

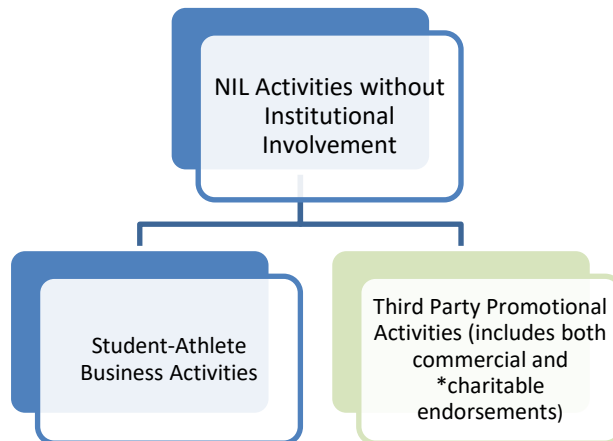
NCAA Division I Name, Image and Likeness Legislative Solutions Group

Name, Image and Likeness Overview of Concepts

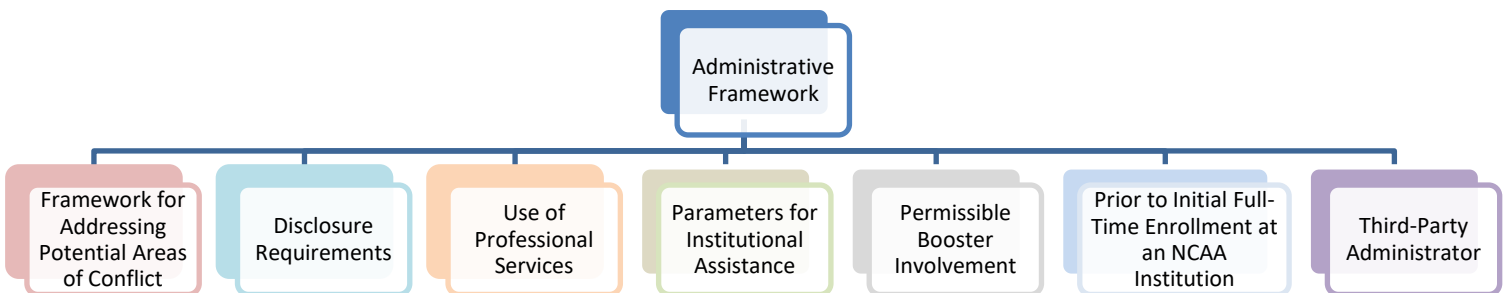
Last Updated: July 2020

Following the referral from the NCAA Board of Governors for all divisions to immediately consider legislative changes to allow student-athletes the opportunity to benefit from the use of their names, images or likenesses consistent with the collegiate model, the NCAA Division I Council and Board of Directors formed the NCAA Division I Name, Image and Likeness Legislative Solutions Group and charged it with the review of issues related to name, image and likeness. The Legislative Solutions Group has developed a concept that would permit Division I student-athletes to benefit from the use of their names, images and likenesses consistent with the Board of Governors' principles and guidelines. This summary document is intended to provide a broad overview of the legislative concept developed by the Legislative Solutions Group. Note that the concept is intended to apply to activities in which a student-athlete receives compensation for the use of their name, image and likeness. NCAA Bylaw 12.5.1.1 (or a future modified version) continues to apply to institutional, charitable, education or nonprofit promotional activities in which the student-athlete is not compensated. Feedback on the concept may be provided directly to members of the NCAA Division I governance staff, the Legislative Solutions Group or to your conference. The Legislative Solutions Group will continue to refine the concepts leading up to a vote by January 2021.

Categories of NIL Activities.



*This concept includes charitable endorsements in which a student-athlete receives compensation for the use of their name, image and likeness. Bylaw 12.5.1.1 (or a modified version) continues to apply to promotional activities in which the student-athlete is not compensated.



NIL Categories.

A. Student-Athlete Business Activities.

A student-athlete may use their name, image and likeness to promote their athletically and nonathletically related business activities (e.g., products, services, camps/clinics, personal appearances). A student-athlete’s promotion of their business activity may include a reference to the student-athlete’s involvement in intercollegiate athletics and a reference to the institution they attend, consistent with institutional policies applicable to any student. However, no institutional marks may be used in such promotional activities.

