

By: Representative Lamar

To: Universities and
Colleges

HOUSE BILL NO. 1040

1 AN ACT TO CREATE "THE NATIONAL COLLEGIATE ATHLETIC
2 ASSOCIATION (NCAA) FAIRNESS IN F.A.C.T. INVESTIGATIONS ACT OF
3 2017," TO PRESCRIBE GUIDELINES TO BE USED BY THE NCAA WHEN
4 CARRYING OUT INVESTIGATION OF ASSOCIATION RULES AND REGULATIONS BY
5 PUBLIC MEMBER INSTITUTIONS IN THE STATE OF MISSISSIPPI; TO PROVIDE
6 THE LEGISLATIVE PURPOSE AND INTENT OF THIS ACT; TO DEFINE TERMS
7 USED IN THIS ACT; TO PROVIDE THAT THE NCAA ENFORCEMENT STAFF AND
8 ITS COMMITTEE ON INFRACTIONS SHALL HAVE NINE MONTHS TO COMPLETE
9 THE INVESTIGATION AND ISSUE ITS RULING; TO REQUIRE ANY APPELLATE
10 ACTION TO BE CONCLUDED WITHIN SIX MONTHS OF THE COMMITTEE ON
11 INFRACTION FINAL DECISION ON THE INVESTIGATION; TO STIPULATE THE
12 INFORMATION THAT SHOULD BE INCLUDED IN THE LETTERS OF PRELIMINARY
13 AND OFFICIAL INQUIRY; TO PROVIDE THAT THE LETTER OF OFFICIAL
14 INQUIRY SHALL SERVE AS NOTICE OF INVESTIGATION AND COMMENCE THE
15 TOLL TO RUN TO COMPLETE THE INVESTIGATION AND RULING; TO REQUIRE
16 THE MEMBER INSTITUTION TO PROVIDE NOTICE TO THE BOARD OF TRUSTEES
17 OF STATE INSTITUTIONS OF HIGHER LEARNING AT THE END OF THE
18 THREE-MONTH PERIOD TO RESPOND TO THE ALLEGATIONS IN THE LETTER OF
19 OFFICIAL INQUIRY; TO PROVIDE ALL NOTICES AND RULINGS SHALL BE
20 DOCUMENTS SUBJECT TO ACCESS UNDER THE MISSISSIPPI PUBLIC RECORDS
21 ACT OF 1983; TO PROVIDE PENALTIES TO IMPOSED UPON THE NCAA FOR
22 EACH DAY THE INVESTIGATION EXTENDS THE REQUIRED APPLICABLE PERIOD
23 FOR THE INVESTIGATION, RULING AND APPEAL; AND FOR RELATED
24 PURPOSES.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

26 **SECTION 1.** This act shall be known and may be cited as the
27 "National Collegiate Athletic Association (NCAA) Fairness in
28 F.A.C.T. Investigations Act of 2017."



29 **SECTION 2.** The purpose of this act is to reduce the amount
30 of uncertainty experienced by state institutions of higher
31 learning which are subjected to the investigative process of the
32 National Collegiate Athletic Association (NCAA) for alleged
33 violations of association rules and regulations enacted through
34 NCAA legislation. It is not the intent of the Legislature to
35 interfere with the merits of any NCAA investigation or
36 deliberation arising from institutional infractions. The intent
37 of the Legislature is to establish the time frames by which the
38 NCAA shall adhere in order to ensure that an efficient, timely and
39 transparent procedure of due process is provided to athletic
40 programs of member institutions within the State of Mississippi
41 and to limit any unnecessary harm that could be suffered by those
42 programs and their individual student-athletes.

43 **SECTION 3.** As used in this act, the following words shall
44 have the meanings ascribed to them in this section, unless context
45 clearly requires otherwise:

46 (a) "F.A.C.T. Investigation" means the process used by the
47 National Collegiate Athletic Association enforcement program staff
48 to conduct fair, accurate, collaborative and timely investigation
49 of violations of NCAA legislation by member institutions to
50 determine and impose appropriate penalties if violations occurred.

51 (b) "Member institution" means a public four-year
52 institution of higher learning under the purview of the Board of
53 Trustees of State Institutions of Higher Learning and accredited



54 by an appropriate regional accrediting agency, which is a member
55 of the association of colleges and universities which make up the
56 NCAA and create legislation for governance of participating
57 members.

58 (c) "National Collegiate Athletic Association (NCAA)" means
59 the one thousand one hundred twenty-one (1,121) colleges and
60 universities which make up the member-led organization dedicated
61 to the well-being and lifelong success of college athletes, which
62 shares a belief in and commitment to:

63 (i) The collegiate model of athletics in which students
64 participate as an avocation, balancing their academic, social and
65 athletics experiences;

66 (ii) The highest levels of integrity and sportsmanship;

67 (iii) The pursuit of excellence in both academics and
68 athletics;

69 (iv) The supporting role that intercollegiate athletics
70 plays in the higher education mission and in enhancing the sense
71 of community and strengthening the identity of member
72 institutions;

73 (v) An inclusive culture that fosters equitable
74 participation for student-athletes and career opportunities for
75 coaches and administrators from diverse backgrounds;

76 (vi) Respect for institutional autonomy and
77 philosophical differences; and



78 (vii) Presidential leadership of intercollegiate
79 athletics at the campus, conference and national levels.

80 (d) "NCAA enforcement staff" means those persons tasked with
81 the mission of acting as a means of accountability for member
82 institutions by seeking out and processing information relating to
83 possible violations of NCAA legislation in accordance with the
84 policies and procedures enacted by the NCAA membership.

