

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL 636  
Education/Higher Education Committee Substitute Adopted 5/1/23  
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Short Title: School Athletic Transparency.

(Public)

Sponsors:

Referred to:

April 6, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO REVISE OVERSIGHT OF HIGH SCHOOL INTERSCHOLASTIC ATHLETICS.  
3 The General Assembly of North Carolina enacts:

4  
5 **PART I. REVISE OVERSIGHT OF HIGH SCHOOL INTERSCHOLASTIC**  
6 **ATHLETICS**

7 **SECTION 1.(a)** Article 29E of Chapter 115C of the General Statutes reads as  
8 rewritten:

9 "Article 29E.

10 "High School Interscholastic Athletic Activities.

11 "Part 1. Definitions.

12 "**§ 115C-407.50. Definitions.**

13 The following definitions apply in this Article:

14 (1) Administering organization. – A nonprofit organization that has entered into  
15 and is in compliance with a memorandum of understanding with the State  
16 Board of Education to administer and enforce the adopted rules and  
17 requirements of this Article for interscholastic athletic activities at the high  
18 school level.

19 ...

20 (6) Parent. – The parent or legal guardian of a student participating or seeking to  
21 participate in interscholastic athletic activities.

22 (7) Participating school. – A high school that elects to offer interscholastic athletic  
23 activities.

24 "Part 2. Oversight of Interscholastic Athletic Activities.

25 "**§ 115C-407.55. Rules for high school interscholastic athletic activities.**

26 The State Board of Education shall adopt rules governing high school interscholastic athletic  
27 activities conducted by public school units that include the following:

28 (1) Student participation rules. – These rules shall govern student eligibility to  
29 participate in interscholastic athletic ~~activities and activities.~~ The adoption of  
30 these rules shall not be delegated to an administering organization. The rules  
31 shall include, at a minimum, academic standards, enrollment the following:

32 a. Academic standards.

33 b. Enrollment and transfer requirements, attendance requirements,  
34 medical requirements, including the following:





1                   shall be provided a written copy of the rule that is the basis for the  
2                   penalty.

3           (5)   Administrative rules. – These rules shall govern classifications of schools into  
4           divisions and conferences, administration of games, and requirements for  
5           coaching, officiating, sportsmanship, and scheduling of seasons. The State  
6           Board may by rule delegate the authority to establish all or a portion of the  
7           administrative rules to an administering organization.

8           (6)   Gameplay rules. – These rules shall be adopted in accordance with the  
9           requirements of the governing organization for each sport, including the  
10          requirements of the National Federation of State High School Associations.  
11          The State Board may by rule delegate the authority to establish all or a portion  
12          of the gameplay rules to an administering organization.

13          (7)   Fees. – These rules shall establish the fees and other amounts that may be  
14          charged to a participating school for participation in interscholastic athletic  
15          activities. ~~The State Board may by rule delegate the authority to establish all~~  
16          ~~or a portion of the fees to an administering organization.~~ The adoption of these  
17          rules shall not be delegated to an administering organization.

18          (8)   Administering organization rules. – These rules shall require that to be  
19          designated as an administering organization, a nonprofit must enter into and  
20          remain compliant with a memorandum of understanding with the State Board.  
21          The adoption of these rules shall not be delegated to an administering  
22          organization. The rules shall also require the following:

23           a.    The State Board may, by majority vote, invalidate any rule or  
24           regulation adopted by the administering organization.

25           b.    The administering organization be audited annually by a reputable  
26           independent auditing firm, engage in open meetings as set out in the  
27           memorandum of understanding, and provide the State Board access to  
28           records of the administering organization, including financial  
29           information, annual audit reports, and any matters related to or  
30           impacting participating schools.

31           c.    The administering organization shall enter into written agreements  
32           with each participating school.

33           d.    The memorandum of understanding shall incorporate by reference any  
34           subsequent changes to rules or statutes made after the parties enter into  
35           the memorandum.

