



**Report of the
NCAA Division III Interpretations and Legislation Committee
March 15, 2023, Videoconference**

ACTION ITEMS.

1. Legislative items.

- Noncontroversial Legislation – Amending the start and end dates for the sport of skiing.
 - (1) Recommendation. That the NCAA Division III Management Council approve in concept noncontroversial legislation establishing, for the sport of skiing, that the start date be October 15 and the end date be April 5 or the end of U.S. National Championships, whichever occurs later.
 - (2) Effective date. August 1, 2023.
 - (3) Rationale. Under the 19 weeks model, Division III ski programs structured their schedule to start in the middle of November and run into the first week of April. This structure allowed Division III institutions to participate in the NCAA Skiing Championship, which is a national collegiate championship, and the U.S. National Championships. With Proposal 2023-11, ski programs would have to end their seasons at NCAA selections, which negatively impacts those programs that sponsor both Nordic and alpine skiing. This proposal would ensure that skiing would not be detrimentally impacted by the new legislation by changing the end date to the later of the U.S. National Championships and April 5th. However, to ensure that student-athletes have a structure to their season, this proposal would move the start date for skiing from September 7th back to October 15th to account for the additional time after NCAA selections. While the start and end days are being adjusted with this proposal, institutions will still be held to 114 days.
 - (4) Estimated budget impact. None.
 - (5) Student-athlete impact. Provides opportunities for student-athletes participating in alpine skiing to continue to compete.

2. Nonlegislative items.

- Name, Image and Likeness Resource Approval
 - (1) Recommendation. That the NCAA Division III Management Council approve a resource titled “NCAA Division III Institutional Involvement in a Student-Athlete’s Name, Image and Likeness Activities.” (Attachment)
 - (2) Effective date. N/A

(3) Rationale. In October 2022, the Interpretations and Legislation Committee published a resource providing guidance on third party (booster) involvement and worked with NCAA staff to produce a resource specifically focusing on institutional involvement in the NIL activities of student-athletes. While understanding that state laws will still preempt the guidance in this new resource, the committee feels this resource is an important next step to provide additional clarity to institutions as they help their student-athletes navigate the NIL space.

(4) Estimated budget impact. None.

(5) Student-athlete impact. Provides guidance to student-athletes on how their institution may or may not assist with NIL activities.

INFORMATIONAL ITEMS.

1. **Review February Report.** The committee reviewed the report from its February 14-15, videoconference.
2. **Proposal 2023-11 and Ice Hockey.** The committee reviewed feedback from the ice hockey committees and conferences that sponsor ice hockey regarding whether there should be restrictions on the eight permissible out-of-season days. Based on this feedback and recognizing that Proposal No. 2023-11 did not include any stipulations on how the eight out-of-season day could be used, the committee clarified that there are not additional restrictions (i.e., institution could use the eight days to conduct on-ice practices) and directed staff to draft an interpretation for the committee's future review.
3. **Review Scoreboard staff interpretation.** The committee reviewed two options for an updated staff interpretation concerning the use of scoreboards and videoboards during a campus visit. The committee approved the following staff determination:

Displaying prospective student-athletes' name and image during campus visit

The academic and membership affairs staff determined that it is permissible for an institution to display the name and image of a prospective student-athlete that is visiting campus on a scoreboard or videoboard in the institution's athletic facility provided the display is only intended for the prospective student-athlete and the facility is empty.

[References: NCAA Division III Bylaws Bylaw 13.02.9 (representative of athletics interests), 13.6.1.1 (one-visit limitation), 13.6.2 (length of official visit), 13.10.3 (comments Before Acceptance), and a staff interpretation (12/21/1988), which has been archived.]

4. **Review international student staff interpretation.** The committee reviewed an updated staff interpretation further clarifying the international student definition and approved the following staff determination:

International Participation Defined, Impact of Study Abroad.

The academic and membership affairs staff determined that the following international participation does not define the individual as an international student requiring certification through the Eligibility Center:

- The international participation occurred prior to age 13;
- The international participation occurred while being a member of team based in the United States (or a territory of the United States); or
- The international participation involved individual competition by a person based in the United States (or a territory of the United States).

Additionally, individuals attending secondary or post-secondary school in the United States (or a territory of the United States) who study abroad do not require certification through the Eligibility Center unless they participate in athletics while studying abroad.

