#### AGENDA

#### The National Collegiate Athletic Association

#### Division III Oversight Group to Implement Recommendations of Federal and State Legislation Working Group

#### Join via Microsoft Teams

July 16, 2020 3 to 4 p.m. Eastern

- 1. Welcome. (Tori Murden McClure)
- 2. Oversight Group roster and charge. [Supplement Nos. 1a and 1b] (Dan Dutcher)
- 3. May 13 report. [Supplement No. 2] (Murden McClure)
- 4. Interpretations and Legislation Committee update. (Angie Morenz and Jeff Myers]
- 5. NIL Survey Executive Summary and detailed report. [Supplement Nos. 3a and 3b] (Dutcher)
- 6. Divisional proposed legislative concepts. [Supplement Nos. 4a and 4b] (Myers)
- 7. Input from FSLWG members. (Mary-Beth Cooper, Darryl Sims and Jackson Erdmann)
- 8. Future Division III meetings/timetable. (Dutcher)
  - a. July 18-19 Division III Student-Athlete Advisory Committee.
  - b. July 20-21 Division III Management Council.
  - c. August 4 Division III President's Advisory Group.
  - d. August 5 Division III Presidents Council.
  - 9. Other business. (McClure)
- 10. Adjournment.

#### SUPPLEMENT NO. 01a DIII Oversight Working Group on NIL



### Heather Benning (Management Council chair)

Executive Director Midwest Conference 821 5<sup>th</sup> Avenue, Suite 405 P.O. Box 150

Grinnell, IA 50112 Phone: 920/430-0934 Cell Phone: 920/229-0934

Email: benningh@midwestconference.org

Term Expiration: January 2021

## Mary Beth Cooper (BOG State and Federal Legislation Working Group)

President

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Term Expiration: January 2023

## Jackson Erdmann (BOG State and Federal Legislation Working Group)

Saint, John's University, student-athlete

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### Jason Fein (Subcommittee for Legislative Relief Chair)

**Director of Athletics** 

Athletic Conference

Bates College [New England Small College

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Term Expiration: January 2022

## DIVISION III OVERSIGHT GROUP TO IMPLEMENT RECOMMENDATIONS OF FEDERAL AND STATE LEGISLATION WORKING GROUP

## **Braly Keller (Student-Athlete Advisory Committee chair)**

Nebraska Wesleyan University 5000 Saint Paul Avenue Lincoln, NE 68504-2794 Phone: 402/890-2794

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### Angela Marin (Student-Athlete Reinstatement chair)

Senior Woman Administrator University of Texas at Dallas 800 W. Campbell Road Richardson, Texas 75080 Phone: 972/883-4498

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#### Angie Morenz (ILC chair)

Dean of Work Blackburn College 514 North Side Square

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#### Tori Murden-McClure (Presidents Council chair)

President

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Assistant: Mara Baker

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## Darryl Sims (BOG State and Federal Legislation Working Group)

Athletic Director

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#### **DIII GOVERNANCE STAFF**

#### Dan Dutcher

Vice President for Division III Email: <a href="mailto:ddutcher@ncaa.org">ddutcher@ncaa.org</a>

#### **Louise McCleary**

Managing Director of Division III Email: <a href="mailto:lmccleary@ncaa.org">lmccleary@ncaa.org</a>

#### Ali Spungen

Associate Director of Division III Email: <a href="mailto:aspungen@ncaa.org">aspungen@ncaa.org</a>

