



State of North Carolina

ROY COOPER
GOVERNOR

July 2, 2021

EXECUTIVE ORDER NO. 223

**POSTSECONDARY EDUCATIONAL INSTITUTIONS'
RESPONSIBILITIES REGARDING NAME, IMAGE, AND LIKENESS COMPENSATION
OF STUDENT-ATHLETES**

WHEREAS, the State of North Carolina's postsecondary educational institutions have had a longstanding tradition in competing in intercollegiate sports with great success; and

WHEREAS, while these state educational institutions have enjoyed the benefits of these successful athletic programs, until now, student-athletes have been precluded from receiving or pursuing compensation related to their names, images, and likenesses due to former rules and regulations promulgated by the National Collegiate Athletic Association ("NCAA") and other collegiate athletic associations; and

WHEREAS, until July 1, 2021, the NCAA has prohibited student-athletes from earning compensation for the use of their name, image, and likeness; and

WHEREAS, at least twenty-five (25) states have enacted laws or issued executive orders allowing for student-athletes to receive compensation for their name, image, and likeness, with as many as ten (10) laws and executive orders set to take effect as early as July 1, 2021; and

WHEREAS, the U.S. Supreme Court recently held in *NCAA v. Alston* that the NCAA could no longer enforce rules restricting certain education-related benefits that its members offered to student-athletes because those restrictions violated antitrust rules; and

WHEREAS, in light of both the Supreme Court's decision and the enactment of laws in other states allowing student-athletes to earn compensation for the use of their name, image, and likeness, the NCAA Board of Directors has subsequently allowed student-athletes to be compensated for use of their name, image, and likeness, effective July 1, 2021, pursuant to a set of interim rules; and

WHEREAS, permitting student-athletes to earn compensation from the use of their name, image, and likeness may have a substantial impact on the student-athletes competing in both revenue and non-revenue generating sports; and

WHEREAS, in particular, women's sports have been historically overlooked in both the professional and amateur sports field; and

WHEREAS, although female student-athletes receive significantly less traditional media exposure and opportunities than their male counterparts, their social media reach and network are comparable to that of male student-athletes, and thus have similar potential endorsement values; and

WHEREAS, it has been shown that allowing student-athletes to monetize their name, image, and likeness would allow female athletes, in particular, to take advantage of their potential endorsement value and as a result alleviate the gender imbalance in regard to the exposure and marketization of intercollegiate sports; and

WHEREAS, institutions' policies permitting student-athletes to obtain compensation for their name, image and likeness shall accordingly be consistent with Title IX of the Education Amendments of 1972; and

WHEREAS, basketball and football are the NCAA's two biggest sports with respect to generating revenue and media coverage; and

WHEREAS, student-athletes of color, who are more likely to come from lower-income backgrounds, are leading competitors in these two sports; and

WHEREAS, it is therefore likely that allowing student-athletes to receive compensation for their name, image, and likeness will be particularly beneficial to student-athletes of color and may help alleviate racial inequity in intercollegiate sports; and

WHEREAS, enacting immediate measures that would allow student-athletes to seek and receive compensation for commercial use of their name, image, and likeness will prevent the State of North Carolina from being at a competitive disadvantage in regard to enrollment at postsecondary educational institutions within the state.

NOW, THEREFORE, by the authority in me vested as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Institutions' General Responsibilities.

- A. Student-athletes enrolled in a postsecondary educational institution located in the State of North Carolina are allowed by the laws of this state to earn compensation, and obtain related representation, for use of their name, image, and likeness while enrolled at the institution, and such compensation and representation for their name, image, and likeness shall not affect a student-athlete's scholarship eligibility, subject to the following conditions:
 - i. Student-athletes and prospective student-athletes shall not enter into contracts or receive compensation for use of their name, image, and likeness as a direct inducement to enroll or continue enrollment at a particular institution for purposes of participating in that institution's athletic program or as compensation for performance, participation, or service in an intercollegiate sport.
 - ii. A student-athlete's authorized representative relating to any agreement for use of his or her name, image, and likeness rights must comply with Article 9 of Chapter 78C of the General Statutes (North Carolina Athlete Agent Act), and applicable federal law, including the Sports Agent Responsibility and Trust Act, 15 U.S.C. § 7801 et seq, and nothing in this Executive Order shall modify or supersede these laws.
 - iii. Post-secondary institutions may not compensate student-athletes for use of their name, image, and likeness.
- B. Post-secondary educational institutions may, but are not required to, impose the following regulations and limitations on student-athletes' ability to receive compensation for their name, image, and likeness:
 - i. An institution may prohibit student-athletes from receiving compensation or entering into agreements or contracts for use of their name, image, and likeness if such arrangements conflict with a contract of the institution;
 - ii. An institution may prohibit student-athletes from receiving compensation for use of their name, image, and likeness from supporting organizations of the institution including entities that are wholly or partially owned or controlled by the institution;
 - iii. An institution may impose reasonable limitations or exclusions on the categories of products and brands that a student-athlete may receive compensation for endorsing or otherwise enter into agreements or contracts for use of their name, image, and likeness to the extent that the institution reasonably determines that a product or brand is antithetical to the values of the institution or that association with the product or brand may negatively impact the image of the institution;

- iv. An institution may limit compensation regarding name, image, and likeness of a student-athlete during official team activities or institution-sponsored events;
 - v. An institution may require, and establish procedures for ascertaining, that a student-athlete's name, image, and likeness use is commensurate with fair market value;
 - vi. An institution may limit a student-athlete's compensation for their name, image, and likeness as it pertains to use of the institution's intellectual property, facilities, or other equipment and gear provided by the institution, including but not limited to uniforms, insignias, and logos. Nothing in this Executive Order shall establish or grant any right to any student-athlete the right to use the name, trademarks, service marks, symbols, logos or any other intellectual property that belong to an institution, athletic conference, or athletic association;
 - vii. An institution may promulgate reasonable rules and regulations regarding reporting and disclosure requirements as it relates to a student athlete's receipt of compensation, execution of a contract providing compensation, or intent to enter into a contract providing compensation, regarding use of their name, image, and likeness.
- C. Postsecondary educational institutions are encouraged to provide financial literacy and life-skill programs to their student-athletes, including educational workshops on time management and budgeting. Nothing in this Executive Order is intended to interfere with a postsecondary institution's ability to set academic standards or requirements, rules of conduct, disciplinary procedures, or other obligations for its student-athletes.
- D. Nothing in this Executive Order shall be construed to be beyond a recitation of the laws of the United States or the State of North Carolina, as they are subject to change.
- E. Nothing in this Executive Order is intended to waive any sovereign immunity of any state institution of higher education.

Section 2. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege or benefit, whether substantive or procedural, enforceable at law or in equity, against the State of North Carolina, its agencies, departments, political subdivisions or other public or private entities, or any officers, employees, or agents thereof.

Section 3. Effective Date.

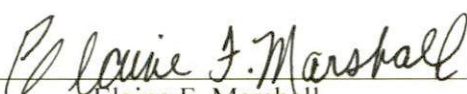
This Executive Order is effective immediately and shall remain in effect until superseded by state or federal law, or unless repealed or replaced by another Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 2nd day of July in the year of our Lord two thousand and twenty-one.



 Roy Cooper
 Governor

ATTEST:



 Elaine F. Marshall
 Secretary of State