36          (9)   Reporting rules. – These rules shall establish a process for reporting issues or  
37          concerns related to the administration of interscholastic athletic  
38          ~~activities.~~ activities, including intimidation or harassment of the participating  
39          school or its employees or students by an administering organization. The  
40          adoption of these rules may not be delegated to an administering organization.

41                   "Part 3. Memorandum of Understanding.

42   **"§ 115C-407.60. Administration and enforcement of high school interscholastic athletic**  
43   **activity rules.**

44           (a)   ~~The State Board of Education~~ Superintendent of Public Instruction may enter into a  
45           memorandum of understanding for a term of four years with one or more nonprofit organizations  
46           to administer and enforce the requirements of this Article and the rules adopted by the State  
47           Board for interscholastic athletic activities at the high school level. A memorandum of  
48           understanding shall include the requirements of G.S. 115C-407.61 and shall comply with the  
49           requirements of this Article. If the State Board by rule delegates the authority to establish certain  
50           rules to an administering organization, as provided in G.S. 115C-407.55, the administering

1 organization shall not be required to comply with the requirements of Chapter 150B of the  
2 General Statutes in establishing those rules.

3 (a1) The State Auditor is authorized to conduct audits of any administering organization  
4 in the same manner as for State agencies in accordance with Article 5A of Chapter 147 of the  
5 General Statutes, if the State Auditor deems an audit necessary.

6 (b) If the ~~State Board Superintendent~~ is unable to enter into a memorandum of  
7 understanding, the State Board shall assign the administration of high school interscholastic  
8 athletic activities to the ~~Department Superintendent~~ of Public Instruction and establish fees  
9 sufficient to support the administration of the program.

10 (c) An administering organization is a public body for the purposes of Article 33C of  
11 Chapter 143 of the General Statutes.

12 **"§ 115C-407.61. Memorandum of understanding requirements.**

13 (a) If the Superintendent of Public Instruction enters into a memorandum of  
14 understanding with a nonprofit organization as provided in G.S. 115C-407.60, the memorandum  
15 shall require that organization to do the following in accordance with the requirements of this  
16 Article to maintain the authority to administer and enforce the requirements for high school  
17 interscholastic athletic activities:

- 18 (1) Apply, enforce, and administer all rules adopted by the State Board.
- 19 (2) If delegated by the State Board, adopt, apply, enforce, and administer  
20 administrative rules, gameplay rules, and penalty rules. A rule shall not be  
21 adopted by an administering organization until the organization has provided  
22 for publication of the proposed rule on the organization's website and provided  
23 the opportunity to the public for notice and comment on the rule. All adopted  
24 rules shall be provided within 15 days to the Superintendent for review. If the  
25 Superintendent determines that the rule adopted by an administering  
26 organization is unenforceable, the Superintendent shall notify the State Board  
27 and the administering organization shall not enforce the rule. Upon notice  
28 from the Superintendent, the State Board may either require the administering  
29 organization to revise the rule and resubmit it to the Superintendent or may  
30 rescind the delegation of authority and adopt a rule by emergency rule.
- 31 (3) Make publicly available at no cost on the administering organization's website  
32 the following:
  - 33 a. The organization's handbook for participating schools.
  - 34 b. All student participation rules.
  - 35 c. All gameplay rules.
  - 36 d. Information on the appeals process, including specific information on  
37 how to make an appeal.
- 38 (4) Agree to adopt requirements for membership of the nonprofit board that  
39 require equal representation on the board from each educational district  
40 established as provided in G.S. 115C-65.
- 41 (5) Adopt an ethics policy that requires board members to avoid conflicts of  
42 interest and the appearance of impropriety.
- 43 (6) Agree to adopt procedures for its operations that are comparable to those of  
44 Chapter 132 of the General Statutes, the Public Records Law, and provide for  
45 enforcement by the Superintendent. The procedures may provide for the  
46 confidentiality of personnel files comparable to Article 7 of Chapter 126 of  
47 the General Statutes.
- 48 (7) Apply the standards established by the federal Family Educational Rights and  
49 Privacy Act, 20 U.S.C. § 1232g, to all student records containing personally  
50 identifiable information in the possession of the administering organization.  
51 The administering organization shall be authorized to display and share

1 student information designated by a participating school as directory  
2 information unless the participating school indicates that a parent has opted  
3 out of disclosure of that information. Other than directory information, all  
4 student records containing personally identifiable information held by the  
5 administering organization are not public records and should not be released  
6 under procedures adopted in accordance with subdivision (6) of this  
7 subsection.

