
OLR Bill Analysis

HB 6402 (as amended by House "A")*

AN ACT CONCERNING HIGHER EDUCATION.

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Allows student athletes to earn compensation through an endorsement contract or employment in an activity unrelated to any intercollegiate athletic program

BACKGROUND

SUMMARY

This bill makes numerous changes to higher education laws, as described below.

EFFECTIVE DATE: Varies, see below.

*House Amendment "A" replaces the underlying bill, which required the Office of Higher Education to study higher education issues in the state and report to the legislature.

§ 1 — COLLEGE CREDIT FOR MILITARY TRAINING

Requires each higher education institution's governing body to review and update its policies on awarding college credit for a student's military training, coursework, and education

The bill requires, by July 1, 2022, and every five years thereafter, each higher education institution's governing body to review and update its policies on awarding college credit for a student's military training, coursework, and education.

By law, the Board of Regents for Higher Education (BOR) and the UConn Board of Trustees (BOT), in consultation with higher education institutions in the state, were required to develop and adopt guidelines on awarding college credit for a student's military training, coursework, and education. Upon guideline adoption, the governing body of each higher education institution was required to develop and implement policies governing the awarding of college credit for these matters.

EFFECTIVE DATE: July 1, 2021

§ 2 — PRISON EDUCATION PROGRAM OFFICE TASK FORCE

Establishes a 16-member task force to study the possible establishment of a Postsecondary Prison Education Program Office

The bill establishes a 16-member task force to study the costs and benefits of establishing a Postsecondary Prison Education Program Office within the Department of Correction (DOC).

Scope

Under the bill, the task force study must examine at least the following topics:

1. any existing office dedicated to postsecondary prison education in Connecticut and its responsibilities, if this type of office exists;
2. the process and standards for approving education programs at correctional facilities;
3. the ability for virtual education programs at correctional facilities;
4. DOC's administrative process for students who submit education program complaints;
5. DOC's process and standards for approving curriculum and course materials for students in correctional facilities;
6. whether DOC participates in the state's education, workforce, and employment longitudinal data system;
7. available space for providing prison education programming in correctional facilities;
8. the demand for space in correctional facilities for prison education programming; and
9. strategies utilized by other state or county correctional agencies to increase the number of people who will have access to prison

education programs using federal Pell grant awards.

Membership

Under the bill, the task force must have the following 16 members:

1. three each appointed by the House speaker and Senate president pro tempore;
2. two each appointed by the House and Senate majority and minority leaders;
3. the Office of Policy and Management’s undersecretary for criminal justice or his or her designee; and
4. the DOC commissioner or his designee.

The bill allows any members appointed by legislative leaders to be General Assembly members. Additionally, it requires all appointments to be made by July 31, 2021, and any vacancy to be filled by the appointing authority.

Leadership, Staff, and Deadlines

The bill requires the House speaker and Senate president pro tempore to choose the task force chairpersons from among its membership. These chairpersons must schedule the task force’s first meeting, to be held by August 30, 2021. The Higher Education and Employment Advancement Committee’s administrative staff must serve as the task force staff.

Under the bill, the task force must report its findings and recommendations to the Higher Education and Judiciary committees by January 1, 2022. The task force terminates on the date it submits the report or on January 1, 2022, whichever is later.

EFFECTIVE DATE: Upon passage

§ 3 — CAMPUS MENTAL HEALTH COALITIONS

Requires certain higher education institutions, by January 1, 2022, to establish a mental health coalition to assess the presence of mental health services and programs

Membership

The bill requires each higher education institution in Connecticut, excluding Charter Oak State College or online institutions, by January 1, 2022, to establish a mental health coalition to assess the presence of mental health services and programs offered by the institution. The assessment requirement does not apply to a school accredited by the International Accreditation of Counseling Services or another nationally or regionally recognized accrediting body for mental health services.

Under the bill, the president of each institution must appoint individuals to the coalition that reflect their institution's student body demographics, including, at least one member from their institution's (1) administration; (2) counseling services office, if any; (3) health services office, if any; (4) senior and mid-level staff; (5) student body; (6) residential life office, if any; (7) faculty; and (8) any other individuals the president designates, including a community provider of mental health services.

