



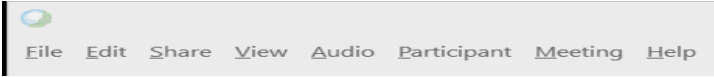
Division III Webinar

Name, Image and Likeness Updates

Dan Dutcher and Jeff Myers

We will begin at promptly 1 p.m. (EST). Please MUTE your phone and/or the audio on your computer.

Webinar Instructions

- If using a computer, click on the audio link at the top of the screen.  Choose audio connection and then select call using computer. Turn off the computer video and make sure the sound is off.
- If your computer audio isn't working, please call 1-844-621-3956 and enter access code: 807 735 397.
- Please mute your phone.
- The PowerPoint is posted on the Division III homepage, [DIII Webinars Link](#), on ncaa.org.

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Agenda

- Background.
- Key Association-wide principles.
- Legislative definitions and bylaws.
- Prominent Division III NIL issues.
- Legislative Concepts.
- State and Federal Legislative Landscape.
- Next steps and timeline.

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Background

Background:

- In May 2019, BOG created an A-wide working group.
- Trigger: State (California) and federal draft legislation.
- Reviewed existing NIL legislation and recent waiver and interpretation trends.
- In Oct., BOG voted to permit student-athletes to benefit from the use of their NIL consistent with the collegiate model.

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Background

- The BOG charged each division with modernizing its rules within a collegiate framework.
- Division III will determine its best course of action.
 - Held two educational webinars in November.
 - Created Division III-specific Oversight Group.
 - Discussed and received feedback at 2020 Division Convention Issues Forum.
 - SAAC discussed in Jan. and ILC in Feb.

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Key Association-Wide Principles

- BOG determined that status quo is not an option, and that the following Association wide principles should guide the divisional review:
 - Compensation to student-athletes for use of their name, image or likeness should not be pay for athletics performance or participation; nor should the payments serve as an inducement to select a particular school.

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Key Association-Wide Principles (cont..)

- Regulation of a student-athlete's name, image or likeness use should be transparent, narrowly tailored and enforceable, and it should facilitate the principle of fair competition among schools in a division, including the integrity of the recruiting process.
- Student-athletes should be able to use their name, image or likeness similar to college students who are not student-athletes, unless there is a compelling reason to differentiate.

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Legislative Definition

NIL is a concept based on laws defining “rights of publicity” or when permission is required to use someone’s name, image or likeness.



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NIL and NCAA Bylaws

- Student-athletes may not participate in promotional activities unless specifically allowed by NCAA legislation. (Bylaw 12.5.1)
- Specific exceptions allowing use of the student-athlete's NIL:
 - Institutional, charitable, educational and non-profit use.
 - Modeling and other non-athletically related promotional activity.
 - Media activities.
 - Student-athlete's own business.

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Modeling and other non-athletically related promotional activity

Can accept pay for use of NIL to promote the sale or use of a commercial product provided:

- Student-athlete became involved in activity for reasons independent of athletics ability;
- No reference is made in these activities to the student-athlete's involvement in intercollegiate athletics; and
- Pay is commensurate with the student-athlete's skill and experience as a model and is not based on athletics ability or reputation.

Bylaw 12.5.1.3

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Media Activities

- Student-athlete may participate in media activities (e.g. appearance on radio, television, in films or stage productions, or participate in writing projects) even when appearance/participation is related to athletics and may receive the following:
 - Legitimate and normal expenses; and
 - Compensation commensurate with the going rate.

Also, student-athlete's name may be used to advertise participation, but status as a student-athlete may not be used for promotional purposes.

Bylaw 12.5.2

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Student-Athlete's Business

Student-athletes may establish and promote their own business but may not use their status as a student-athlete to promote the business.