1. Fee for Lessons and Camps and Clinics.

Legislation	Although current legislation permits student-athletes to receive compensation for teaching private lessons, they are not permitted to use their names, pictures or appearances to promote the availability of such lessons. Further, student-athletes are precluded from conducting their own camps or clinics.
Possible Change	<ul style="list-style-type: none"> • Permit student-athletes to use their names, images and likenesses to promote the availability of private lessons, as well as operate their own camps and clinics. • If institutional facilities are used, a student-athlete must follow all applicable institutional processes for renting facility space in a manner consistent with the general public.
Rationale	Permitting student-athletes to use their names, images and likenesses to promote the availability of private lessons and allowing them to run their own camps and clinics will provide additional employment opportunities. Student-athletes should be permitted to capitalize on their subject matter expertise to offer lessons, as well as camps and clinics, to the general public.

2. Promotion of a Student-Athlete’s Athletically or Nonathletically Related Business.

Legislation	In accordance with current legislation, student-athletes may not use their names, images and likenesses to promote their own products or services. NCAA staff has routinely approved legislative relief waivers to permit student-athletes to use their names, images and likenesses to promote their own nonathletically related products or services. The recommendation would go beyond the waiver relief and would permit the use of a student-athlete’s name, image and likeness for athletically related business activities, as well.
Possible Change	<ul style="list-style-type: none"> • Permit a student-athlete to use their name, image and likeness to promote the student-athlete’s own athletically or nonathletically related business activities and include their status as a student-athlete and institutional affiliation in any such promotions subject to institutional policy. • The use of institutional marks in such promotions would not be permitted. • General items (e.g., memorabilia) purchased by a student-athlete through normal retail sales and resold will be subject to the business activities parameters. Those parameters would preclude institutional involvement in the activity (e.g., special discounts afforded to the student-athlete) and institutional repurchase of the products. Such items may be sold at any time, subject to appropriate guardrails, including institutional parameters related to the resale of items that include institutional marks and disclosure of the sale.
Rationale	Allowing student-athletes to use their names, images and likenesses to promote their own business activities will provide student-athletes the opportunity to pursue entrepreneurial activities in the same manner as their peers who are not student-athletes.

3. Autographs.	
Legislation	Student-athletes are not permitted to be paid for their autographs.
Possible Change	<ul style="list-style-type: none"> • Permit student-athletes to be paid for their autographs on items they own, or items owned by those seeking the autographs. • A student-athlete would not be permitted to receive compensation for signing an autograph while participating in required athletically related activities or otherwise representing the institution. • The Legislative Solutions Group generally supports permitting the opportunity for student-athletes to benefit from the sale of their autographs as a business activity of their own or in conjunction with a commercial endorsement and will continue to develop appropriate guardrails, such as defined parameters for when and where such sales would be permitted. Sales of autographs would be subject to disclosure requirements.
Rationale	Permitting student-athletes to sell their autographs provides the opportunity for student-athletes to be treated in the same manner as students with notable accomplishments.

4. Crowdfunding.	
Legislation	A student-athlete may not use their name, picture or athletics reputation to solicit funds through a personal online profile or crowdfunding site, except as permitted by NCAA legislation. Current legislation allows student-athletes to crowdfund for nonprofit or charitable organizations and in response to extreme circumstances; however, the organization or institution must arrange and oversee the fundraiser. Further, student-athletes are permitted to crowdfund to cover actual and necessary outside competition-related expenses.
Possible Change	<p>Permit student-athletes to solicit funds through crowdfunding sites for the following purposes without the institution arranging such fundraisers:</p> <ol style="list-style-type: none"> a. Nonprofit or charitable organizations; b. Catastrophic events; and c. Family hardship. <p>Permit student-athletes to solicit funds through crowdfunding sites for the following purposes, provided there is no institutional involvement:</p> <ol style="list-style-type: none"> a. Seed money for business ventures; and b. Nontraditional educational expenses (e.g., mission trips, internships). <ul style="list-style-type: none"> • This change maintains current restrictions on personal fundraising for traditional elements of financial aid (e.g., tuition, fees, room and board).
Rationale	Permitting student-athletes to use their names, images and likenesses for crowdfunding allows student-athletes to engage in activities in the same manner as their peers who are not student-athletes, supports student-athlete well-being and removes bureaucracy surrounding such activities.