#### **Jeff Myers**

Director of Academic and Membership Affairs for Division III

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#### **Debbie Kresge**

**Executive Assistant for Division III** 

Email: dkresge@ncaa.org

## REPORT OF THE NCAA DIVISION III ADMINISTRATIVE COMMITTEE NOVEMBER 7, 2019, ELECTRONIC MAIL

#### ACTION ITEM.

- 1. Legislative Item.
  - None.
- 2. Nonlegislative Items.
  - Proposed Division III Oversight Group to Implement Board of Governors (BOG) Charge Related to Recommendations of Federal and State Working Group.
    - Recommendation. That the Division III Management and Presidents Councils ratify the Administrative Committee's action to appoint a Division III Oversight Group consisting of the 2020 chairs of committees that will be most involved in this process [Presidents Council, Management Council, Interpretations and Legislative Committee (ILC), Student-Athlete Advisory Committee (SAAC), Student-Athlete Reinstatement (SAR) and Subcommittee for Legislative Relief (SLR)], as well as the three Division III representatives currently serving on the BOG Federal and State Working Group MaryBeth Cooper, president, Springfield College; Jackson Erdmann, student-athlete, St. John's University; and Darryl Sims, athletics director, University of Wisconsin-Oshkosh.
    - (2) <u>Effective Date</u>. Immediately.
    - (3) Rationale. The Board of Governors has charged each division with reviewing and responding to the recommendations forwarded by the Federal and State Legislation Working Group. The working group and related recommendations describe the current and potential future ability of student-athletes to promote their name, image and likeness for endorsement and/or financial gain.

This Oversight Group will oversee the consideration of the Working Group concepts within the Division III governance structure. It will ensure that all the Working Group recommendations are forwarded to relevant Division III committees and establish the timetable for committee review and response. The Oversight Group will not conduct the initial review of the Working Group recommendations. However, because it will include the three Division III representative serving on the Working Group, it will ensure that the committee review process is appropriately focused and that it benefits from the Working Group's prior discussions as much as possible. The Oversight Group also will coordinate and oversee the specific committee responses and identify any conflicts or "gaps" that require further consideration. Finally, the Oversight Group will help oversee the communication plan to inform the Division III membership regarding this endeavor, as well as solicit membership feedback regarding Division IIIspecific recommendations. That will include the discussion session planned for the Division III Issues Forum in January, as well as subsequent feedback opportunities like regional rules seminars, conference meetings, and the like.

The "hands on" review of the specific Working Group recommendations will be done by the relevant standing committees within the Division III governance structure: ILC, SAAC, SLR and SAR. These committees (and related staff liaisons) have the greatest expertise regarding the concepts identified by the working group for further review, and how those concepts would affect Division III. The committees, in turn, will forward their recommendations to the Management Council and Presidents Council, following normal reporting lines. However, the Oversight Group will ensure that each committee has fulfilled its charge and identify any additional work that needs to occur to meet the overall

(4) <u>Estimated Budget Impact</u>. None.

charge from the BOG.

(5) <u>Student-Athlete Impact</u>. Two student-athletes will serve on the Oversight Group, and SAAC will play a key role in the policy process.

#### **INFORMATIONAL ITEM.**

None.

Committee Chair: Sue Henderson, New Jersey City University, New Jersey Athletic Conference

Staff Liaisons: Dan Dutcher, Division III Governance

Debbie Kresge, Division III Governance Louise McCleary, Division III Governance Jeff Myers, Academic and Membership Affairs

Ali Spungen, Division III Governance

#### **NCAA Division III Administrative Committee**

November 7, 2019, Electronic Mail

#### **Attendees:**

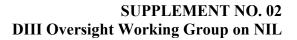
Stevie Baker-Watson, DePauw University.

Heather Benning, Midwest Conference.

Sue Henderson, New Jersey City University.

Tori Murden McClure, Spalding University.

Dennis Shields, University of Wisconsin, Platteville.





#### REPORT OF THE NCAA DIVISION III OVERSIGHT GROUP TO IMPLEMENT RECOMMENDATIONS OF FEDERAL AND STATE LEGISLATIVE WORKING GROUP (NAME, IMAGE AND LIKENESS) MAY 13, 2020, TELECONFERENCE

#### ACTION ITEM.

None.