8 (8) Enter into contracts with participating schools as to the monetary requirements  
9 for participation, including the payment of reasonable annual fees by  
10 participating schools as needed to support the duties of the administering  
11 association. Annual fees may vary based on the division to which the school  
12 is assigned. All fees shall be in compliance with the State Board's fee rules.

13 (9) Agree to reduce annual fees to participating schools by a minimum of twenty  
14 percent (20%) when the total fund balance for the administering organization  
15 is two hundred fifty percent (250%) of the administering organization's total  
16 expenses from the prior fiscal year. The administering organization may  
17 increase annual fees to participating schools, consistent with the State Board's  
18 rules on fees, when the total fund balance is one hundred fifty percent (150%)  
19 of the organization's total expenses from the prior fiscal year.

20 (10) Agree to retain no more than thirty-three percent (33%) of the net proceeds of  
21 any State tournament game.

22 (11) Agree to be audited annually by a reputable independent auditor that meets, at  
23 a minimum, the standards required by the Local Government Commission for  
24 certification to audit local government accounts as provided in G.S. 159-34,  
25 and to be audited by the State Auditor pursuant to Article 5A of Chapter 147  
26 of the General Statutes, if the State Auditor deems an audit necessary.

27 (12) Agree to not engage in any of the following activities:

28 a. Solicit grant funding and sponsorships from third-party organizations,  
29 other than for State tournament games.

30 b. Provide grants to schools regulated by the administering organization.

31 c. Provide scholarships to players, except when funded by  
32 donor-directed funds.

33 d. Designate the use of specific or preferred vendors or require the use of  
34 any single-source or vendor specific contracts.

35 e. Retain a percentage of gate receipts for games other than State  
36 tournament games.

37 f. Regulate or control the intellectual property of schools, including team  
38 logos, mascots, and audio or video of any game other than the State  
39 tournament games.

40 g. Restrict the recording of audio or video at a State tournament game by  
41 any parent of a student participating in the game or any employee of  
42 the school participating in the game.

43 h. Retain any portion of receipts collected from ticket sales, concessions,  
44 or sale of merchandise by a participating school.

45 i. Retaliate against participating schools, or the employees or students of  
46 those schools, for reporting to the administering organization, the State  
47 Board, or any other government entity on any of the following topics.  
48 For the purposes of this sub-subdivision, "retaliate" does not include  
49 the application of a penalty rule that is appealable to an independent  
50 appeals board.

51 1. Violations of laws or rules.



1 rules adopted by the State Board of Education and as administered and enforced by the  
 2 Superintendent of Public Instruction.

3 "Part 5. Public School Unit Reports.

4 "§ 115C-407.75. Public school units annual interscholastic athletic reports.

5 (a) Each public school unit with one or more participating schools shall annually report  
 6 by June 15 the following information to the Superintendent of Public Instruction and the State  
 7 Board of Education:

8 (1) The total dollar amount spent on interscholastic athletic activities, by the  
 9 following categories:

10 a. Administering association fees.

11 b. Salaries or stipends for coaches and faculties for duties associated  
 12 solely with interscholastic athletics.

13 c. Capital costs, including new construction, repair and renovation, and  
 14 maintenance costs for existing athletic facilities.

15 d. Uniform and equipment costs.

16 e. Travel and transportation costs.

17 f. Officiating costs.

18 g. Other identified costs.

19 (2) The total dollar amount received from interscholastic athletic activities,  
 20 including funds held in special funds of individual schools, by the following  
 21 categories:

22 a. Gate receipts.