B. Third Party Promotional Activities.
Includes compensation for endorsement of a commercial and/or charitable, educational or nonprofit entity. Institutions may not be involved in securing the arrangement for a student-athlete. A student-athlete would be permitted to reference their involvement in intercollegiate athletics generally but would not be permitted to reference their status as a student-athlete at a particular institution.

1. Endorsement of a Commercial Product or Service – General.	
Legislation	<p>Current legislation restricts a student-athlete from using their name, image or likeness to promote a commercial product or service.</p> <p>While enrolled at an NCAA institution, a student-athlete may not receive payment from or permit the use of their name or picture to advertise, recommend or promote directly the sale or use of a commercial product or service of any kind unless such activity meets the exception for continuation of modeling and other nonathletically related promotional activities.</p> <p>In addition, current legislation does not permit a student-athlete to receive compensation from an employer because of the publicity, reputation, fame or personal following that they have obtained because of athletics ability. Further, a student-athlete may not use their name, image and likeness to promote the sale of athletics equipment.</p>
Possible Change	<ul style="list-style-type: none"> • A student-athlete could be compensated for the use of their name, image or likeness to advertise or promote the sale or use of athletically and nonathletically related commercial products or services, provided: <ol style="list-style-type: none"> a. No institutional marks are used; b. The institution is not involved in the development or promotion of the activity; c. The institution is not involved in the arrangement or development of the relationship between the student-athlete and an involved individual or commercial entity; and d. No institutional facilities are used. • A student-athlete would be permitted to reference their involvement in intercollegiate athletics generally but would not be permitted to reference their status as a student-athlete at a particular institution.
Rationale	<p>Student-athletes should be permitted to take advantage of opportunities to be compensated in the same ways as are available to nonstudent-athletes. As technology continues to evolve, such opportunities will continue to increase, particularly through the use social media.</p> <p>In addition, permitting student-athletes to model any apparel, including athletics apparel, will allow them to take advantage of any opportunity of this nature without concern for their eligibility. Additionally, such a change would reduce monitoring burden as it will eliminate the need to educate student-athletes regarding the type of modeling that is permissible.</p>

2. Personal Appearances.	
Legislation	Current legislation restricts a student-athlete from using their name, image or likeness to promote a commercial product or service, including receiving payment for personal appearances.
Possible Change	<ul style="list-style-type: none"> • Permit student-athletes to be compensated for personal appearances, including those at commercial locations and/or charitable, educational or nonprofit agencies. • The student-athlete would not be permitted to reference their institution and no institutional marks could be used in such appearances.
Rationale	<p>Many student-athletes may have limited opportunities in their lifetimes to profit from their names, images and likenesses. If a market exists for a student-athlete to be compensated for an appearance, they should be permitted to capitalize on that potential, provided the compensation is not an inducement to attend an institution or “pay for play” compensation. Moreover, an institution is permitted to request student-athletes to appear voluntarily on its behalf as part of being a member of an athletic team (e.g., institution fundraiser). Allowing student-athletes to be compensated for their independent appearances provides opportunities outside of official institutional appearances.</p>

Administrative Framework.

1. Potential Areas of Conflict.	
Legislation	Institutions are currently permitted to establish institutional policies and codes of conduct that may be more restrictive than NCAA legislation in a number of areas.
Possible Change	<ul style="list-style-type: none"> • Legislation would specify that name, image and likeness activities within certain categories are not appropriate within the collegiate model. Specifically, legislation would prohibit a student-athlete from engaging in name, image and likeness activities involving a commercial product or service that conflicts with NCAA legislation (e.g., sports wagering, banned substances). • An institution could prohibit, at its discretion, a student-athlete’s involvement in name, image and likeness activities that conflict with existing institutional sponsorship arrangements. • An institution, at its discretion, could prohibit a student-athlete’s involvement in name, image and likeness activities based on other considerations, such as conflict with institutional values, as defined by the institution. • Legislation would require institutions to have policies that set forth the name, image and likeness activities in which student-athletes may or may not engage. • Institutions could be required to provide its institutional policies regarding prohibited name, image and likeness categories to prospective student-athletes during the recruiting process.
Rationale	It is appropriate for legislation to address areas of conflict between a student-athlete’s potential name, image and likeness activities and the values of the institution, conference and the NCAA.