#### **INFORMATIONAL ITEMS.**

- **1. Welcome.** President Tori Murden McClure welcomed the working group to the teleconference and reviewed the roster.
- **2. Charge and Background Information**. The Oversight Group reviewed its charge and composition, as established by the Division III Administrative Committee.
- **3. Association-wide Report.** The Oversight Group reviewed the final report from the Federal and State Legislation Working Group (FSLWG), which was endorsed by the Board of Governors. The Oversight Group noted the Board endorsed a timeline for each division to act so that legislative proposals are fully drafted not later than October 31, 2020; voted on not later than January 31, 2021; and effective not later than the start of the 2021-22 academic year.
- 4. Input from the Federal and State Legislative Working Group Members. The Oversight Group received an update from the FSLWG members regarding the recommendations of the report that need additional attention by the divisions.
  - a. <u>Use of logos</u>. Noted Division III may want to carve out space around the use of school logos and brands to allow for flexibility that is consistent with institutional policies.
  - b. <u>Endorsements</u>. Noted the governance structure should consider whether student-athletes should be precluded from endorsing a product that the university concludes is inconsistent with its values, or directly conflicts with products or services endorsed by the school.
  - c. <u>Compliance and education</u>. Agreed the division should consider the need to develop proper compliance and educational tools for college administrators and student-athletes, including services possibly provided by an independent third party.
- 5. Name, Image and Likeness May 5 Webinar. The Oversight Group reviewed PowerPoint slides from a May 5 webinar, which summarize the current legislative concepts endorsed by the Division III Interpretations and Legislation Committee (ILC), Student-Athlete Advisory Committee (SAAC), Management Council and Presidents Council. The two main concepts include Academic and Work Product, and Endorsements. The main theme is that student-athletes should be able to pursue the same opportunities available to other students in general.

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- **6. Interpretations and Legislation Committee Update**. The Oversight Group received an update from ILC noting the committee's continuing NIL discussions include the following four issues:
  - a. <u>Trademarks</u>. Student-athlete trademark and logo access should be consistent with the general student-body. What does that mean, in practice, for Division III? Student-athletes should have access or institutional marks the same as students in general do.
  - b. <u>Inappropriate categories of promotion (e.g., tobacco, alcohol)</u>. ILC believes this is an institutional decision and did not feel there should be a specific list placed in the legislation.
  - c. <u>Pre-enrollment</u>. What NIL opportunities should be available to prospective student-athletes (PSAs) without affecting their subsequent Division III eligibility? ILC noted that PSAs should not be held to a higher than enrolled student-athletes.
  - d. <u>Compliance and education</u>. Additional discussion is necessary regarding how to best address the anticipated administrative and educational burden created for athletics staff and student-athletes by the implementation of this legislation.
- 7. **Divisional Comparison Chart.** Staff reviewed a comparison chart which reflects where each division currently is positioned regarding various NIL concepts. The working group noted that all divisions ultimately do not need to end up at exactly the same place; however, consistency is beneficial.
- **8.** Future Division III Meeting/Timetable.
  - a. May 27/28 NIL webinar on NADIIIAA platform.
  - b. June 1 Distribute NIL feedback form to presidents, ADs and commissioners.
  - c. June 19 NIL webinar on Regional Rules Seminar platform, including feedback results.
  - d. July 18-19 Division III Student-Athlete Advisory Committee.
  - e. July 20-21 Division III Management Council.
  - f. August 3– Division III Presidents Advisory Group.
  - g. August 5 Division III Presidents Council.

#### 9. Other Business.

None.

Report of the NCAA Division III Oversight Group to Implement Recommendations of Federal and State Legislative Working Group On NIL Page No. 3

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#### **10. Adjournment.** The meeting was adjourned at 11:58 a.m.

Committee Chair: Tori Murden McClure, Spalding University, St. Louis Intercollegiate Athletic

Conference

Staff Liaisons: Dan Dutcher, Division III Governance

Louise McCleary, Division III Governance Jeff Myers, Academic and Membership Affairs

#### NCAA Division III Oversight Working Group on NIL May 13, 2020, Teleconference

#### **Attendees:**

Heather Benning, Midwest Conference

Mary-Beth Cooper, Springfield College

Jackson Erdmann, Saint John's University, student-athlete

Jason Fein, Bates College

Braly Keller, Nebraska Wesleyan University, SAAC

Angela Marin, University of Texas at Dallas

Angie Morenz, Blackburn College

Tori Murden McClure, Spalding University

Daryl Sims, University of Wisconsin-Oshkosh

#### **Absentees:**

None.

#### NCAA Staff Support in Attendance:

Debbie Kresge, Louise McCleary, Jeff Myers, Ali Spungen and Jeremy Villanueva



## SUPPLEMENT NO. 03a DIII Oversight Working Group on NIL

#### Division III Name, Image and Likeness Survey Executive Summary

#### Introduction

The Division III governance structure administered an online survey of four key membership constituent groups in June 2020. The survey sought feedback on potential legislative concepts that would allow greater flexibility for a student-athlete to use their name, image and likeness (NIL) to promote their own business activities and to endorse third party products or services. The survey sought input on two concepts and four additional topics:

- <u>Concept 1</u>. Allow student-athletes to use their status as athletes to promote their own work product or service.
- <u>Concept 2</u>. Student-athletes may use their status as athletes to endorse third party products or services provided: (1) There is no institutional involvement in procuring promotional opportunities for student-athletes (except to the extent the institution is involved with assisting students generally); (2) NIL opportunities are not part of the recruiting process; and (3) Market rate is a tool to ensure compensation is not a substitute for pay for play.
- <u>Additional topics</u>. Categories of promotion, use of institutional marks, compliance, professional services.