23 b. Concession sales.

24 c. Merchandise sales or sales of items directly related to interscholastic  
 25 athletics, including apparel and audiovisual materials.

26 d. Student fees.

27 e. Monetary and in-kind contributions from third-party organizations.

28 f. State or local funding expended on capital costs for athletic facilities.

29 g. Other identified sources of funds.

30 (b) The Superintendent of Public Instruction shall provide a summary of the reports by  
 31 public school units and a copy of each public school unit report to the Joint Legislative Education  
 32 Oversight Committee no later than October 15 annually."

33 **SECTION 1.(b)** G.S. 143-318.10(b) reads as rewritten:

34 "(b) As used in this Article, "public body" means any elected or appointed authority,  
 35 board, commission, committee, council, or other body of the State, or of one or more counties,  
 36 cities, school administrative units, constituent institutions of The University of North Carolina,  
 37 or other political subdivisions or public corporations in the State that (i) is composed of two or  
 38 more members and (ii) exercises or is authorized to exercise a legislative, policy-making,  
 39 quasi-judicial, administrative, or advisory function. In addition, "public body" ~~means the~~ means  
 40 the following:

41 (1) The governing board of a "public hospital" as defined in ~~G.S. 159-39 and the~~  
 42 G.S. 159-39.

43 (2) The governing board of any nonprofit corporation to which a hospital facility  
 44 has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary of such  
 45 nonprofit corporation, and any nonprofit corporation owning the corporation  
 46 to which the hospital facility has been sold or conveyed.

47 (3) An administering organization as defined in G.S. 115C-407.50(1)."

48 **SECTION 1.(c)** In accordance with the requirement that the memorandum of  
 49 understanding incorporate by reference subsequent changes to statutes made after the parties  
 50 enter into the memorandum of understanding, the Superintendent of Public Instruction shall be

1 substituted for the State Board of Education in any memorandum of understanding existing as of  
2 the date this act becomes law.

3  
4 **PART II. RECODIFICATION AND REORGANIZATION OF CURRENT**  
5 **INTERSCHOLASTIC ATHLETICS STATUTES**

6 **SECTION 2.(a)** G.S. 115C-12(23) reads as rewritten:

7 "(23) Power to Adopt Rules for Interscholastic Athletic Activities. – The State  
8 Board of Education shall adopt rules governing interscholastic athletic  
9 activities conducted by ~~local boards of education, public school units,~~  
10 including eligibility for student participation, in accordance with ~~this~~  
11 ~~subdivision and~~ Article 29E of this Chapter. ~~With regard to middle schools~~  
12 ~~and high schools, the rules shall provide for the following:~~

13 a. ~~All coaches, school nurses, athletic directors, first responders,~~  
14 ~~volunteers, students who participate in interscholastic athletic~~  
15 ~~activities, and the parents of those students shall receive, on an annual~~  
16 ~~basis, a concussion and head injury information sheet. School~~  
17 ~~employees, first responders, volunteers, and students must sign the~~  
18 ~~sheet and return it to the coach before they can participate in~~  
19 ~~interscholastic athletic activities, including tryouts, practices, or~~  
20 ~~competition. Parents must sign the sheet and return it to the coach~~  
21 ~~before their children can participate in any such interscholastic athletic~~  
22 ~~activities. The signed sheets shall be maintained in accordance with~~  
23 ~~sub-subdivision d. of this subdivision.~~

24 For the purpose of this subdivision, a concussion is a traumatic  
25 brain injury caused by a direct or indirect impact to the head that  
26 results in disruption of normal brain function, which may or may not  
27 result in loss of consciousness.