2. Use of Professional Services.	
Legislation	<p>Currently, an individual becomes ineligible for participation in intercollegiate athletics if they enter into an agreement with or receives benefits from an agent.</p> <p>An agent is currently defined as any individual who, directly or indirectly: (a) Represents or attempts to represent an individual for the purpose of marketing their athletics ability or reputation for financial gain; or (b) Seeks to obtain any type of financial gain or benefit from securing a prospective student-athlete’s enrollment at an educational institution or from a student-athlete’s potential earnings as a professional athlete</p>
Possible Change	<ul style="list-style-type: none"> • Legislation would permit a student-athlete to receive the following services, to be provided by a variety of professional service providers: <ul style="list-style-type: none"> a. Advice regarding name, image and likeness activities; b. Representation in contract negotiations related to name, image and likeness activities; and c. Marketing of the student-athlete’s name, image and likeness activities. • Use of Institutional Employees or Independent Contractors. Permissible professional service providers, for the purpose of name, image and likeness activities, should be limited to providers who are not employees or independent contractors of the institution. Companies that contract with an institution for the primary purpose of providing products, not services, should not be deemed to be independent contractors for purposes of the professional service provider recommendations. • Institutional Involvement with Professional Service Providers. Limited institutional involvement with professional service providers would be permitted. Specifically, institutions would be permitted to assist student-athletes with vetting professional services providers, similar to the activities that are

	<p>currently permissible for institutional professional sports counseling panels related to a student-athlete’s professional sports opportunities. However, institutional involvement in identifying, selecting, arranging or providing payment for professional service providers related to name, image, likeness activities would not be permitted.</p> <ul style="list-style-type: none"> • Disclosure. Student-athletes would be required to disclose any relationships with professional service providers as a part of the overall disclosure process for name, image and likeness activities. • Fees and Financial Arrangements. A student-athlete would be required to pay the going-rate for assistance provided by a professional service provider pursuant to a standard financial arrangement (e.g., flat fee, profit share, pro bono, upfront guarantee) with the service provider. Further, a student-athlete would be permitted to receive the same benefits (e.g., meals, copies, mailing) from a professional service provider that a general client could receive.
Rationale	<p>Any use of a student-athlete’s name, image or likeness for an activity that has an athletics nexus could result in the student-athlete being paid, at least in part, due to their athletics reputation. Many of these activities will necessitate a student-athlete securing professional services to navigate a complex business environment. The Legislative Solutions Group has noted the importance student-athletes receiving guidance from qualified professionals in name, image and likeness activities, while upholding the collegiate model by not allowing an agent to promote the student-athlete’s athletics ability for future professional sports opportunities.</p>

3. Parameters for Institutional Assistance.	
Legislation	<p>Current legislation permits institutions to provide general support and education to student-athletes on a variety of topics.</p>
Possible Change	<ul style="list-style-type: none"> • Neither the institution nor a member of the institution’s staff, including contractors, may be involved in the development, operation or promotion of a student-athlete’s business activity. Examples of activities that would constitute impermissible institutional involvement in a student-athlete’s name, image and likeness activity include, but are not limited to: <ol style="list-style-type: none"> a. Institutional purchase of a student-athlete’s work product or service. b. Use of institutional facilities. c. Use of institutional marks. • Business activities developed as part of the student-athlete’s coursework or academic program are not subject to these restrictions, provided such institutional assistance (e.g., access to institutional facilities, development assistance) is extended to all participating students in the course or program. • It would be impermissible for institutions, or third parties hired by the institution, to be involved in identifying or securing name, image or likeness opportunities for a student-athlete (e.g. pairing a student-athlete with a company seeking a student-athlete for an advertisement). • Institutions would be encouraged, though not required, to provide comprehensive education to their student-athletes regarding name, image and likeness activities. The following activities would be permitted without triggering an impermissible institutional involvement in a student-athlete’s name, image and likeness activity: <ol style="list-style-type: none"> 1. Providing educational programming on name, image and likeness and associated regulations. 2. Assisting in evaluating opportunities, including compliance elements (e.g., booster engagement). 3. Assistance with disclosure expectations.

