

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON EDUCATION

Remote location using Microsoft® Teams
Thursday, November 30, 2023
1:00 p.m.

PRESENT:

COUNCILMAN ISAIAH THOMAS, CHAIR
COUNCILWOMAN KENDRA BROOKS, VICE-CHAIR
COUNCILWOMAN JAMIE GAUTHIER
COUNCILWOMAN QUETCY M. LOZADA
COUNCILMAN ANTHONY PHILLIPS
COUNCILMAN MARK SQUILLA

BILL: 220905
RESOLUTION: 230704

1 - - -

2 COUNCILMAN THOMAS: Good
3 afternoon, everybody. I understand
4 that -- oh, I'm sorry. Good
5 afternoon, everybody. Welcome to
6 the Committee on Education. Today
7 is Thursday, November 30, 2023.

8 I understand that the state
9 law currently requires that the
10 following announcement be made at
11 the beginning of every remote
12 public hearing as follows: Due to
13 the current public health
14 emergency, City Council Committees
15 are currently meeting remotely. We
16 are using Microsoft Teams to make
17 these remote hearings possible.

18 Instructions for how the
19 public may view and offer public
20 testimony at public hearings of
21 Council Committees are included in
22 the public hearing notices that are
23 published in the Daily News, Legal
24 Intelligencer and Inquirer prior to
25 the hearings and can also be found

1 on PHL.com -- PHLCouncil.com. I
2 now note that the hour has come.

3 Ms. Golden, will you
4 please -- Ms. Golden, this is her
5 last session clerking for us, so I
6 just want to say thank you for your
7 service and I think you're going
8 out on a bang with this bill with
9 the phenomenal Education Committee.

10 Ms. Golden, will you please
11 call the roll to take attendance.
12 Members that are in attendance will
13 you please indicate that you are
14 present when your name is called.
15 Also, please say a few brief
16 remarks when responding so that
17 your image will be displayed on the
18 screen. Madam Clerk.

19 THE CLERK: Vice-Chair
20 Brooks.

21 COUNCILWOMAN BROOKS: Good
22 afternoon, uh -- yep, I'm present.

23 THE CLERK: Councilmember
24 Squilla.

25 (No response.)

1 THE CLERK: Councilmember
2 Gauthier.

3 COUNCILWOMAN GAUTHIER:
4 Good afternoon, Mr. Chair and
5 colleagues. Present.

6 THE CLERK: Councilmember
7 Phillips.

8 COUNCILMAN PHILLIPS: Good
9 afternoon, members of the public.
10 Thank you, Chairman Thomas. I'm
11 present.

12 THE CLERK: Councilmember
13 Lozada.

14 COUNCILWOMAN LOZADA: Good
15 afternoon, Mr. Chair. Good
16 afternoon, colleagues. I am
17 present.

18 THE CLERK: Chair Thomas.

19 COUNCILMAN THOMAS: I'm
20 present. A quorum of the Committee
21 is present and the hearing is now
22 called to order. This is the
23 public hearing of the Committee on
24 Education regarding Bill Nos.
25 220905 and 230704.

1 Ms. Golden, will you please
2 read the title of the hearing --
3 and resolution so we can begin our
4 conversation for today.

5 THE CLERK: 220950,
6 amending The Philadelphia Code to
7 add a new Chapter 21-3400, entitled
8 "Youth Name, Image and Likeness
9 Protection," to establish
10 provisions related to education and
11 counseling for certain Philadelphia
12 youth and their families who are
13 considering licensing publicity
14 rights, all under certain terms and
15 conditions.

16 And 230740, resolution
17 authorizing the Committee on
18 Education to hold hearings
19 concerning the practice of
20 "leveling" and its impact on
21 students and teachers in the School
22 District of Philadelphia,
23 especially following the learning
24 loss caused by the COVID-19
25 pandemic.

1 Please be advised

2 Resolution 230704 is being held at
3 the sponsor's request and will not
4 be heard today.

5 COUNCILMAN THOMAS: Thank
6 you, Madam Clerk. I just want to
7 reiterate that Resolution 230704 is
8 being held at the sponsor's
9 request.