28 b. ~~If a student participating in an interscholastic athletic activity exhibits~~  
29 ~~signs or symptoms consistent with concussion, the student shall be~~  
30 ~~removed from the activity at that time and shall not be allowed to~~  
31 ~~return to play or practice that day. The student shall not return to play~~  
32 ~~or practice on a subsequent day until the student is evaluated by and~~  
33 ~~receives written clearance for such participation from (i) a physician~~  
34 ~~licensed under Article 1 of Chapter 90 of the General Statutes with~~  
35 ~~training in concussion management, (ii) a neuropsychologist licensed~~  
36 ~~under Article 18A of Chapter 90 of the General Statutes with training~~  
37 ~~in concussion management and working in consultation with a~~  
38 ~~physician licensed under Article 1 of Chapter 90 of the General~~  
39 ~~Statutes, (iii) an athletic trainer licensed under Article 34 of Chapter~~  
40 ~~90 of the General Statutes, (iv) a physician assistant, consistent with~~  
41 ~~the limitations of G.S. 90-18.1, or (v) a nurse practitioner, consistent~~  
42 ~~with the limitations of G.S. 90-18.2.~~

43 e. ~~Each school shall develop a venue specific emergency action plan to~~  
44 ~~deal with serious injuries and acute medical conditions in which the~~  
45 ~~condition of the patient may deteriorate rapidly. The plan shall include~~  
46 ~~a delineation of roles, methods of communication, available~~  
47 ~~emergency equipment, and access to and plan for emergency transport.~~  
48 ~~This plan must be (i) in writing, (ii) reviewed by an athletic trainer~~  
49 ~~licensed in North Carolina, (iii) approved by the principal of the~~  
50 ~~school, (iv) distributed to all appropriate personnel, (v) posted~~  
51 ~~conspicuously at all venues, and (vi) reviewed and rehearsed annually~~

1 by all licensed athletic trainers, first responders, coaches, school  
2 nurses, athletic directors, and volunteers for interscholastic athletic  
3 activities.

- 4 d. Each school shall maintain complete and accurate records of its  
5 compliance with the requirements of this subdivision pertaining to  
6 head injuries."

7 **SECTION 2.(b)** Part 2 of Article 29E of Chapter 115C of the General Statutes, as  
8 enacted by this act, is amended by adding a new section to read:

9 **"§ 115C-407.57. Rules on concussions and head injuries.**

10 (a) For the purpose of this section, a concussion is a traumatic brain injury caused by a  
11 direct or indirect impact to the head that results in disruption of normal brain function which may  
12 or may not result in loss of consciousness.

13 (b) With regard to middle schools and high schools, the State Board of Education shall  
14 adopt rules that provide for the following:

15 (1) All coaches, school nurses, athletic directors, first responders, volunteers,  
16 students who participate in interscholastic athletic activities, and the parents  
17 of those students shall receive, on an annual basis, a concussion and head  
18 injury information sheet. School employees, first responders, volunteers, and  
19 students must sign the sheet and return it to the coach before they can  
20 participate in interscholastic athletic activities, including tryouts, practices, or  
21 competition. Parents must sign the sheet and return it to the coach before their  
22 children can participate in any such interscholastic athletic activities. The  
23 signed sheets shall be maintained in accordance with subsection (c) of this  
24 section.

25 (2) If a student participating in an interscholastic athletic activity exhibits signs  
26 or symptoms consistent with a concussion, the student shall be removed from  
27 the activity at that time and shall not be allowed to return to play or practice  
28 that day. The student shall not return to play or practice on a subsequent day  
29 until the student is evaluated by and receives written clearance for such  
30 participation from one of the following:

31 a. A physician licensed under Article 1 of Chapter 90 of the General  
32 Statutes with training in concussion management.

33 b. A neuropsychologist licensed under Article 18A of Chapter 90 of the  
34 General Statutes with training in concussion management and working  
35 in consultation with a physician licensed under Article 1 of Chapter 90  
36 of the General Statutes.

37 c. An athletic trainer licensed under Article 34 of Chapter 90 of the  
38 General Statutes.

39 d. A physician assistant, consistent with the limitations of G.S. 90-18.1.

40 e. A nurse practitioner, consistent with the limitations of G.S. 90-18.2.