[References: NCAA Division III Bylaws 12.1.1 (International Students), 12.1.1.1 (International Student Defined) and education column (01/25/22, Item Ref. 2).]

5. **Division III University.** The committee received an update on the status of Division III University, which will be housed in the Learning Management System. Staff will be releasing six, 5–7-minute videos intended for coaches this summer.
6. **Alternative Meeting Schedule.** The committee discussed an alternative meeting schedule and elected to adopt the new schedule on a trial period. The committee will revisit the meeting schedule at its February 2024 meeting.
7. **Future Meetings.** The committee reviewed its future meeting schedule.
8. **Other Business.** Staff informed the committee that the Subcommittee for Amateurism Fact-Finding (SAFF) is meeting on Thursday, March 23 to review and recommend the committee's approval of policies and procedures. The committee agreed to vote on final approval via email.
9. **Adjournment.** The committee concluded its business and adjourned at 12:48 p.m. Eastern time, March 15, 2023.

Committee Chair: Keri Alexander Luchowski, North Coast Athletic Conference.
Staff Liaison(s): Tiffany Alford, Academic and Membership Affairs
Jeff Myers, Academic and Membership Affairs
Becca Trovato, Academic and Membership Affairs
Sarah Turner, Academic and Membership Affairs

Division III Interpretations and Legislation Committee March 15, 2023, Videoconference	
Attendees:	
Matt Hill, University of Northwestern-St. Paul.	
Keri Alexander Luchowski, North Coast Athletic Conference.	
Michael A Mattia, Gettysburg College.	
Danielle O'Leary, William Peace University.	
Patrick B. Summers, New England Women's & Men's Athletic Conference.	
Absentees:	
Kurt J. Beron, University of Texas at Dallas.	
Jack Langan, Cornell College. (SAAC representative)	
Bethany Marren, Rochester Institute of Technology.	
Guests in Attendance:	
None.	
NCAA Staff Liaison (or Staff Support if subcommittee) in Attendance:	
Tiffany Alford, Jeff Myers, Becca Trovato, and Sarah Turner.	
Other NCAA Staff Members in Attendance:	
Joan Nissen and Bill Regan.	



**NCAA Division III
Institutional Involvement in a Student-Athlete's Name, Image and Likeness Activities
February XX, 2023**

Background:

Effective July 1, 2021, the NCAA adopted the Interim Name, Image and Likeness (NIL) Policy allowing NCAA student-athletes the opportunity to benefit from their NIL without jeopardizing their NCAA eligibility.

In October 2022, the NCAA Division III Interpretations and Legislation Committee released guidance related to the July 1, 2021, NCAA Interim Name, Image and Likeness (NIL) Policy and the involvement of third parties.

To maintain the key principles of fairness and integrity across the NCAA and reinforce rules prohibiting improper institutional involvement and pay-for-play, the NCAA Division III Management Council issued the following guidance to clarify the application of existing NCAA legislation and the NIL policy regarding institutional involvement in enrolled student-athletes' NIL activities.

Applicable NCAA Division III Legislation. A nonexhaustive list of relevant NCAA Division III legislation is provided below.

- Athletics department staff members are prohibited from representing a prospective student-athlete (PSA) or enrolled student-athlete (SA) in marketing their athletics ability or reputation. [See Bylaw 11.1.4 (Representing Individuals in Marketing Athletics Ability/Reputation)]
- A student-athlete may not use their athletics skill for pay in any form. [See Bylaw 12.1.5.2(a)]
- Institutions may not compensate a student-athlete in exchange for the use of their NIL (except for actual and necessary expenses associated with institutional charitable or educational activities). [See Bylaw 12.5.1.1]
- Institutions may provide and finance academic and other support services to student-athletes provided that similar services are provided or are generally available to the institution's student or to any particular segment of the student body determined on a basis unrelated to athletics ability. [See Bylaw 16.3]

Disclaimer:

This document addresses the application of **NCAA Division III Bylaws and the NCAA Interim Policy** to institutional involvement in a **current**

student-athlete's NIL activities. The guidance in this document is subject to state laws or executive actions with the force of law in effect. Further, institutions should consult legal counsel regarding other issues that may stem from institutional involvement in NIL activities, such as the potential for contractual nonperformance, Title IX and employment related matters.

