

**DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)

PROPOSED

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

1030 Student Athlete Eligibility: Amateur Status

A. TYPE OF REGULATORY ACTION REQUESTED

Adoption of a New Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§122(b)(15) and 303(b)(1)d, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes the adoption of 14 **DE Admin. Code** 1030 Student Athlete Eligibility: Amateur Status. The proposed regulations set forth what student athletes may and may not do to retain amateur status and participate in interscholastic athletics. The Board will also be proposing to repeal existing sections from 14 **DE Admin. Code** 1009 regarding amateur status. Further, the proposed regulations define "name, image, and likeness" in Delaware and allow student athletes to earn compensation from the use of the name, image, and likeness. Finally, the proposed regulations mandate that if any students earn compensation from their name, image, and likeness, the student shall in no way include images of or references to the member school they attend.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before August 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the new regulation help improve student achievement as measured against state achievement standards? The new regulation concerns the requirements for amateur status in athletic activities and name, image likeness compensation. It is not designed to help improve student achievement as measured against state achievement standards.

2. Will the new regulation help ensure that all students receive an equitable education? The new regulation concerns the requirements for amateur status in athletic activities and name, image likeness compensation. It is not designed to help to ensure students in Delaware public schools receive an equitable education.

3. Will the new regulation help to ensure all students' health and safety are adequately protected? The new regulation will help to ensure that all students' health and safety are adequately protected as it keeps in place protections against students participating in athletics professionally or for compensation.

4. Will the new regulation help to ensure that all students' legal rights are respected? The new regulations will ensure that Delaware student athletes have the same legal rights as students in 37 other states, including the surrounding states.

5. Will the new regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The new regulation does not change authority or flexibility of decision makers at the local board and school level. By statute (14 **Del.C.** § 303(b)), DIAA develops rules and regulations relating to high school interscholastic athletics for schools in Delaware, including the regulation of athletic programs of all public schools and such nonpublic schools that elect to become full or associate DIAA Member Schools. The Board enforces the regulations (14 **Del.C.** §304).

6. Will the new regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The new regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Board enforces the regulations relating to interscholastic athletics in Delaware (14 **Del.C.** §304).

8. Will the new regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The new regulation is consistent with, and not an impediment to, the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the new regulation? There is not a less

burdensome method for addressing the purpose of this new regulation.

10. What is the cost to the state and to the local school boards of compliance with the new regulation? The new regulation concerns eligibility requirements for students. There is no cost to the state or local school boards for complying with the new regulation.

1030 Student Athlete Eligibility: Amateur Status

1.0 Content

In accordance with 14 Del.C. §303, this regulation sets forth the requirement that students maintain amateur status in order to be eligible to participate in interscholastic athletics at the middle and high school levels.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

"Member School" means a full or associate member school of the DIAA.

"Name, image, and likeness" means a student athlete's name, image, or likeness which readily identifies the student athlete and includes symbols, words, or designs.

3.0 Eligibility: Amateur Status

3.1 Purpose of the Amateur Status Rule - The purpose of the amateur status rule is to promote amateurism, stimulate participation for the sake of the game itself, help prevent exploitation of students, and encourage students to engage in athletic competition for physical, mental, and social benefits.

3.2 Amateur Status Rule - A student shall not participate in an interscholastic sport unless the student is considered an amateur in that sport. A student forfeits amateur status if the student does any of the following in subsections 3.2.1 through 3.2.7.

3.2.1 The student plays on or against a professional team, which is defined as a team having 1 or more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.

3.2.2 The student signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

3.2.3 The student enters a competition under an assumed name. The surname and given name used by any student in the student's first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade the amateur status rule unless the change has been properly certified by the student to the administrative head. For the purpose of this regulation, administrative head means the chief or head individual in charge of a DIAA Member School, traditionally referred to or generally known as the principal or headmaster.

3.2.4 The student receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.

3.2.5 The student receives cash or a cash equivalent (such as a savings bond or certificate of deposit), merchandise (except as permitted by subsection 4.1.4 of 14 DE Admin. Code 1009) or a merchandise discount, (except for a discount arranged by the student's school for part of a team uniform), a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of the student's participation in an organized competition or instructional camp or clinic. Accepting an event program or a complimentary item (such as t-shirt, hat, or equipment bag) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150, and is provided to all of the participants, shall not jeopardize the student's amateur status.

3.2.6 The student sells or pawns awards received.

3.2.7 The student uses the student's athletic status to promote or endorse a commercial product or service on the internet; in a newsprint, radio, television advertisement or any other form of media; or by personal appearance.

3.3 A student who forfeits the student's amateur status is ineligible to participate at the interscholastic level in the sport in which the violation occurred. The student may be reinstated after a period of up to the number of days in the school year provided that during the suspension, the student complies with all of the requirements of this regulation. The suspension shall date from the time of the last offense.

- 3.4 Notwithstanding subsections 3.2 and 3.3, a student may earn compensation from the use of the student's name, image, and likeness provided that the compensation is not contingent on specific athletic performance or achievement, is not provided as an incentive to enroll or remain enrolled at a specific school and is not provided by the school or any person acting as an agent for the school. If a student earns compensation from the use of the student's name, image, and likeness, the student shall follow the requirements in subsections 3.4.1 through 3.4.5.
- 3.4.1 The student shall not use marks, including the Member School logos, school name, school mascot, or any trademarked DIAA logos or acronyms.
- 3.4.2 The student shall not wear Member School apparel or equipment which includes school name, school logo, school mascot, or any apparel displaying trademarked DIAA logos or acronyms.
- 3.4.3 The student shall not use a Member School facility for the purpose of name, image, and likeness compensation.
- 3.4.4 The student shall not endorse tobacco, alcohol, or gambling products.
- 3.4.5 If the student signs an agency contract under 24 Del.C. §5409, the student shall inform the athletic director for the student's Member School of the existence of the contract not later than 72 hours after entering into the contract or before the next scheduled athletic event in which the student may participate, whichever occurs first.
- 3.5 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize the student's amateur status.

28 DE Reg. 15 (07/01/24) (Prop.)