*Official Interpretation
February 1, 2007*

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Prominent Division III NIL Issues

1. Crowdfunding.
2. Testimonials.
3. Brand ambassadors.
4. Private lessons.



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Crowdfunding

- Concerns student-athletes seeking donations for a great variety of personal expenses.
- Can they use their NIL to seek these donations?
 - Student-athletes can crowdfund generally.
 - Student-athletes can't use status as student-athlete to crowdfund for own expenses.
 - Student-athletes can't crowdfund for tuition or individual athletic expenses.
 - Coaches and boosters can't contribute to a student-athlete's crowdfunding campaign.

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Testimonials

- Can a student-athlete endorse a product or service they have used?
 - A student-athlete cannot take part in such promotions if they became involved due to their status as a student-athlete.
 - A student-athlete may not use status as an athlete to promote commercial ventures.

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Brand Ambassadors

- Student-athletes are approached by clothing/gear/other companies to use/wear/promote different products. Social media is a popular avenue to use for the product promotion.
- Division III analysis:
 - Student-athletes must have become involved in the ambassadorship for reasons other than their status as a student-athlete.
 - The student-athlete's social media account used for the ambassadorship may not have any reference to their status as a student-athlete.

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Private Lessons

- Student-athletes may earn money by teaching lessons in their sport, provided:
 - Student-athletes may only be paid for work performed and only at the going rate;
 - Student-athletes may not market themselves as student-athletes.
 - Student-athletes may not conduct their own camp or clinic.

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Legislative Concepts Proposed by the Division III Interpretations and Legislation Committee

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Concept 1: Academics and Work Product

- Student-athletes may use their status as athletes to promote their own work product, business or service especially if academic based.
- Institutions should only be involved to the extent that they are involved with students generally.

Initial support: ILC; SAAC.

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Examples of Academic and Work Product

- Academic research, book publishing, class projects, tutoring, creative endeavors, private lessons, personal business, autographs, media activities.

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Concept 2: Endorsements

- Student-athletes may use their status as an athlete to endorse third party products or services provided:
 - Payment is commensurate with the going rate.
 - No institutional involvement in procuring opportunities and must treat student-athletes similar to the student body.
 - Opportunities are not part of the recruiting process.

Initial support: ILC; SAAC.

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Examples of Endorsements

- Commercials, testimonials, brand ambassador, personal branding, modeling, appearances.

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Additional Considerations

- Crowdfunding.
- Reporting/monitoring processes.

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State Legislative Landscape

- Since the passing of CA SB 206, 34 states have introduced NIL related legislation.
- Each state and bill has varying legislative provisions and effective dates.
- 1 bill with a delayed effective date has been signed into law (CO).
- 1 bill with a delayed effective date has passed both chambers (FL).
- 5 bills have passed the first chamber (AZ, HI, KS, IL, NJ).
- 1 bill in NE (unicameral legislature) is on its third reading.

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Federal Legislative Landscape

- HR 1804 Student-Athlete Equity Act (Rep. Walker R-NC-06)
- HR 5528 Congressional Advisory Commission on Intercollegiate Athletics Act (Rep. Shalala D-FL-27).
- Senate Subcommittee on Manufacturing, Trade and Consumer Protection Hearing.

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Next Steps and Timeline

- Key governance review committees.
 - SAAC, ILC, SLR and SAR.
- Division III Oversight Committee review. (April 10)
- Management and President Council initial review in April.
- Seek additional membership feedback.
- Additional committee review.
- Final MC and PC review in July/August.
- Proposed legislation at 2021 NCAA Convention.

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Ways You Can Help

- Discuss the concepts and other areas identified by ILC.
- Share your thoughts (academic and work product; endorsements).
- Be ready for the “next round” of information coming from the April Council meetings.
- Additional feedback topics:
 - Pre-enrollment.
 - Disclosure and monitoring.
- For suggestions/feedback email: [Submittable Form](#).

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Questions?

- All questions, must be submitted via your computer, using the following instructions:
 - Click on the chat icon – near the top of your screen. It will open a text box at the bottom of your computer screen.
 - Type in message and click on send.

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