INSTITUTIONAL EDUCATION AND MONITORING

<i>Permissible under Interim Policy/NCAA Rules</i>
<ul style="list-style-type: none">• Educational sessions for SAs regarding topics such as financial literacy, taxes, entrepreneurship, social media, etc.• Educational sessions for NIL entities (e.g., Collectives).• Educational sessions for boosters.• Educational sessions for PSAs.• Required reporting of NIL activity by SAs. <p>*No impermissible activities identified at this time; additional circumstances to be considered, as appropriate.</p>

INSTITUTIONAL SUPPORT FOR STUDENT-ATHLETE NIL ACTIVITY

<i>Permissible under Interim Policy/NCAA Rules</i>	<i>Impermissible under Interim Policy/NCAA Rules</i>
<ul style="list-style-type: none"> • Engage NIL entity to inform SAs of NIL opportunities. • Engage NIL entity to administer a marketplace that matches SAs with NIL opportunities without involvement of institution. • Provide information to SAs about opportunities that institution has become aware of (transmit information without further involvement). • Provide SA contact information and other directory information to NIL entity (e.g., Collectives and others seeking to engage SAs). • Provide stock, stored photo/video/graphics to a SA or NIL entity. • Introduce SA to representatives of NIL entity. • Arrange space for NIL entity and SA to meet on campus or in institution's facilities (consistent with institutional policy for any student wanting to use institutional facilities). • Promote SA's NIL activity, provided there is no value or cost to the institution (e.g., retweeting or liking a social media post). • Promote SA's NIL activity on paid platform provided SA or NIL entity is paying going rate for advertisement (e.g., NIL entity pays for advertisement on video board). • Purchase items related to a SA's NIL deal that are de minimis in value and for the same rate available for the general public. 	<ul style="list-style-type: none"> • Communicate with NIL entity regarding specific SA request/demand for compensation (e.g., SA needs X dollars in NIL money) or encouragement for NIL entity to fulfill SA's request. • Proactively assist in the development/creation, execution, or implementation of a SA's NIL activity (e.g., develop product, develop promotional materials, ensure SA performance of contractual NIL activities) unless the same benefit is generally available to the institution's students. • Provide services (other than education) to support NIL activity (e.g., graphics designer, tax preparation, contract review, etc.) unless the same benefit is generally available to the institution's students. • Provide access to equipment to support NIL activity (e.g., cameras, graphics software, computers, etc.) unless the same benefit is generally available to the institution's students. • Allow SA to promote their NIL activity while on call for required athletically related activities (e.g., practice, pre- and postgame activities, celebrations on the court, press conferences).

INSTITUTIONAL SUPPORT FOR NIL ENTITY/COLLECTIVE

<i>Permissible under Interim Policy/NCAA Rules</i>	<i>Impermissible under Interim Policy /NCAA Rules</i>
<ul style="list-style-type: none"> • Staff member assists NIL entity in raising money for NIL entity (e.g., appearances at fundraisers, donates autographed item). • Provide assets (e.g., tickets, suite) to NIL entity under sponsorship agreement provided access to assets are available to and on the same terms, as other sponsors. • Request donor to provide funds to NIL entity (without directing funds be used for a specific sport or SA). • Provide donor information or facilitate meetings between donors and NIL entity. 	<ul style="list-style-type: none"> • Subscribes to the entity and donates cash to the entity (regardless of whether funds are earmarked for a specific sport or SA). • Provide assets (e.g., tickets, suite) to a donor as an incentive for providing funds to the NIL entity. • Athletics department staff member employed by or owns NIL entity.

NEGOTIATING, REVENUE SHARING AND COMPENSATING

<i>Impermissible under Interim Policy/NCAA Rules</i>
<ul style="list-style-type: none"> • Athletics department staff member (or company owned by staff member) representing enrolled SAs for NIL deals, including securing and negotiating deals on behalf of the SA. • Any individual or entity acting on behalf of the athletics department (e.g., third party rights holders, third party agents) representing enrolled SAs for NIL deals, including securing and negotiating deals on behalf of the SA. • Institution entering into a contract with SA for the sale of product related to SA's NIL. • Conference and SA revenue sharing: Broadcast revenue, NIL revenue. • Staff members who own businesses separate from the institution, providing NIL deal with a SA. • Institutional coach compensating SA to promote coach's camp. • SAs receiving compensation directly or indirectly for promoting an athletics competition in which they participate.

** This is a nonexhaustive list of permissible and impermissible institutional involvement in a current student-athlete's NIL activities.*