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**Supplemental Materials
Tax, Ethics, and Other Legal Issues in Student-
Athlete NIL Deals**

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Interim NIL Policy

The NCAA is committed to ensuring that its rules, and its enforcement of those rules, protect and enhance student-athlete well-being and maintain national standards for recruiting. Those goals are consistent with the NCAA's foundational prohibitions on pay-for-play and impermissible recruiting inducements, which remain essential to collegiate athletics.

As the NCAA continues to work with Congress to adopt federal legislation to support student-athlete use of NIL, it is necessary to take specific, short-term action with respect to applicable NCAA rules. Accordingly, effective July 1, 2021, and until such time that either federal legislation or new NCAA rules are adopted, member institutions and their student-athletes should adhere to the guidance below:

1. NCAA Bylaws, including prohibitions on pay-for-play and improper recruiting inducements, remain in effect, subject to the following:

- **For institutions in states without NIL laws or executive actions or with NIL laws or executive actions that have not yet taken effect**, if an individual elects to engage in an NIL activity, the individual's eligibility for intercollegiate athletics will not be impacted by application of Bylaw 12 (Amateurism and Athletics Eligibility).
- **For institutions in states with NIL laws or executive actions with the force of law in effect**, if an individual or member institution elects to engage in an NIL activity that is protected by law or executive order, the individual's eligibility for and/or the membership institution's full participation in NCAA athletics will not be impacted by application of NCAA Bylaws unless the state law is invalidated or rendered unenforceable by operation of law.
- Use of a professional services provider is also permissible for NIL activities, except as otherwise provided by a state law or executive action with the force of law that has not been invalidated or rendered unenforceable by operation of law.

2. The NCAA will continue its normal regulatory operations but will not monitor for compliance with state law.

3. Individuals should report NIL activities consistent with state law and/or institutional requirements.





Interim Name, Image and Likeness Policy Guidance Regarding Third Party Involvement

Background.

Effective July 1, 2021, the National Collegiate Athletic Association (NCAA) adopted the Interim Name, Image and Likeness (NIL) Policy allowing NCAA student-athletes the opportunity to benefit from their NIL. The NCAA Division I Council Working Group on Name, Image and Likeness recognizes that many student-athletes are benefiting positively from NIL opportunities consistent with the Interim NIL Policy. The working group believes 10 months into the new NIL environment is an appropriate time to review the emerging NIL environment and whether NIL activities are impacting school choice and transfer, particularly relating to the involvement of individuals and entities that promote or support a specific institution.

As noted in the NCAA Division I Board of Directors' charge, the expectation of the membership and representatives of their athletics interests is that they are abiding by current NCAA rules regarding recruiting and pay-for-play. In order to reinforce key principles of fairness and integrity across the NCAA and maintain rules prohibiting improper recruiting inducements and pay-for-play, the working group offers the guidance below on how current NCAA legislation applies to the NIL environment, specifically to third parties involved in the recruiting process.

Third Parties Defined as Boosters.

As a starting point, it is important to understand how a representative of athletics interests (booster) is defined by NCAA legislation. A **booster** is, in part, defined as an individual, independent agency, corporate entity (e.g., apparel or equipment manufacturer) or other organization who is known (or who should have been known) by a member of the institution's executive or athletics administration to have participated in or to be a member of an agency or organization promoting the institution's intercollegiate athletics program or to assist or to have assisted in providing benefits to enrolled student-athletes or their family members.

It appears that the overall mission of many, if not all, of the above-referenced third party entities is to promote and support a specific NCAA institution by making available NIL opportunities to prospective student-athletes (PSA) and student-athletes (SAs) of a particular institution, thereby triggering the definition of a booster.

With this in mind, NCAA rules related to the involvement of boosters in recruiting activities remain relevant to the Interim NIL Policy. Specifically, NCAA rules preclude boosters from engaging in recruiting activities, including recruiting conversations, on behalf of a school. Further, NCAA recruiting rules preclude boosters from providing benefits to PSAs and preclude institutional staff members from being involved, directly or indirectly, with the provision of benefits to a PSA. Finally, it is important to note that existing NCAA prohibitions related to pay-for-play have not changed as a result of the Interim NIL Policy.

Guidance Related to Prospective Student-Athletes.

- Recruiting conversations between an individual or entity that has triggered booster status ("booster/NIL entity") and a PSA are **not** permissible.

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