



NCAA Division III Interpretations and Legislation Committee
Institutional Involvement in a Student-Athlete's Name, Image and Likeness Activities
April 18, 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.*