Response Rate			
Role	N	% of Sample	
President/Chancellor	74	19	
Director of Athletics	243	63	
Conference Commissioner	40	11	
National SAAC Member	27	7	
Total	384	100	

#### **Findings**

#### <u>Concept 1 – Work Product and Service</u>:

- <u>Seventy percent or more</u> of survey respondents <u>agreed</u> student-athletes should be able to use their status as athletes to promote and monetize work products and services such as private lessons (89 percent), camps or clinics (79 percent), social media platforms (70 percent), creative endeavors (92 percent) and their own business (88 percent). The exception to this was payment for autographs (38 percent agreed, with approximately 18 percent undecided).
- There were minimal differences in response between the four constituent groups surveyed.

#### Concept 2 – Endorsements:

- <u>Two-thirds or more</u> of survey respondents <u>agreed</u> student-athletes should be able to use their status as athletes to be paid for appearances (66 percent), promote commercial products via social media platforms (71 percent), model or promote non-institutional athletic apparel or equipment (75 percent), promote third-party products or services via traditional commercials (71 percent) and provide testimonials for a product or service (74 percent).
- Differences in response were noted between the four constituent groups surveyed on two items:

	Percent Agreed			
	Presidents/ Chancellors	Directors of Athletics	Conference Commissioners	National SAAC
Activity				Members
Modeling/promoting non-institutional athletic apparel and equipment.	57	76	87	91
Providing testimonials for a product or service.	50	75	87	100

#### <u>Prohibition of Promoting Certain Types of Products or Services:</u>

• <u>Ninety percent</u> of survey respondents indicated there <u>should be legislation to prohibit</u> studentathletes from using their status as athletes to promote products and services such as alcohol, tobacco and sports gambling. There were minimal differences in response between the four constituent groups surveyed.

#### Use of Institutional Marks

- <u>More than half</u> of survey respondents indicated student-athletes <u>should be allowed to use institutional marks</u> in the promotion of their own work product or service as well as in third-party promotions. <u>Approximately one-third</u> indicated they <u>should not be allowed</u>.
- <u>Differences</u> on supporting the use of institutional marks in third-party promotions existed between presidents/chancellors (52 percent), directors of athletics (55 percent) and conference commissioners (35 percent).

#### Mandatory Reporting and Compliance Responsibilities

- <u>More than three-quarters</u> of survey respondents indicated student-athletes <u>should be required to report</u> to the institution all activities in which they are using their status as an athlete for promotional purposes.
- <u>90 percent</u> of survey respondents indicated the <u>Association should ensure</u> that member schools, conferences, and student-athletes have access to resources that will minimize the administrative and educational burden associated with the adoption and implementation of this legislation, including resources potentially provided by a third-party administrator.
- <u>Two-thirds or more</u> were <u>at least somewhat confident or confident</u> that Division III athletics departments can fulfill the various compliance responsibilities associated with these concepts including providing education to students, booster and staff, understanding and using the "market rate," ensuring consistency in the use of institutional marks with institutional policy and establishing a monitoring process.

	Percent		
Activity	Confident	Somewhat Confident	Not Confident
Providing education to student, boosters and staff	53	40	7
Understanding and using the "market rate" to ensure that compensation is not a substitute for "pay for play."	24	41	35
Ensuring the use of institutional marks is being done consistent with institutional policy.	41	40	19
Establishing a monitoring process for your department.	25	46	29

• Differences existed between the confidence of four constituent groups in the ability of their athletics department to fulfill three compliance responsibilities associated with these concepts:

	Percent Confident Category Only			
	Presidents/ Chancellors	Directors of Athletics	Conference Commissioners	National SAAC
Activity				Members
Providing education to student, boosters and staff	71	49	34	68
Understanding and using the "market rate" to ensure that compensation is not a substitute for "pay for play."	36	16	17	68
Establishing a monitoring process for your department.	45	18	14	50

#### **Professional Services**

• <u>More than 40 percent</u> of survey respondents indicated student-athletes <u>should be permitted</u> to engage professional services, including agents. An additional <u>30 percent</u> were <u>undecided</u>. There were minimal differences in response between the four constituent groups surveyed.

