student-athlete ineligible from intercollegiate athletic competition; or

(2) Reduce, cancel, revoke, or not renew an athletic scholarship for a student-athlete;

(b) As a result of a student-athlete or an institution, an employee of an institution, an authorized agent of an institution, or an entity controlled by an institution engaging in activities authorized by this article, no athletic association, athletic conference, or other organization with authority over intercollegiate athletics may open an investigation, penalize, suspend, or take other adverse action against any such person, institution, or entities for engaging in such activities.

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§18B-22-4. Limitations on the ability to earn compensation for the use of name, image, and likeness.

No student-athlete may earn compensation for the use of the student-athlete's name, image, or likeness in connection with any of the following:

(1) Alcohol and alcoholic beverages;

(2) Adult entertainment;

(3) Cannabis, cannabinoids, cannabidiol, or other derivatives, not including hemp or hemp products;

(4) Controlled substances, as defined in §60A-1-101 of this code;

(5) Performance enhancing drugs or substances such as steroids or human growth hormone;

(6) Drug paraphernalia, as defined in §47-19-3 of this code;

(7) Tobacco, tobacco products, alternative nicotine products, nicotine vapor products, and similar products and devices; or

(8) Casinos or gambling, including sports betting.

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§18B-22-5. Causes of action.

(a) Any student-athlete who is aggrieved by any action of an institution or agent thereof, athletic association, athletic conference, or other organization with authority over intercollegiate athletics in violation of any provision of this article may bring an action for injunctive relief.

(b) No institution, employee or authorized agent of an institution, or an entity controlled by an institution, shall be liable for any damages to a student-athlete's ability to earn compensation for the use of the student-athlete’s name, image, or likeness resulting from decisions and actions routinely taken in the course of intercollegiate athletics.

(c) Any institution, employee or authorized agent of an institution, or entity controlled by an institution that is subjected to any actual or threatened complaint, investigation, penalty, or other adverse action of an athletic association, athletic conference, or other organization with authority over intercollegiate athletics for engaging in activities permitted under this article may bring an action to recover actual damages and reasonable attorney fees and may seek injunctive relief and any other remedy available at law or in equity.

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