Duties

The bill requires each higher education institution to ensure that coalition members are educated on the (1) mental health services and programs offered at each institution's campus; (2) the coalition's role and function at the institution; and (3) protocols and techniques to respond to student mental illness that have been developed with consideration given to the students' race, cultural background, sexual orientation, gender identity, religion, socio-economic status, or status as a veteran or service member of the U.S. armed forces.

The bill requires each mental health coalition to do the following:

1. conduct an assessment of the presence of mental health services and programs offered by the institution of higher education (unless exempt from this requirement, see above);
2. review the results and develop a plan to address weaknesses in the institution's services and programs (presumably this

requirement does not apply to exempt institutions); and

3. review and recommend improvements to (a) the variety of mental health services available to the institution's students, including on-campus services, telehealth services, or a community-based provider arranged through an agreement; (b) the comprehensiveness of mental health services available to students, including recommendations for obtaining accreditation from a nationally or regionally recognized accrediting body for mental health services; and (c) the campus-wide policies and procedures adopted under this bill (see § 6).

The bill defines (1) mental health services as counseling, therapy, rehabilitation, crisis intervention, or emergency services for the screening, diagnosis, or treatment of mental illness and (2) mental health programs such as education, outreach, research or training initiatives aimed at students for the prevention of mental illness. Examples of programs include poster and flyer campaigns, electronic communications, films, guest speakers, conferences, or other campus events.

EFFECTIVE DATE: July 1, 2021

§§ 4-6 — EVALUATION OF THE EFFECTIVENESS OF HIGHER EDUCATION INSTITUTION MENTAL HEALTH SERVICES AND PROGRAMS

Requires the OHE executive director and DMHAS commissioner, in consultation with an epidemiologist or other student mental health specialist, to jointly offer training workshops for assessment best practices in order for each higher education institution to evaluate the effectiveness of mental health services and programs offered at each of its campuses; requires certain institutions to maintain a memorandum of understanding with at least one community-based mental health care provider; requires each institution's governing board to adopt, and update as necessary, a student mental health policy by January 1, 2021

Assessment Tool Development and Implementation (§ 4)

The bill requires, by January 1, 2022, and every four years thereafter, the Office of Higher Education (OHE) executive director and Department of Mental Health and Addiction Services (DMHAS) commissioner, in consultation with an epidemiologist or other specialist with expertise in the study of student mental health, to

jointly offer training workshops for campus mental health coalitions on best practices for assessing and providing mental health services and programming at each higher education institution.

Provider Partnerships (§ 5)

The bill requires, by January 1, 2022, a higher education institution that lacks campus resources for providing mental health services to students to enter into and maintain a memorandum of understanding with at least one community-based mental health care provider or, in consultation with DMHAS, with an emergency mobile psychiatric service provider to (1) provide students access to mental health services on or off campus and (2) assist institutions in developing mental health programming.

Institutional Student Mental Health Policy (§ 6)

The bill requires each higher education institution's governing board to adopt, and update as necessary, a student mental health policy by January 1, 2021. The policy must include (1) the mental health services and programming provided to students each academic year, (2) the availability of, and eligibility requirements for, student mental health leave, and (3) the resources available for crisis response, imminent danger, and psychiatric hospitalization.

EFFECTIVE DATE: July 1, 2021

§ 7 — GRANT WRITER FOR MENTAL HEALTH FUNDING

Requires BOR to employ a grant writer to apply for grant funding to improve mental health services at community-technical colleges

The bill also requires, by January 1, 2022, the Board of Regents for Higher Education to employ a grant writer to identify and apply for available grant funding to implement or improve mental health services and programs offered by the regional community-technical colleges to address student mental illness.

EFFECTIVE DATE: July 1, 2021

§ 8 — STUDY OF HEALTH INSURANCE BENEFITS FOR PART-TIME CONNECTICUT STATE SYSTEM OF HIGHER EDUCATION EMPLOYEES AND RETIREES

Requires the state comptroller, in consultation with BOR and UConn BOT, to study and develop a plan to extend eligibility for participating in the state's medical group plan to certain part-time, professional employees and retirees

This bill requires the state comptroller, in consultation with the Board of Regents (BOR) and UConn Board of Trustees (BOT) to study and develop a plan to extend eligibility for participation in the state's group medical insurance plan to:

1. part-time, professional state system of higher education employees who have taught at least 90 credit hours in the aggregate at any university in the system and
2. retired, part-time professional employees who have taught not less than 180 credit hours in aggregate within the system, regardless of whether the hours were completed at the rate of nine credits a semester.