#### NCAA Division III NIL Survey Results June 16, 2020

#### **Survey Overview**

Viewed	Started	Completed	Completion Rate	Drop Outs (After Starting)	Average Time to Complete Survey
803	396	315	80.0%	81	9 minutes

#### What is your role?

Answer	Count	Percent
President/Chancellor	74	19.27%
Director of Athletics	243	63.28%
Conference Commissioner	40	10.42%
National SAAC Member	27	7.03%
Total	384	100%

#### **SURVEY QUESTIONS REGARDING CONCEPT 1:**

Please identify whether you agree, disagree, or are undecided regarding the following statements, consistent with the model and principles described above for Concept 1:

Student-athletes should be able to...

Use their status as athletes to promote their availability for private lessons.

Answer	Count	Percent
Agree	293	89.33%
Disagree	24	7.32%
Undecided	11	3.35%
Total	328	100%

Use their status as athletes to promote their own camp or clinic.

Answer	Count	Percent
Agree	259	79.20%
Disagree	44	13.46%
Undecided	24	7.34%
Total	327	100%

#### Monetize their social media platform in which they identify and promote themselves as athletes.

Answer	Count	Percent
Agree	228	69.51%
Disagree	63	19.21%
Undecided	37	11.28%
Total	328	100%

#### Be paid for their autographs.

Answer	Count	Percent
Agree	125	38.11%
Disagree	145	44.21%
Undecided	58	17.68%
Total	328	100%

## Use their status as athletes to promote their involvement in creative endeavors such as music, acting, writing and art.

Answer	Count	Percent
Agree	301	91.77%
Disagree	14	4.27%
Undecided	13	3.96%
Total	328	100%

#### Use their status as athletes to promote their own business.

Answer	Count	Percent
Agree	288	87.80%
Disagree	26	7.93%
Undecided	14	4.27%
Total	328	100%

## Use their status as athletes to promote other work products or services not mentioned in the examples above.

Answer	Count	Percent
Agree	232	70.73%
Disagree	31	9.45%
Undecided	65	19.82%
Total	328	100%

#### **SURVEY QUESTIONS REGARDING CONCEPT 2:**

Please identify whether you agree, disagree, or are undecided regarding the following statements, consistent with the model and principles described above for Concept 2:

Student-athletes should be able to...

Be paid for their appearance at a commercial establishment (e.g. car dealership, restaurant).

Answer	Count	Percent
Agree	211	65.94%
Disagree	68	21.25%
Undecided	41	12.81%
Total	320	100%

Promote commercial products via their social media platforms even if they are identified as athletes (e.g. brand ambassador).

Answer	Count	Percent
Agree	226	70.62%
Disagree	59	18.44%
Undecided	35	10.94%
Total	320	100%

Model/promote non-institutional athletics apparel and equipment regardless if they are identified as athletes or they were chosen due to athletics status.

Answer	Count	Percent
Agree	241	75.31%
Disagree	46	14.37%
Undecided	33	10.31%
Total	320	100%

Use their status as athletes to promote third party products or services via traditional commercials. (e.g. appear in radio commercial for local grocery store)

Answer	Count	Percent
Agree	228	71.47%
Disagree	55	17.24%
Undecided	36	11.29%
Total	319	100%

Provide testimonials for a product or service the student-athlete has used (e.g. endorsing a medical practice that was able to repair the student-athlete's knee and get them back on the field).

Answer	Count	Percent
Agree	234	73.58%
Disagree	57	17.92%
Undecided	27	8.49%
Total	318	100%

#### **Categories of Promotions**

Should the legislation prohibit student-athletes from using their athletics status to promote certain type of products or services (e.g. alcohol, tobacco, sports gambling)?

Answer	Count	Percent
Yes	285	90.76%
No	23	7.32%
Undecided	6	1.91%
Total	314	100%

#### **Use of Institutional Marks**

Should student-athletes be allowed to use institutional marks (e.g. logos, slogans) in the promotion of their own work product or service provided approval is obtained through established institutional processes in a manner consistent to students generally?

