

**REPORT OF THE
NCAA DIVISION II LEGISLATION COMMITTEE
REVIEW OF ISSUES RELATED TO NAME, IMAGE AND LIKENESS
JUNE 22-23, 2020, VIDEOCONFERENCE**

ACTION ITEMS.

1. Legislative items.

- **2021 NCAA Convention Legislation – Various Bylaws – Student-Athlete Use of Name, Image and Likeness.**
 - (1) Recommendation. Sponsor legislation for the 2021 NCAA Convention to permit Division II student-athletes to utilize their name, image and likeness, as follows:
 - (a) Permit student-athletes to use their name, image and likeness to promote their own athletically related work product (e.g., athletics apparel, athletics equipment, writing a book about the impact of athletics on their life);
 - (b) Permit student-athletes to promote athletically or nonathletically related products or services, including, but not limited to, modeling noninstitutional athletics apparel and equipment, and establishing a monetized media platform, subject to institutional policies;
 - (c) Permit student-athletes to be paid for autographs while not representing their institution, either in conjunction with an endorsement opportunity or otherwise independent of their institution;
 - (d) Permit student-athletes to be paid for appearances at commercial businesses and charitable, educational or nonprofit agencies, subject to institutional policies, and permit student-athletes to include their athletics status and ability in any such promotions;
 - (e) Permit student-athletes to sell athletics apparel, used equipment and awards provided by the institution at any time in their career;
 - (f) Permit student-athletes, their families and friends to organize fundraisers for student-athletes or their family members in extreme circumstances beyond the control of the student-athlete (e.g., house fire, medical needs), while maintaining current restrictions on fundraising for education-related items of need (e.g., tuition, laptop);
 - (g) Permit student-athletes to promote their availability for private lessons. If institutional facilities are used, student-athletes must

follow all applicable institutional processes for renting facility space in a manner consistent with that used by the general public;

- (h) Permit student-athletes to operate their own camps and clinics. If institutional facilities are used, student-athletes must follow all applicable institutional processes for renting facility space in a manner consistent with that used by the general public;
- (i) Permit a commercial business to advertise the presence of student-athletes at the establishment for an institutional fundraiser; and
- (j) Permit student-athletes to license their name, image and likeness for commercial products unrelated to their work product (e.g., student-athlete would be allowed to license their nickname on commercial products sold by a third party).

Further, consistent with the Board of Governors' principles that any legislative changes be transparent and enforceable, to recommend the following administrative framework for the concepts above:

- (a) Permit institutions to assist student-athletes on name, image and likeness activities, but not arrange such opportunities (e.g., providing education on applicable NCAA rules, helping a student-athlete evaluate any compliance concerns with a particular opportunity, assisting with reporting expectations, offering resource materials to help the student-athlete evaluate and select professional service providers). An institution would be permitted, but not required, to establish a name, image and likeness counseling panel similar to the currently permissible professional sports counseling panel. Business activities that are developed as a result of a student-athlete's coursework would be exempt from the restrictions on institutional involvement;
- (b) Require student-athletes to obtain approval to use institutional marks for any commercial purposes through the normal process used by any potential licensee;
- (c) Prohibit student-athletes from using their name, image or likeness to promote products or services not permitted by NCAA legislation, including sports wagering and banned substances;
- (d) Prohibit student-athletes from missing class to participate in activities related to use of their name, image and likeness;

- (e) Permit institutions to determine how to appropriately educate their student-athletes, boosters and other constituent groups on name, image and likeness rules;
 - (f) Require reporting of name, image and likeness activities on an annual basis. (Note: The committee recommends that a template form be created, but institutions would be permitted to establish their own forms based on institutional needs and applicable state laws. Institutions may choose to require reporting on a more frequent basis. The committee also expressed support for exploration of a potential third-party administrator to oversee reporting to reduce the burden on Division II athletics departments);
 - (g) Permit prospective student-athletes to retain professional service providers (e.g., agents, tax advisors, marketing consultants) for name, image and likeness activities, as well as professional athletics opportunities, prior to initial full-time enrollment at a Division II institution. Any agreement related to professional sports opportunities must be terminated upon enrollment at a Division II institution. Institutional employees would not be permitted to serve in a professional service role for a prospective student-athlete; and
 - (h) Permit student-athletes to retain professional service providers needed for name, image and likeness activities. Student-athletes; however, would be prohibited from hiring an agent for the purpose of a professional athletics opportunity. These service providers would be prohibited from providing anything that would constitute an extra benefit.
- (2) Effective date. August 1, 2021.
- (3) Rationale. Following the referral from the NCAA Board of Governors for all divisions to immediately consider legislative changes consistent with the collegiate model, the NCAA Division II Administrative Committee charged the Division II Legislation Committee with the review of issues related to name, image and likeness.

This proposal would permit Division II student-athletes to benefit from the use of their name, image and likeness in a manner that is consistent with the Board's guiding principles and with the Board's direction to consider appropriate rules changes based on recommendations from the Federal and State Legislation Working Group. The committee's recommendations fall into two categories: (1) activities related to student-athlete business activities; and (2) promotion/endorsement of third-party products and

services. The committee believes student-athletes should have full use of their name, image and likeness related to their own business activities, including autographs and appearances, noting the direct tie between these activities and a student-athlete's identity.

