

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:

- Concept 1. Allow student-athletes to use their status as athletes to promote their own work product or service.
- Concept 2. 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.
- Additional topics. 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

Concept 1 – Work Product and Service

- Seventy percent or more of survey respondents agreed 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

- Two-thirds or more of survey respondents agreed 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:

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

Prohibition of Promoting Certain Types of Products or Services

- Ninety percent of survey respondents indicated there should be legislation to prohibit student-athletes 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

- More than half of survey respondents indicated student-athletes should be allowed to use institutional marks in the promotion of their own work product or service as well as in third-party promotions. Approximately one-third indicated they should not be allowed.
- Differences 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

- More than three-quarters of survey respondents indicated student-athletes should be required to report to the institution all activities in which they are using their status as an athlete for promotional purposes.
- 90 percent of survey respondents indicated 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.
- Two-thirds or more were at least somewhat confident or confident 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.

Activity	Percent		
	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:

Activity	Percent Confident Category <u>Only</u>			
	Presidents/ Chancellors	Directors of Athletics	Conference Commissioners	National SAAC 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

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