10 Before we begin to hear
11 testimony from the witnesses we
12 have for today, everyone who has
13 been invited to the meeting to
14 testify should be aware that this
15 public hearing is being recorded.
16 Because the hearing is public,
17 participants and viewers have no
18 reasonable expectation of privacy.
19 By continuing to be in the meeting,
20 you are considering to being
21 recorded.

22 Additionally, prior to
23 recognizing Members for questions
24 or comments they have for the
25 witnesses, I will note for the

1 record at this time that we will
2 use the chat feature available on
3 Microsoft Teams to signal that
4 people would like to be recognized.
5 In order to comply with the
6 Sunshine Act, the chat feature must
7 only be used for this purpose.

8 Ms. Golden, will you please
9 call the first panel we have to
10 testify this morning.

11 THE CLERK: Dr. Kenneth A.
12 Jacobsen.

13 COUNCILMAN THOMAS:
14 Dr. Jacobsen, first of all good
15 morning and thank you for all you
16 do in the world of sports and
17 supporting young people here in the
18 City of Philadelphia. Please state
19 your name for the record and you
20 may begin with your testimony.

21 DR. JACOBSEN: Thank you so
22 much, Chair. My name is Kenneth A.
23 Jacobsen and I am a practice
24 professor of law at Temple
25 University Beasley School of Law.

1 Let me start by commending Chair
2 Thomas and other co-sponsors of
3 this bill for their foresight in
4 protecting the youth of
5 Philadelphia in this new world of
6 name, image and likeness in which
7 we find ourselves.

8 By way of background for my
9 knowledge and expertise, I'm the
10 Director of the Sports Law program
11 here at Temple University School of
12 Law. I lecture on name, image and
13 likeness. I conduct NIL programs,
14 CLE programs for lawyers. I did
15 one out in Harrisburg for a group
16 of 400 lawyers from various state
17 agencies that were there
18 collectively for their continuing
19 legal education.

20 I provide advice and
21 counsel to Temple Athletics and
22 Temple Compliance on NIL. I also
23 did a program for our basketball
24 team on NIL a couple of weeks ago
25 to discuss the benefits but also

1 the pitfalls of name, image and
2 likeness. So as I may have
3 mentioned, I authored articles in
4 Bloomberg and others, so I have a
5 deep background and experience in
6 name, image and likeness.

7 Let's work on some
8 definitions now for the benefit of
9 the group and the audience. Name,
10 image and likeness, NIL, is our
11 persona. It is us. It is our
12 face. It is our name. And before
13 2021 there were rules both on the
14 collegiate level and on a high
15 school level that prohibited
16 athletes from making any money off
17 of their name, image and likeness.

18 If they received any
19 compensation whatsoever, they would
20 lose their eligibility because they
21 would lose their amateur status.
22 That all changed in 2021. And on a
23 college level, Pennsylvania passed
24 state statutes addressing NIL. But
25 on a high school level, there is no

1 such state statute. Instead
2 Pennsylvania Interscholastic
3 Athletic Association, the
4 regulatory body for all sports,
5 high school and middle school
6 sports in Pennsylvania, has adopted
7 rules and regulations on name,
8 image and likeness.

9 The rules and regulations
10 are traps for the unwary. Not
11 intentionally so, but just because
12 they are so recent and because
13 there's a lack of clarity often
14 that an athlete could run the risk
15 of a misstep. And in a misstep in
16 complying with those rules and
17 regulations, it can result in a
18 loss of eligibility to play sports.
19 So understanding what the rules of
20 the PIAA and navigating those rules
21 is a very important part of what I
22 see as an important part of the
23 bill that is being proposed to
24 provide education for high school
25 athletes in Philadelphia on name,

1 image and likeness.

2 There are things in the NIL
3 space that some folks just may not
4 be aware of. There are tax
5 implications. If one receives a
6 benefit in order to monetize their
7 name, image or likeness, there are
8 many tax implications for that.

9 There's also -- compensation could
10 be in the form of money and a lot
11 of times for many athletes what
12 they receive is they receive money
13 in exchange for a social media
14 post.

15 You may have read about
16 some of the bigger NIL deals around
17 the country where athletes are
18 being paid a lot of money for their
19 name, image and likeness. That's
20 not 90 percent of the deals. 90
21 percent of the deals are smaller
22 deals where an athlete is not going
23 to engage representation because
24 they can't afford it and frankly
25 the deals are not big enough to

1 warrant that kind of representation
2 even though they're entitled to it.
3 So there's an importance to educate
4 the athletes about the dos and
5 don'ts about name, image and
6 likeness they're receiving. For
7 example, a pair of sneakers or free
8 meals for the social media post
9 constitutes monetization of name,
10 image and likeness the same way as
11 receiving money does.