Answer	Count	Percent
Yes	175	55.91%
No	101	32.27%
Undecided	37	11.82%
Total	313	100%

Should student-athletes be allowed to use institutional marks (e.g., logos, slogans) in third party promotions provided approval is obtained through established institutional processes in a manner consistent to students generally?

Answer	Count	Percent
Yes	166	53.21%
No	102	32.69%
Undecided	44	14.10%
Total	312	100%

#### Compliance

Indicate your level of confidence in your athletics department fulfilling the following compliance responsibilities associated with these concepts.

Providing education to students, boosters and staff

Answer	Count	Percent
Confident	164	52.90%
Somewhat Confident	125	40.32%
Not Confident	21	6.77%
Total	310	100%

## Understanding and using the "market rate" to ensure that compensation is not a substitute to "pay for play."

Answer	Count	Percent
Confident	73	23.55%
Somewhat Confident	128	41.29%
Not Confident	109	35.16%
Total	310	100%

#### Ensuring the use of institutional marks is being done consistent with institutional policy

Answer	Count	Percent
Confident	128	41.29%
Somewhat Confident	124	40.00%
Not Confident	58	18.71%
Total	310	100%

#### Establishing a monitoring process for your department

Answer	Count	Percent
Confident	76	24.68%
Somewhat Confident	142	46.10%
Not Confident	90	29.22%
Total	308	100%

Should the proposed concepts require student-athletes to report to the institution all activities in which they are using their status as athletes for promotional purposes?

Answer	Count	Percent
Yes	246	79.10%
No	23	7.40%
Undecided	42	13.50%
Total	311	100%

The Association should ensure that member schools, conferences, and student-athletes have access to resources that will minimize the administrative and educational burden associated with the adoption and implementation of this legislation, including resources potentially provided by a third-party administrator.

Answer	Count	Percent
Yes	285	91.35%
No	7	2.24%
Undecided	20	6.41%
Total	312	100%

#### **Professional Services**

Should student-athletes be permitted to engage professional services, including agents, provided the agents are marketing the students NIL activities and not marketing the student-athlete's athletics ability or reputation with a professional sports team for purposes of obtaining a professional sports contract?

Answer	Count	Percent
Yes	136	43.73%
No	81	26.05%
Undecided	94	30.23%
Total	311	100%



# Division III Name, Image and Likeness Updates



## DIVISION III Proposed Legislative Concepts



## DIVISION II PROPOSED LEGISLATIVE CONCEPTS



## **Key Division III NIL Principles**

- Fair market rate will be one of the tools to ensure compensation isn't a substitute for pay for play.
- Institutions may only support a student-athlete's NIL activities to the extent they support students generally in their NIL activities.
- Student-athletes can access and use institutional marks to the extent students generally can so.
- Institutions may not use promotional opportunities as a recruiting inducement.



## **Key Division III NIL Principles**

- Specific reporting and disclosure requirements are necessary, but TBD.
- Student education and assistance will be necessary.
- Student use of agents, advisors and professional services to help with NIL activities is under review.



## **Key Division II NIL Principles**

- Fair market rate will be one of the tools to ensure compensation isn't a substitute for pay for play.
- Student-athletes can access and use institutional marks to the extent students can in accordance with institutional policy.
- Institutions may not use promotional opportunities as a recruiting inducement.
- Student-athletes may not miss class time for NIL activities.
- Student-athletes would be precluded from using their NIL to promote products or services not permitted by NCAA legislation, including sports wagering companies and banned substances.



## **Key Division II NIL Principles**

- Specific reporting and disclosure requirements are necessary.
- Institutions would be permitted to assist student-athletes in name, image or likeness activities but not arrange such opportunities. Permissible assistance would include, but would not be limited to, actions such as providing education on applicable NCAA rules, helping a student-athlete evaluate any compliance concerns with a particular opportunity, assistance with reporting expectations, and assistance with evaluation of professional service providers.
- Student-athlete use of agents, advisors and professional services to help with NIL activities would be permissible but are prohibited from hiring an agent for purpose of professional athletics opportunity.



