



HOUSE BILL 91: Accountability and Fair Play in Athletics.

2021-2022 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	Date:	July 22, 2021
Introduced by:	Reps. Bell, Lambeth, K. Baker, Saine	Prepared by:	Kara McCraw
Analysis of:	Fifth Edition		Staff Attorney

OVERVIEW: *The 5th Edition of HB 91 would provide a new process for regulation of interscholastic athletic completions for high schools.*

CURRENT LAW: G.S. 115C-12(23) requires the State Board of Education (SBE) to adopt rules governing interscholastic athletic competitions conducted by local boards of education. The rules must establish the requirements for student eligibility, as well as concussion protocols and venue specific emergency action plans. The SBE may authorize a designated organization to apply and enforce the SBE's rules for high school athletics.

G.S. 115C-47(4) requires local boards of education to make rules for extracurricular activities, including interscholastic athletics. The rules for interscholastic athletics must be in accordance with the SBE rules.

The SBE has established rules for interscholastic athletics in 16 NCAC 06E .0204. This rule establishes eligibility requirements on residency, age, academic progress, and medical examinations, and minimum penalties for ejections from games. The rule also authorized local school administrative units to belong to the North Carolina High School Athletic Association (NCHSAA), and authorizes the NCHSAA to waive eligibility requirements in the rule, other than age, if it finds that the rule fails to accomplish its purpose, or it works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible such as prolonged illness or injury. The NCHSAA is also authorized to enforce penalties for rules violations at the high school level.

BILL ANALYSIS: Part I of HB 91 would restructure regulation of high school interscholastic athletics, beginning with the 2022-2023 school year, as follows:

- The SBE would adopt rules for student participation in interscholastic athletics that regulate student participation, health, and safety for all public school units (PSUs). The rules would include standards for academics, enrollment, attendance, medical eligibility, and recruiting limitations.
- The SBE would oversee middle school athletics for all PSUs.
- For high school athletics in all PSUs, the North Carolina Interscholastic Athletic Commission (Commission) would apply and enforce student eligibility rules, and would adopt, apply, and enforce all gameplay rules. The Commission would not be authorized to oversee nonpublic schools.
- The Commission would be administratively housed under the Department of Administration, but would operate independently.
- The Commission would consist of 17 members – 9 Governor's appointees and 8 General Assembly appointees, with 4 recommended by the President Pro Tempore of the Senate and 4 recommended by the Speaker of the House of Representatives. Appointees must be either an athletic director,

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superintendent (including assistants and associates), principal (including assistants), or full-time employee serving as a coach. Each appointing authority would be limited in the number of appointments from each professional category and from each athletic division. Commission members would serve 4 years terms.

- The Commission would be required to fulfill certain powers and duties, including:
 - Creating gameplay rules, including establishing athletic divisions, dividing schools into conferences within divisions, establishing pre-, regular, and post-season schedules and requirements, game rules and administration, and requirements for coaching, officiating, and sportsmanship.
 - Establishing a demerit system for infractions punishable through non-monetary penalties.
 - Providing information about and coordinating the student eligibility and gameplay appeals process.
 - Reporting annually to the Joint Legislative Education Oversight Committee and the State Board of Education on activities, including the most recent annual audit, fee schedule, High School Interscholastic Athletic Fund (Fund) balance, expenses, and amount of fees and gate receipts collected.
 - Providing a State-funded student-athlete catastrophic insurance policy.
- The Commission would be restricted from certain acts, including soliciting grant funding for purposes other than state tournaments, providing grants to schools, providing scholarships for players, retaining gate receipts other than from the state tournament, controlling the intellectual property of schools, retaining receipts collected by a participating schools, and delegating its statutory duties to the Director.
- The Commission would be authorized to employ a Director as an at-will employee, as well as personnel to coordinate appeals and other necessary personnel to carry out its functions within the limits of the Fund.
- The Commission would be solely supported by fees and a percentage of gate receipts from the state tournament games. Participating schools would be responsible for annual fees, including fees for student catastrophic insurance coverage. Fees and gate receipts would be deposited into the Fund. When the Fund reaches 250% of the Commission's total expenses from the prior year, the annual fees would be reduced by at least 20%. The fees would not be increased until the Fund balance reached 150% of the prior year's total expenses. The Commission would be subject to annual audits by the State Auditor.
- The SBE would appoint an initial and final appeal boards for student participation rules. Members of the appeals boards would be required to live in the education district they represent and be employed by a public school unit. Members would serve 4 year terms.
 - The Initial Participation Appeal Board would have 16 members – 2 from each education district. Members would serve on randomly selected 3 member panels, rotated at least once every 3 months. Appeals could not be assigned to a panel with a member from the same education district from which the appeal arose.
 - The Final Participation Appeal Board would have 8 members – 1 from each education district. A member would be required to recuse themselves for any appeal arising from their district.
 - Once notified of a student participation rules decision by the Commission, the student and parent would have 14 days to make an initial appeal. A hearing would be scheduled within