Importantly, the committee believes these opportunities can occur in a manner that is consistent with the NCAA's core values, mission and principles, while prioritizing student-athlete well-being. Further, the recommended administrative framework for these legislative changes ensures that the legislation will be transparent and enforceable, in line with the Board's principles. Institutions will have the discretion to determine how to appropriately educate their student-athletes, boosters and other constituent groups on name, image and likeness rules.

The process of developing these changes included vast membership review and input. Additional individuals (e.g., athletics directors, coaches, student-athletes) were added to the Legislation Committee meetings during its name, image and likeness discussions to provide further input for the review. A survey taken by more than 1,000 representatives of member institutions and conferences, including student-athletes, helped gather feedback on ways to modernize NCAA legislation to allow for student-athletes to receive compensation for their name, image and likeness. Student-athlete voices also were prioritized throughout the process, with three national Division II Student-Athlete Advisory Committee members joining Legislation Committee members during its discussions. Issues related to name, image and likeness were a standing agenda item for the national SAAC throughout the 2019-20 academic year.

- (4) Estimated budget impact. None.
- (5) Student-athlete impact. Student-athletes will be permitted to benefit from their name, image and likeness in a manner that is consistent with the NCAA Board of Governors' guiding principles.

2. Nonlegislative Items.

- **None.**

INFORMATIONAL ITEMS.

- 1. Update from the NCAA Board of Governors Federal and State Legislation Working Group.** The committee received an update from the NCAA Board of Governors Federal and State Legislation Working Group, including the final report provided to the Board of Governors in April 2020.
- 2. Update from the NCAA Office of Legal Affairs.** The NCAA Office of Legal Affairs provided an update on the legal landscape surrounding name, image and likeness.
- 3. Update on Current Federal and State Legislative Landscape.** The committee received an update on the current federal and state legislative landscape surrounding name, image and likeness.
- 4. Review of Name, Image and Likeness Feedback Gathered Since March 9-10, 2020, in-person Division II Legislation Committee Meeting.** The committee received an overview of feedback from the survey provided to the Division II membership regarding the review of name, image and likeness. Further, the committee received an overview of the principles developed by the Knight Commission regarding name, image and likeness.
- 5. Discussion Regarding Potential Name, Image and Likeness Legislative Solutions.** The committee, along with additional individuals from the Division II membership (directors of athletics, coaches, student-athletes), discussed potential legislative solutions related to the legislative concepts regarding name, image and likeness that were forwarded to the Division II membership for feedback and consideration. The committee agreed to recommend sponsorship of legislation to permit Division II student-athletes the opportunity to benefit from their name, image and likeness in a manner that is consistent with the NCAA Board of Governors' guiding principles. Further, the committee recommended the development of an administrative framework to ensure any legislative changes be transparent and enforceable [See Legislative Action item].
- 6. Review of the March 9-10, 2020, Legislation Committee Review of Issues Related to Name, Image and Likeness, In-Person Meeting Report.** The committee reviewed its March 9-10, 2020, in-person meeting report.
- 7. Future Meeting Dates.**
 - a. July 1, 2020, videoconference;
 - b. November 2-3, 2020, in-person meeting; (Indianapolis);
 - c. March 1-2, 2021, videoconference;
 - d. June 2021, videoconference; date TBD.

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Committee Chair: *Scott Larson, Lubbock Christian University*
Staff Liaison(s): *Karen Wolf, Academic and Membership Affairs*
Chelsea Hooks, Academic and Membership Affairs
Michael Woo, Academic and Membership Affairs

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Attendees:

Brenda Cates, University of Mount Olive.
Carlin Chesick, Pennsylvania State Athletic Conference.
Grant Foley, Delta State University.
Chris Graham, Rocky Mountain Athletic Conference.
Diana Kling, Peach Belt Conference.
Scott Larson, Lubbock Christian University.
Michelle Latimer, Bowie State University.
Christine Lowthert, Assumption College.
Jacqie McWilliams, Central Intercollegiate Athletic Association.
Mackenzie O'Neill, Missouri Western State University.
Pennie Parker, Rollins College.
Alex Shillow, Texas A&M University, Commerce.
J.R. Smith, Chadron State College.
Jason Stock, California State University, San Marcos.
Brian Summers, Christian Brothers University.
Kim Sutton, California State University, Chico.
Keith Vitense, Cameron University.
John Wristen, Colorado State University – Pueblo
Scott Young, University of Indianapolis.

Absentees:

Rex Fuller, Western Oregon University.
Glen Jones, Henderson State University.
Matt Margenthaler, Minnesota State University, Mankato.
David Marsh, Northwood University.
Dean O'Keefe, Stonehill College.
Bren Stevens, University of Charleston (West Virginia).

NCAA Staff Support in Attendance:

Chelsea Hooks, Karen Wolf and Michael Woo.

Other NCAA Staff Members in Attendance:

Scott Bearby, Dawn Buth, Markie Cook, Roxann Frankel, Curtis Franks, Haydyn Gibson, Terri Steeb Gronau, Maritza Jones, Ryan Jones, Mckenzie Maneggia, Corbin McGuire, Stephanie Quigg and Cari Van Senus.