## **DIII NIL Concept 1: Work Product and Service**

- Proposed concept: Student-athletes could use their status as athletes to promote their own work product or service. Institutions would only be permitted to support NIL opportunities for SAs in the same manner institutions support NIL opportunities for their students generally.
- Why: Student-athletes should be able to use their NIL in a similar manner as college students who are not student-athletes, unless there is a compelling reason to differentiate.

## **DIII NIL Concept 1: Work Product and Service**

- Examples to consider.
  - Promotion of private lessons.
  - Promotion of their own camp or clinic.
  - Monetize social media platform(s).
  - Paid for autographs.
  - Promotion of creative and/or academic endeavors.
  - Promotion of their own business.
  - General promotion of other work product or service.



## **Division II – Work Product and Service**

Same concepts as Division III

- Autographs: Permit student-athletes to be paid for autographs while not representing their institution. Student-athletes would be allowed to be compensated for autographs either in conjunction with an endorsement opportunity or independent of their institution.
- Sale of merchandise/memorabilia: Permit student-athletes to sell athletics apparel, used equipment and awards provided by the institution at any time in their career. Institutions would be responsible for educating student-athletes on which apparel items are expected to be retained for institutional events such as team travel and promotional activities.



## **DIII NIL Concept 2: Endorsements**

- <u>Proposed Concept</u>: Student-athletes may use their status as athletes to endorse third party products or services provided:
  - No institutional involvement in procuring promotional opportunities for student-athletes (except to the extent the institution is involved with assisting students generally).
  - NIL opportunities are not part of the recruiting process.

Additionally, market rate is a tool to ensure compensation is not a substitute for pay for play.



## **DIII NIL Concept 2: Endorsements**

 Why: Student-athletes should be able to use their NIL in a similar manner as college students who are not student-athletes, unless there is a compelling reason to differentiate.

## **DIII NIL Concept 2: Endorsements**

- Examples to consider.
  - Payment for appearance at a commercial establishment (e.g., car dealership, restaurant).
  - Promotion of commercial products via social media platforms (e.g., brand ambassadors).
  - Model/promote non-institutional athletics apparel and equipment.
  - Promotion of third-party products or services via traditional commercials.
  - Provide testimonials for a product or service.



## **Division II -- Endorsements**

Same concepts as Division III



## **Division III Additional Considerations**

- Prohibition of promoting certain types of products or services (e.g., alcohol, tobacco, sports gambling).
- Use of institutional marks (e.g., logos and slogans).
- Compliance and educational responsibilities.
- Mandatory reporting.
- Professional services (e.g., engagement of professional services, including agents).

## **Survey Feedback**

- Concept #1—Work Product and Service. Broad support, except for autographs.
- Concept #2—Endorsements. Broad support.
- Prohibition of promoting certain types of products or services (e.g., alcohol, tobacco, sports gambling). Strong support.
- Use of institutional marks (e.g., logos and slogans). Strong support for Concept
   1. Lesser but still majority support for Concept 2.

## Survey Feedback, continued...

- Mandatory reporting and compliance responsibilities. Broad support, esp. for additional resources from NCAA and/or 3<sup>rd</sup> party to reduce administrative burden.
- Professional services (e.g., engagement of professional services, including agents). Undecided and need for more information.

## **Next Steps and Timeline**

- Additional committee review (early-mid July).
- Final SAAC, MC, PAG and PC review (mid-July/early August).
- Proposed legislation at 2021 NCAA Convention.

## **Division II – Next Steps and Timeline**

Survey feedback received in early June

June 22-23 – Legislation Committee recommendations

 July-August – SAAC, Management Council and Presidents Council review and final action

January 2021 – Convention vote by DII membership



## NCAA Division I Name, Image and Likeness Legislative Solutions Group Update

NC44

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#### Categories of Name, Image and Likeness **NIL Activities** without Institutional Involvement Third Party Promotional Activities (includes both Student-Athlete Athletically and commercial and \*charitable endorsements) **Nonathletically Related Business Activities** Includes compensation for endorsement of a commercial and/or Fee for lessons and camps and clinics. charitable, educational or nonprofit entity. Promotion of a student-athlete's athletically or Institutions may not be involved in securing the arrangement for a nonathletically related business activities student-athlete. Sale of memorabilia owned by the student-athlete. No institutional marks may be used. Modeling noninstitutional athletics and nonathletics apparel. Endorsement of a commercial product or service. Personal appearances. NC44

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