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14 days. Following conduct of a hearing by the Initial Participation Appeal Board, a decision would be provided within 7 days. An appeal to the Final Participation Appeal Board would follow the same timeline. The Final Participation Appeal Board decision would be final.

- The Commission would appoint a Gameplay Appeal Board for gameplay rules. The Board would have 8 members, one from each education district. Members of the appeals boards would be required to live in the education district they represent and be employed by a public school unit. Members would serve 4 year terms. A member would be required to recuse themselves for any appeal arising from their district.
- Once notified of a gameplay rules decision by the Commission, the student and parent would have 14 days to make an appeal. A hearing would be scheduled within 14 days. Following conduct of a hearing by the Gameplay Appeal Board, a decision would be provided within 7 days. The decision of the Gameplay Appeal Board would be appealable to the Commission, following the same timeline. Any Commission member from the same education district as the appeal would be required to recuse themselves. The Commission decision would be final.
- PSUs would be required to annually report on the receipts and expenditures for interscholastic athletic programs to the State Board of Education. The State Board of Education would annually provide this information to the Joint Legislative Education Oversight Committee.

For the 2021-2022 school year, the NCHSAA would continue to apply and enforce existing SBE rules under a memorandum of understanding (MOU) that limited the ability to charge fees as penalties. If the SBE did not designate the NCHSAA, or the NCHSAA declined and did not sign a MOU by August 15, 2021, the DPI would be responsible for applying and enforcing SBE rules for the 2021-2022 school year, and would be authorized to charge reasonable fees to schools. The SBE would be authorized to contract with an independent contractor with experience in high school athletics administration for the 2021-2022 school year.

HB 91 would provide for the timeline for appointment of the initial Commission and Appeals Boards, and require the Commission to begin meeting 21 days after all appointments to the Commission have been made by the General Assembly. Commission rules must be adopted by February 15, 2022, and shared with PSUs by February 28, 2022.

The Commission would be required to report to the State Board of Education and the Joint Legislative Education Oversight Committee by April 1, 2022, on whether middle school athletics should be overseen by the Commission and considerations for including home school students and students enrolled in cooperative innovative high schools in interscholastic athletic programs.

Part II of HB 91 would make conforming changes to the statutory reorganization and remove references in statute to the NCHSAA.

Part III of HB 91 would express the intent of the General Assembly to provide funding to establish the Commission and employ personnel during the 2021-2022 school year.

EFFECTIVE DATE: Part I of HB 91 would become effective when it becomes law, but the new regulation of high school interscholastic athletics would not apply to interscholastic athletic competitions until the 2022-2023 school year. Part II would become effective July 1, 2022. The remainder of the act would become effective when it becomes law.

BACKGROUND: The Joint Legislative Commission on Governmental Operations, Subcommittee on Interscholastic Athletics met in April and May of 2021. Information on the Subcommittee meetings can be found [here](#).