12 In this space when there's
13 money involved, there's also bad
14 actors involved. And that is -- by
15 bad actors, I mean people that want
16 to take advantage of athletes and
17 put money in their own pockets at
18 the expense of those athletes. And
19 what do I mean by that. I mean
20 agents, representatives for these
21 businesses that want to pay an
22 athlete in order to promote a
23 product or service receiving
24 obscene commissions in exchange for
25 that, 40 percent of what the

1 athlete may be paid.
2 Other abuses are if there
3 is a contract, and often in smaller
4 deals there is no contract, but
5 where there are contracts there's
6 fine print in the contract in which
7 athletes are giving up their
8 property rights -- and their name,
9 image and likeness is a property
10 right, they own it -- they're
11 giving up their property rights in
12 perpetuity. Meaning, that whoever
13 they sign that contract with has a
14 right to collect a piece of money
15 from them, all earnings that they
16 make in the future, when they go to
17 college and get an NIL deal, if
18 they become professionals and have
19 sponsorship deals, some of the fine
20 print in these agreements allow the
21 recruitment of money by these
22 sponsors in perpetuity. So there
23 are these kinds of abuses that are
24 taking place, and I think that this
25 bill, a commendable bill, provides

1 the pillars that I think will
2 benefit our high school students of
3 protection, prevention and
4 education.

5 The other part of this
6 bill, and it's kind of interesting,
7 we have acronyms with the same
8 letters, NLI is different. NIL is
9 name, image and likeness. NLI is
10 National Letter of Intent. What
11 this is, is when an athlete is in
12 high school and sometimes even back
13 in junior high, some athletes may
14 be recruited to go play college
15 sports and receive athletic
16 scholarships as part of that
17 recruitment process.

18 Those scholarships are
19 embodied in a contract called the
20 National Letter of Intent. It's a
21 contractual arrangement. Athlete,
22 you come and play college sports
23 for us. We will pay you a
24 scholarship for that. It is
25 embodied in a National Letter of

1 Intent. Not all college athletes
2 are going to go to Alabama to play
3 football or going to go to Kansas
4 to play basketball.

5 There are a lot of schools,
6 including a lot of schools in
7 Pennsylvania, that provide athletic
8 scholarships that are available to
9 our Philadelphia high school
10 students if they know how to
11 navigate the NLI process. And that
12 process, like NIL, has some
13 pitfalls. For example, there are
14 limits to how often an athlete can
15 communicate with a college or
16 university. There are limits on
17 what that athlete is allowed to
18 accept. They can't accept certain
19 payments. Their parents can't or
20 guardians can't accept certain
21 compensation. There are limits on
22 other kinds of benefits that might
23 be made to lure these athletes to
24 come and attend the college and
25 university. And if you run afoul

1 of those rules and regulations, the
2 penalties are severe. It's a loss
3 of eligibility to play college
4 sports.

5 So as part of this bill,
6 there is -- similar to education,
7 there is education on the National
8 Letter of Intent process for
9 parents, for guardians, for
10 coaches, for others to help them
11 avoid the pitfalls, to help them
12 avoid the problems that they may
13 encounter in that process. Like I
14 said, that top recruits will have
15 plenty of counsel, plenty of
16 advice, but not everyone will be
17 top recruits, just like not
18 everyone will get the major NIL
19 deals.

20 Just to conclude, we at
21 Temple have been honored to have
22 worked with Chair Thomas for months
23 actually leading up to this bill on
24 understanding a role that we could
25 play in this process. We have a

1 team at Temple that has been
2 working, a large team, our
3 communications department, our
4 legislative people, myself is very
5 deeply involved in the weeds on
6 this like I know Chair Thomas is
7 and we are looking forward to if
8 this bill is passed implementing it
9 with a partnership with the City of
10 Philadelphia under the leadership
11 of Chair Thomas. So I'll wrap up
12 there. I'm certainly happy to
13 answer any questions that anyone
14 may have.