85 (e) "NCAA legislation" means the policies and regulations
86 adopted by member institutions which govern the eligibility,
87 participation, violations, investigation and penalties imposed
88 upon those member institutions.

89 **SECTION 4.** (1) When reasonably reliable information has
90 been obtained the National Collegiate Athletic Association
91 enforcement staff indicating that: (i) violation of NCAA
92 legislation has occurred; (ii) a significant competitive or
93 recruiting advantage may have been gained; or (iii) false or
94 misleading information may have been reported to the institution
95 or to the enforcement staff by a member institution, the NCAA
96 enforcement staff shall undertake a review of the information in
97 order to determine its credibility. From the time that the notice
98 of violation is communicated in the form of a letter of official
99 inquiry to the member institution subject to the impending
100 investigation until the time that a final ruling on the imposition
101 of penalties for the violations or its dismissal, as specified in
102 this act, shall not exceed the period of one (1) year.



103 (2) (a) At the time that the involved NCAA member
104 institution is informed of the NCAA's inquiry by a letter of
105 preliminary inquiry to the institution's president or chancellor,
106 the institution shall be considered to be on notice of possible
107 investigation by the NCAA. The preliminary letter shall indicate
108 the nature of the potential violations, including:

109 (i) The involved sport;

110 (ii) The approximate time period in which the
111 alleged violations occurred;

112 (iii) The identities of the involved individuals;

113 and

114 (iv) The approximate time frame for the
115 investigation.

116 (b) During the period of the preliminary inquiry, if
117 the enforcement staff fails to make sufficient findings of fact to
118 warrant the issuance of a letter of official inquiry within six
119 (6) months of the date that the initial notice was provided
120 through the preliminary letter of inquiry, the NCAA Committee on
121 Infractions shall dismiss any preliminary investigation finding
122 and enjoin the enforcement staff from conducting further
123 investigative processes on the potential violations identified in
124 the letter of preliminary inquiry.

125 (c) The enforcement staff shall conduct the preliminary
126 inquiry for any such reasonable period of time as it deems
127 necessary in accordance with paragraph (b) of this subsection to



128 determine whether adequate information exists indicating that
129 violations of NCAA legislation occurred by the member institution
130 sufficient enough to warrant a full investigation. The
131 preliminary investigation period shall not result in any punitive
132 action being taken against any membership institution, team,
133 student-athlete or any other individual of the membership
134 institution until a letter of official inquiry is communicated to
135 the president or chancellor of the member institution, at which
136 time the institution may impose its own sanctions upon the team,
137 student-athletes and/or any other individuals who are subject to
138 the formal investigation. The letter of official inquiry shall
139 notify the institution and all involved parties of all alleged
140 violations of NCAA legislation discovered during the preliminary
141 inquiry period, and must contain specific allegations against the
142 institution, including:

- 143 (i) The involved sport;
- 144 (ii) The NCAA legislative rule violated and the
145 manner in which the alleged violation occurred;
- 146 (iii) The time period in which the alleged
147 violations occurred;
- 148 (iv) The identities of the involved individuals;
- 149 and
- 150 (v) An indication that other facts may be
151 developed during the course of the investigation that may relate
152 to additional violations, if applicable.



153 **SECTION 5.** The receipt of the letter of official inquiry by
154 the member institution shall start the tolling period to run by
155 which the National Collegiate Athletic Association shall have to
156 conclude it's formal investigation and enter a ruling on its
157 findings, either imposing penalties for any violations or
158 dismissal of the investigation. The institution shall have three
159 (3) months to respond to the allegations. At the conclusion of
160 the allotted three-month response period the member institution
161 shall provide notice of the investigation and the institution's
162 official response to the Board of Trustees of State Institutions
163 of Higher Learning, which such documentation shall become a matter
164 of public record under the provisions of the Mississippi Public
165 Records Access Act of 1983, and provided under Chapter 61, Title
166 25, Mississippi Code of 1972.

167 **SECTION 6.** (1) The National Collegiate Athletic Association
168 shall have nine (9) months from the date of the member
169 institution's response to the letter of official inquiry to
170 complete its investigation, present findings to the NCAA Committee
171 on Infractions and to render its final decision either imposing
172 penalties for the violations proven in the investigation process
173 or dismissal of the allegations.

174 (2) At such time that the NCAA Committee on Infractions
175 renders its final decision on the record of violations either
176 imposing penalties for the violations proven in the investigation
177 process or dismissal of the allegations, the committee shall



178 submit its ruling to the member institution and to the Board of
179 Trustees of State Institutions of Higher Learning. The ruling
180 issued by the NCAA Committee on Infracation, as to its final
181 decision, shall become a matter of public record once communicated
182 to the appropriate entities under the provisions of the
183 Mississippi Public Records Access Act of 1983, and provided under
184 Chapter 61, Title 25, Mississippi Code of 1972.

185 (3) Any appeal from the final decision of the NCAA Committee
186 on Infracation shall be prosecuted and finally concluded within six
187 (6) months from the date of the committee's final decision.

188 **SECTION 7.** If the National Collegiate Athletic Association
189 fails to complete its investigation and render its final decision
190 on the alleged violations of the rules and regulations enacted
191 through NCAA legislation within the time period allotted under
192 this act from the time of its notice to the member institution in
193 the form of a letter of official inquiry, investigation, hearing,
194 ruling and any appellate process, the NCAA shall be fined Ten
195 Thousand Dollars (\$10,000.00) for each day the process exceeds the
196 applicable time period, which such fine shall be payable to the
197 member institution subject to the investigation and actionable
198 through the Circuit Courts of the State of Mississippi.

199 **SECTION 8.** This act shall take effect and be in force from
200 and after July 1, 2017.