The study must (1) determine the feasibility and cost of including such employees and retirees and (2) address a method for payment of the employer's portion of the premium that does not require the employee to wait to be reimbursed until the end of the semester.

By January 1, 2022, the comptroller must report on the study to the Higher Education and Employment Advancement Committee.

By law, any part-time, professional employee of the state's public higher education system may choose to participate in the state's group medical insurance plan. Employees who participate must pay the premiums for the coverage plan they select. In practice, these employees must meet a 20 hour per week employment threshold as established in the state comptroller's issued guidance in order to be eligible to participate.

EFFECTIVE DATE: Upon passage

§§ 9-12 — PROHIBITION OF THE CHARGING OF GRADUATION FEES AT PUBLIC HIGHER EDUCATION INSTITUTIONS

Prohibits assessing or charging a graduation fee to students enrolled in a regional community-technical college, the CSUS, Charter Oak State College, or UConn

This bill prohibits BOR from assessing or charging a graduation fee to students enrolled in (1) a regional community-technical college, (2) the CSUS, or (3) Charter Oak State College.

The bill extends the same prohibition to the UConn Board of Trustees for UConn students' graduation fees.

EFFECTIVE DATE: July 1, 2021

§ 13 — OPEN EDUCATIONAL RESOURCE COUNCIL REPORTING DEADLINE

Delays the Connecticut OER Coordinating Council's first annual reporting deadline; exempts unexpended funds appropriated to the OER Coordinating Council from lapsing at the end of the fiscal year

This bill delays the Connecticut Open Educational Resource (OER) Coordinating Council's first annual reporting deadline from January 1, 2021, to February 1, 2022. It also exempts unexpended funds appropriated to the OER Coordinating Council from lapsing at the end of the fiscal year.

By law, the Connecticut OER Coordinating Council is required to establish an OER program to lower the cost of textbooks and course materials for high-impact courses at state higher education institutions. "High-impact" courses are instruction courses for which OERs would make a significant positive financial impact on the students taking the course due to the number of students taking the course or the market value of the course's required printed textbook or other resources.

EFFECTIVE DATE: July 1, 2021

§ 14 — STUDENT ATHLETE COMPENSATION

Allows student athletes to earn compensation through an endorsement contract or employment in an activity unrelated to any intercollegiate athletic program

Generally, beginning September 1, 2021, the bill allows student athletes enrolled at a higher education institution in the state to (1)

earn compensation through an endorsement contract or employment in an activity unrelated to an intercollegiate athletic program, and (2) obtain the legal or professional representation of an attorney or sports agent through a written agreement, provided he or she complies with their higher education institution's policy on student athlete endorsement contracts and employment activities. Under the bill, if an institution adopts or updates its policy before September 1, 2021, then the above authorizations apply on the date of policy adoption.

Under the bill, a "student athlete" is a student enrolled at a higher education institution participating in a sports program at the collegiate level for which eligibility participation requirements are established by a national association for the promotion or regulation of college athletics (i.e., an intercollegiate athletic program). A "sports agent" is a duly licensed person who negotiates or solicits a contract on behalf of a student athlete in accordance with the federal Sports Agent Responsibility and Trust Act.

An "endorsement contract" is a written agreement under which a student athlete is employed or receives compensation for the use by another party of the student athlete's person, name, image, or likeness in the promotion of any product, service, or event. "Compensation" includes the direct or indirect receipt of cryptocurrency, money, goods, services, other items of value, in-kind contributions, and other forms of payment or remuneration.

Institutional Policy on Endorsement Contracts and Employment Activities

Under the bill, each higher education institution must adopt at least one policy on student athlete endorsement contracts and employment activities. The policy must:

1. require student athletes to disclose and submit a copy of each executed endorsement contract, written employment agreement, and representation agreement to the institution;
2. prohibit a student athlete from entering into an agreement that conflicts with the provisions of an agreement to which the

institution is a party, provided the institution must disclose the conflicting provisions to the student athlete or his or her attorney and sports agent;

3. prohibit a student athlete from using or consenting to the use of any institutional marks (i.e., a higher education institution's name, logo, trademarks, mascot, unique colors, copyrights, and other defining insignia) while performing the endorsement contract or employment activity;
4. prohibit a student athlete's performance of the endorsement contract or employment activity from interfering with any academic obligations or official team activities (i.e., all games, practices, exhibitions, scrimmages, team appearances, team photograph sessions, sports camps sponsored by the higher education institution, and other team-organized activities, including individual photograph sessions, news media interviews, and other related activities as specified by the institution); and
5. identify any prohibited endorsements (i.e., the use of the student athlete's person, name, image, or likeness in association with any product, category of companies, brands, or types of endorsement contracts).