41 (c) Each middle and high school shall maintain complete and accurate records of its  
42 compliance with the requirements of this section."

43 **SECTION 2.(c)** Part 2 of Article 29E of Chapter 115C of the General Statutes, as  
44 enacted by this act, is amended by adding a new section to read:

45 **"§ 115C-407.58. Emergency action plans.**

46 (a) With regard to middle schools and high schools, the State Board of Education shall  
47 adopt a rule that requires each school to develop a venue-specific emergency action plan to deal  
48 with serious injuries and acute medical conditions in which the condition of the patient may  
49 deteriorate rapidly. The plan shall include a delineation of roles, methods of communication,  
50 available emergency equipment, and access to and plan for emergency transport.

1       (b) The rule required by subsection (a) of this section shall require the plan to be at least  
2 the following:

3           (1) In writing.

4           (2) Reviewed by an athletic trainer licensed in North Carolina.

5           (3) Approved by the principal of the school.

6           (4) Distributed to all appropriate personnel.

7           (5) Posted conspicuously at all venues.

8           (6) Reviewed and rehearsed annually by all licensed athletic trainers, first  
9 responders, coaches, school nurses, athletic directors, and volunteers for  
10 interscholastic athletic activities."

### 11 12 **PART III. IMPLEMENTATION**

13       **SECTION 3.(a)** The State Board of Education shall review and adopt new or revised  
14 emergency rules on interscholastic athletics for use in the 2023-2024 school year in accordance  
15 with the requirements of Article 29E of Chapter 115C of the General Statutes, as enacted by this  
16 act, no later than August 1, 2023. Notwithstanding G.S. 150B-21.1A, no findings of need shall  
17 be required for an emergency rule adopted for the 2023-2024 school year, an emergency rule  
18 adopted as provided in this subsection shall be effective until June 30, 2024, and the State Board  
19 of Education shall not be required to adopt temporary rules to replace an emergency rule for use  
20 in the 2023-2024 school year. The State Board shall submit all emergency rules in accordance  
21 with the requirements in 26 NCAC 02C.

22       **SECTION 3.(b)** The State Board of Education shall adopt new or revised permanent  
23 rules for use beginning with the 2024-2025 school year and thereafter.

24       **SECTION 3.(c)** The Superintendent of Public Instruction, in consultation with any  
25 administering organization, shall study and make findings and recommendations on the  
26 following issues and report on its findings and recommendations to the Joint Legislative  
27 Education Oversight Committee by April 1, 2024:

28           (1) Whether an administering organization should be responsible for overseeing  
29 the conduct of middle school interscholastic athletics for public school units.  
30 The Superintendent shall include in the deliberations an examination of the  
31 potential costs to public school units for oversight of middle school  
32 interscholastic athletics by an administering organization. The Superintendent  
33 shall establish workgroups of athletic directors, principals, and coaches  
34 employed by schools serving students in grades six through eight and parents  
35 of students in grades six through eight to provide input on this  
36 recommendation.

37           (2) Factors that should be considered in (i) home school students' participation in  
38 interscholastic athletics, including how to address insurance and liability  
39 issues for those students while participating in interscholastic athletics, (ii)  
40 cooperative innovative high school students' participation in interscholastic  
41 athletics, and (iii) nonpublic schools. The Superintendent shall establish  
42 workgroups of athletic directors, principals, and parents of students in home  
43 schools, cooperative innovative high schools, and nonpublic schools to  
44 provide input on this recommendation.

45       **SECTION 3.(d)** Notwithstanding the requirements of G.S. 115C-407.75, as enacted  
46 by this act, all public school units shall submit the first annual interscholastic athletic report to  
47 the Superintendent of Public Instruction and the State Board of Education no later than July 15,  
48 2024, and shall include data from the 2019-2020, 2020-2021, 2021-2022, 2022-2023, and  
49 2023-2024 school years.

50       **SECTION 3.(e)** This act is effective when it becomes law. Sections 1 and 2 of this  
51 act apply beginning with the 2023-2024 school year and thereafter.