

## UPDATE: California SB 206 – Collegiate Athletics: Fair Pay to Play Act Moves Forward

Article By:

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The Fair Pay to Play Act, introduced by California State Senate Majority Whip Nancy Skinner, has passed an initial hurdle toward becoming law as the California State Senate passed the proposed legislation by a 31-4 vote total. The California Assembly will now consider the measure in the near future.

**The proposed legislation** (as discussed in our [recent blog post](#) on March 1, 2019) **would prohibit a California public postsecondary educational institution, athletic association, conference, or any other organization with authority over intercollegiate athletics, from preventing student athletes from earning compensation in connection with the use of the student athlete's name, image, or likeness.** Specifically, any such compensation would no longer affect a student athlete's scholarship eligibility. The proposed legislation would prohibit direct payments from schools to athletes and would become effective in 2023.

Commenting on the Senate's approval of her proposed legislation, Skinner commented "The California Senate has spoken loud and clear: Student athletes should enjoy the same right as all other students to earn income from their talent. SB 206 gives our college athletes the same financial opportunity afforded to Olympic athletes."

Senator Skinner asserts that the vast majority of full-scholarship athletes live at or below the poverty level while generating tens of billions of dollars for their colleges, corporate sponsors and television networks. In support of her legislation,

Skinner further alleges that, "NCAA rules disproportionately harm students from low-income families," and that the NCAA rules "are particularly unfair to female athletes, because for many young women, college is the only time they could earn income, since women have fewer professional sports opportunities than men."

The following is a glimpse into the most pertinent language of the proposed Act:

- A California public postsecondary educational institution shall not uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation as a result of the use of the student's name, image, or likeness. Earning compensation from the use of a student's name, image, or likeness shall not affect the student's scholarship eligibility.
- An athletic association, conference, or other group or organization with authority over intercollegiate athletics, including, but not limited to, the National Collegiate Athletic Association, shall not prevent a student of a California public postsecondary educational institution participating in intercollegiate athletics from earning compensation as a result of the use of the student's name, image, or likeness.
- A scholarship from the public postsecondary educational institution in which a student is enrolled that provides the student with the cost of attendance at that institution is not compensation for purposes of this section, and a scholarship shall not be revoked as a result of earning compensation pursuant to this section.
- For purposes of this section, "public postsecondary educational institution" means any campus of the University of California, the California State University, or the California Community Colleges.

The Fair Pay to Play Act would not add any specific costs to university athletic budgets or create any financial hardships. In fact, the proposed legislation is completely cost neutral to the higher education institutions while authorizing student athletes to use their unique position to secure financial rewards while still performing at an amateur level and assuming all of the risk of season-long or career ending injury.

Despite the bill's strong bipartisan support within the California Senate, concerns have been raised by those who oppose the legislation becoming law.

Specifically, several legislators have raised concerns how the NCAA will treat California collegiate sports programs if they follow the requirements of SB 206 and ignore the specific directives and enforceability of relevant NCAA bylaws.

Senator John Moorlach said the bill could result in California schools being excluded from the NCAA, which could eliminate the ability of these programs to participate in specific NCAA events. The California State University systems, the University of California, USC and Stanford University have all publically expressed opposition to the Fair Pay to Play Act.

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