15 COUNCILMAN THOMAS: Real
16 quick, can you just talk about what
17 the partnership is going to look
18 like between Temple and
19 Philadelphia if we move forward and
20 this legislation is passed?

21 DR. JACOBSEN: Absolutely.
22 I mentioned the three pillars
23 before: Education, protection and
24 prevention. One component of this
25 partnership is a hotline. It'll be

1 staffed by me and my people who are
2 lawyers who are under our
3 supervision at Temple University
4 School of Law and it'll be a
5 hotline for parents or guardians to
6 call with questions that they may
7 have about NIL deals so that they
8 can be vetted, so that they can get
9 the kind of counsel and guidance
10 that they may need, so that they
11 can avoid bad deals, and we can be
12 proactive in that space.

13 The second part of this,
14 the educational part will have
15 multiple components. Number one
16 will be educational materials
17 written in easy-to-understand
18 language with eye-catching graphics
19 that people can understand that
20 will be distributed to not only the
21 athletes but also parents,
22 guardians, school officials,
23 whoever wants them.

24 With that, we envision an
25 on-school, on-site, in-site

1 visitation by myself and students
2 under my supervision that will
3 provide direct person-to-person
4 communications, questions, answers
5 and other kinds of interaction with
6 parents and with students to
7 educate them both on the name,
8 image and likeness piece of this
9 legislation but also guiding them
10 through the National Letter of
11 Intent piece of this legislation.

12 COUNCILMAN THOMAS: Thank
13 you. Thank you, Doc. I appreciate
14 that. And it's been a pleasure to
15 work side-by-side with you to be
16 able to address such an important
17 issue.

18 Are there any questions
19 from members of the Education
20 Committee as it relates to this
21 particular witness?

22 (No response.)

23 COUNCILMAN THOMAS: Hearing
24 no questions, Doc, I want to say
25 thank you for your testimony here

1 today. But more importantly, thank
2 you for your partnership, both
3 short-term and long-term, as it
4 relates to addressing such an
5 important issue. We appreciate the
6 work you've done, but more
7 importantly we look forward to
8 working with you moving forward to
9 assure that young people in the
10 City of Philadelphia are not
11 victims of predatory contracts and
12 predatory behavior. So thank you,
13 Doctor.

14 DR. JACOBSEN: Thank you
15 very much.

16 COUNCILMAN THOMAS: Madam
17 Clerk, will you please call the
18 next witness we have to testify on
19 this particular bill.

20 THE CLERK: There are no
21 further testifiers.

22 COUNCILMAN THOMAS: There
23 being no -- are there any other
24 questions from members of the
25 Committee as it relates to this

1 particular bill?

2 (No response.)

3 COUNCILMAN THOMAS: There
4 being no further questions from
5 members of the Committee and no
6 other witnesses to testify, I will
7 ask is there anyone else present in
8 this hearing whose name we have
9 failed to call that wishes to offer
10 any type of testimony or remarks
11 here today?

12 (No response.)

13 COUNCILMAN THOMAS: Hearing
14 none, I want to thank Dr. Jacobs as
15 he was the only panel here today
16 for participating in today's
17 hearing. Of course we value your
18 opinion and the work that you've
19 done.

20 I now invite all panels of
21 witnesses to please disconnect from
22 the meeting before we go into the
23 public meeting. We will now pause
24 the proceedings briefly as multiple
25 participants leave the hearing.

1 Simultaneously this
2 concludes the public hearing of the
3 Committee and we will now go into
4 the public meeting to consider
5 actions to be taken on the bills
6 before the Committee today.

7 Madam Clerk, will you
8 please call the roll. And to
9 assure that Members are in
10 attendance, Members will you please
11 indicate that you are present by
12 saying aye.

13 THE CLERK: Vice-Chair
14 Brooks.

15 COUNCILWOMAN BROOKS:
16 Present.

17 THE CLERK: Councilmember
18 Squilla.

19 (No response.)

20 THE CLERK: Councilmember
21 Gauthier.

22 (No response.)

23 THE CLERK: Councilmember
24 Phillips.

25 COUNCILMAN PHILLIPS: Good

1 morning, Mr. Chair. Good morning,
2 viewing public. I'm present.

