



Division III December Webinar

Name, Image and Likeness

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Name, Image and Likeness

What are we talking about?

- Any activity that involves the use of a student-athlete's name, image and likeness for promotional purposes.

Background

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

Background (cont.)

- December 2019, Division III created an Oversight Group.
- Discussed and received feedback at 2020 NCAA Convention.
- Student-Athlete Advisory Committee discussed in January 2020.
- Interpretations and Legislation Committee developed concepts in February 2020 based on the membership and SAAC feedback.
- In April 2020, the BOG received the Federal and State Legislation Working Group's final [report](#) and charged each division with modernizing its rules within a collegiate framework.

Background (cont.)

- In April, SAAC, Management and Presidents Council reviewed and endorsed the concepts.
- Held a series of educational webinars.
- In early June, Division III NIL Oversight Group distributed a feedback form to the membership.
- During the summer Council meetings, finalized the legislative proposal to vote on at the 2021 NCAA Convention.

Key Association-Wide Principles

- Board of Governors 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.

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.

NIL Concepts

- Concept No. 1 - Work Product or Service: Student-athletes could use their status as athletes to promote their own work product or service.
- Concept No. 2 - Endorsements: Student-athletes may use their status as athletes to endorse third-party products or services.

NIL Concept No. 1: Work Product or 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.

NIL Concept No. 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 noninstitutional athletics apparel and equipment.
 - Promotion of third-party products or services via traditional commercials.
 - Provide testimonials for a product or service.

NIL Concepts: General Limitations

- May not be used as a recruiting inducement.
- Institutions may not be involved in the development, operation or promotion of a student-athlete's work product or service or facilitating promotional opportunities, except to the extent they are involved in these activities for students generally.
- Student-athletes may not promote commercial products prohibited by NCAA or by the institution.

NIL Concepts: Institutional Involvement

- Providing educational programming on NIL and associated regulations.
- Assisting in evaluating opportunities.
- Assistance with reporting expectations.
- Assistance with evaluation of professional service providers.

Use of Institutional Marks

Any protected name or identifying mark (e.g. logo, seal, protected verbiage ordinarily requiring licensing prior to commercial use):

- May be used to the same extent as student generally may use.
- May not use team uniforms/athletics apparel in promotional activities.

Compliance Responsibilities

- No mandatory reporting requirements.
- Compliance responsibilities similar to other NCAA regulated areas (e.g. education and monitoring).
- Third party compliance.
- Educational materials.

Professional Service Providers

- Tax advisors, marketing consultant, attorney, etc.
- Agent for marketing NIL, not for securing professional sports opportunities.
- Institution may assist in vetting professional service providers through a NIL counseling panel.
 - May not identify or select a professional service provider.

Boosters

- May hire student-athletes to promote business.
- May purchase student-athlete's product or service.
- May serve as a professional service provider for student-athlete NIL opportunities. (Extra benefit analysis would still be applicable.)
- May NOT offer promotional opportunities as part of recruiting process.

NIL: Next Steps

- Membership vote at the virtual 2021 NCAA Convention.
- Effective date is August 1, 2021.

Questions?

- All questions, must be submitted via your computer, using the following instructions:
 - Click on the chat icon.
 - Type in message and click on send.