The bill also requires, by September 1, 2021, each higher education institution's governing board to adopt or update its policies to carry out the bill's student athlete provisions.

Compensation Exclusions

The bill specifies that it does not require a higher education institution or an athletic association or conference, including the National Collegiate Athletic Association (NCAA), to compensate a student athlete for use of his or her name, image, or likeness.

The bill also specifies that an institution or athletic association is not due compensation from a student athlete or other person in situations where a student athlete's endorsement contract or employment activity

does not comply with the bill's requirements, including the requirement that student athletes comply with their institution's endorsement contracts and employment activities policy.

Institution's Responsibilities and Student Rights

The bill specifies that it does not:

1. qualify a student athlete's scholarship from a higher education institution as compensation or deem a student athlete an institution's employee;
2. require an institution to take any action that would violate the federal Discrimination Based on Sex and Blindness Act;
3. prohibit a student athlete from engaging in an employment activity that entails coaching or performing a sport, if it is unrelated to an intercollegiate athletic program; or
4. prohibit an institution of higher education from using a student athlete's name, image, or likeness in connection with official team activities.

Prohibitions on Institutions and Athletic Associations and Conferences

Institutions and athletic associations or conferences are prohibited from doing the following, based on a student athlete's endorsement contract, employment activity, or attorney or sports agent representation:

1. restricting a student's eligibility to participate in an intercollegiate athletic program,
2. prohibiting or preventing the student from earning compensation from an endorsement contract or employment activity, or
3. prohibiting or preventing the student from being represented by an attorney or sports agent.

Additionally, the bill prohibits athletic associations and conferences, on the basis of a student's contract, activity, or representation, from preventing an institution from participating in intercollegiate sports. And institutions are prohibited, on the basis of such a contract, activity, or representation, from restricting or revoking a student athlete's eligibility for a scholarship.

Under the bill, if a student's contract, activity, or representation does not comply with the bill's requirements, an institution or an athletic association or conference is not prohibited from (1) prohibiting a student athlete's participation in an intercollegiate athletic program, (2) revoking his or her eligibility for a scholarship, or (3) taking any other punitive or legal action.

Freedom of Information Act (FOIA) Disclosure Exemption

The bill notwithstanding FOIA and prohibits higher education institutions from disclosing any record of the compensation a student athlete receives from an endorsement contract or employment activity, unless the institution receives the athlete's written consent.

EFFECTIVE DATE: July 1, 2021

BACKGROUND

Related Bills

HB 5468 (File 333), favorably reported by the Higher Education and Employment Advancement Committee, contains the same provisions on college credits awarded for military training as § 1 of the bill.

HB 6228 (File 92), favorably reported by the Higher Education and Employment Advancement Committee, contains the same provisions on establishing a prison education program office as § 2 of the bill.

HB 6461 (File 264), favorably reported by the Higher Education and Employment Advancement Committee, contains similar provisions on the campus mental health coalitions and the evaluation of higher education institution mental health services and programs as §§ 3-7 of the bill.

HB 6231 (File 300), favorably reported by the Higher Education and Employment Advancement Committee, contains similar provisions on health insurance for part-time CSUS faculty as § 8 of the bill.

HB 5109 (File 253), favorably reported by the Higher Education and Employment Advancement Committee, contains very similar provisions on the prohibition of the charging of graduation fees at public higher education institutions as §§ 9-12 of the bill.

HB 6405 (File 86); favorably reported by the Higher Education and Employment Advancement Committee, contains the same provisions on the extension of the OER Coordinating Council's first annual reporting deadline as § 13 of the bill.

sHB 6228 (File 92), favorably reported by the Higher Education and Employment Advancement and Judiciary committees, establishes a postsecondary prison education program office within DOC.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable

Yea 19 Nay 3 (03/22/2021)