3 THE CLERK: Councilmember
4 Lozada.

5 COUNCILWOMAN LOZADA: Good
6 afternoon, everyone. Good
7 afternoon, Mr. Chair. I'm present.

8 THE CLERK: I see
9 Councilmember Gauthier is in the
10 meeting. Are you present,
11 Councilmember Gauthier?

12 (No response.)

13 COUNCILMAN THOMAS: A
14 quorum of the Committee of members
15 are present; am I correct?

16 THE CLERK: Correct.

17 COUNCILMAN THOMAS: We have
18 Councilmember Phillips,
19 Councilmember Lozada, myself.

20 Councilmember Brooks, are
21 you present?

22 COUNCILWOMAN BROOKS: I am
23 present.

24 COUNCILMAN THOMAS: A
25 quorum of the Committee is present.

1 The Chair recognizes
2 Councilmember Brooks for a single
3 motion to approve the amendments to
4 the bill that is being considered
5 today.

6 COUNCILWOMAN BROOKS: Thank
7 you, Mr. Chairman.

8 I offer an amendment to
9 Bill No. 220905. A copy of the
10 amendment has been circulated to
11 all members of the Committee and I
12 move that this amendment be
13 approved.

14 COUNCILMAN THOMAS: Can I
15 get a second?

16 COUNCILWOMAN LOZADA:
17 Second. Second.

18 COUNCILMAN THOMAS: Thank
19 you, Councilwoman Lozada. It's
20 been approved -- it's been moved
21 and properly seconded that the
22 amendments just read by
23 Councilmember be approved.

24 All those in favor will
25 signify by saying aye.

1 (Aye.)

2 COUNCILMAN THOMAS: Those
3 opposed?

4 (No response.)

5 COUNCILMAN THOMAS: The
6 ayes have it. The motion carries
7 and this amendment has been
8 approved.

9 The Chair recognizes
10 Councilmember Brooks for a single
11 motion on the bills that are being
12 considered today.

13 COUNCILWOMAN BROOKS: Thank
14 you, Mr. Chairman.

15 I move that Bill No. 220905
16 including any amendments that have
17 been just approved be reported from
18 this Committee with a favorable
19 recommendation and further move
20 that the rules of Council be
21 suspended to permit first reading
22 of this bill at the next session of
23 Council.

24 COUNCILWOMAN LOZADA:
25 Second.

1 COUNCILMAN THOMAS: For the
2 record, that's Councilmember Lozada
3 who seconded. It's been moved and
4 properly seconded that that bills
5 just read by Councilmember Brooks
6 including any amendments that have
7 been approved be reported from this
8 Committee with a favorable
9 recommendation. I further move
10 that the rules of Council be
11 suspended to permit the first
12 reading of the bill at the next
13 Council session.

14 All those in favor will
15 signify by saying aye.

16 (Aye.)

17 COUNCILMAN THOMAS: Those
18 opposed?

19 (No response.)

20 COUNCILMAN THOMAS: The
21 ayes have it and the motion
22 carries.

23 I just want to say thank
24 you to my colleagues, not just as
25 the Chair of the Education

1 Committee but also as the sponsor
2 of the bill. I appreciate you. I
3 know we have a lot more work to do
4 today. For the record, please be
5 advised that Bill No. 230548 was
6 held at the sponsor's request and
7 was not heard or moved during this
8 meeting.

9 This concludes the business
10 before the Committee today. And I
11 just want to say thank you
12 everybody for all the great work
13 you're doing and I'll see you in
14 Council in a little bit. Thank
15 you.

16 COUNCILWOMAN BROOKS: Thank
17 you.

18 COUNCILWOMAN LOZADA: Thank
19 you. Good luck, Ms. Golden.

20 COUNCILMAN THOMAS: Thank
21 you. Thank you.

22 (Hearing concluded at
23 1:24 p.m.)

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1 C E R T I F I C A T I O N

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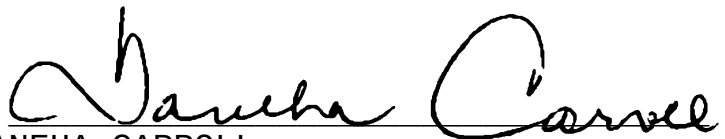
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I, hereby certify that the proceedings
and evidence noted are contained fully and
accurately in the stenographic notes taken by
me in the foregoing matter, and that this is
correct transcript of the same.


TANEHA CARROLL
Court Reporter - Notary Public

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