	4. Assistance with evaluation of professional service providers.
Rationale	To fall into the category of “no institutional involvement,” at a minimum, an institution may not be involved in the development, operation or promotion of a name, image or likeness activity. In addition, it would not be permissible for institutional marks or institutional facilities to be used. The Legislative Solutions Group noted that it is in the best interests of student-athlete well-being for institutions to be permitted to provide some assistance and support to student-athletes involved in name, image and likeness activities to facilitate appropriate compliance, ensure integrity and protect student-athlete well-being.

4. Prior to Enrollment at an NCAA Institution.	
Legislation	Many areas of current legislation, including amateurism regulations, outline separate standards for activities that occur prior to enrollment at an NCAA institution.
Possible Change	Pre-enrollment name, image and likeness rules should align with those that would apply to enrolled student-athletes.
Rationale	This regulatory approach to name, image and likeness addresses both prospective student-athletes and student-athletes given that name, image and likeness-related relationships and agreements can form well before collegiate enrollment. This model would ensure consistency and clarity for prospective student-athletes and student-athletes, as well as individuals involved in name, image and likeness-related activities (e.g., professional service providers). It also minimizes the risk of prospective student-athletes entering into agreements or relationships before full-time enrollment that could render them ineligible when they become student-athletes.

5. Permissible Involvement of Boosters.	
Legislation	Current legislation precludes a representative of athletics interests (booster) from providing student-athletes any benefit not expressly permitted by NCAA legislation. In addition, boosters are precluded from providing inducements to prospective student-athletes.
Possible Change	<ul style="list-style-type: none"> • Current legislation would continue to apply with the Legislative Solutions Group’s name, image and likeness concepts. Boosters would be permitted to engage in name, image and likeness activities with student-athletes, provided no improper inducements or extra benefits are provided. • Continued discussion may occur related to whether potential narrowing of the definition of a booster is appropriate given the broad definition of booster and the fact that there will be no prohibition on a booster being a consumer of a student’s services or products. • Disclosure requirements will be important as a safeguard to address concerns about inappropriate booster engagement with prospective student-athletes.
Rationale	Integrity and disclosure requirements are designed to monitor and minimize impermissible booster activity and recruiting inducements. The Legislative Solutions Group recognizes in many cases, boosters may be the most likely sources of opportunities for student-athletes to engage in name, image and likeness activities. Student-athletes should be permitted take advantage legitimate opportunities, even if the source of the opportunity comes from a booster of the institution.

6. Disclosure Requirements.	
Legislation	No current legislation regarding disclosure of name, image and likeness activities.
Possible Change	<ul style="list-style-type: none"> • Legislation would require a student-athlete to disclose information related to their business activities and relationships with individuals and other entities in advance of any arrangements or agreement for the use of their name, image or likeness and when changes are made to such agreements. In the case of advertisements or promotions of a third-party commercial product or service (or charitable, educational or nonprofit entity) the disclosure would include: <ul style="list-style-type: none"> a. Compensation arrangements; and b. Details of relationships with an involved individual, commercial entity and third parties.

	<ul style="list-style-type: none"> • The student-athlete would be required to provide disclosure information in advance of any arrangements or agreement for the use of their name, image or likeness and shall provide updates to the information within 14 days if arrangements with the commercial entity or third parties change. • Template Disclosure Form. The NCAA Division I Name, Image and Likeness Disclosure Subgroup of the Legislative Solutions Group developed a template disclosure form to serve as the basis for a nationally consistent standard for gathering required disclosure information from student-athletes who seek to engage in activities that involve the use of their names, images or likenesses for promotional purposes. Institutions and conferences would be permitted to seek additional information beyond the baseline information required in the form. It was noted that the form may need to be customized depending on state laws regarding disclosure.
Rationale	The Legislative Solutions Group agreed that student-athletes should be required to disclose involvement in name, image and likeness activities. Disclosure requirements will help to provide support to student-athletes, monitor booster involvement, ensure integrity of the recruiting process, and identify activities that may not align with the values of the NCAA, conferences or institutions.

7. Third-Party Administrator	
Legislation	Current legislation does not require student-athletes to disclose NIL activities because compensation for such activities is not permitted. Prospective student-athletes submit information to the NCAA Eligibility Center; however, the process is based on the current NIL legislation.
Possible Change	A third-party administrator could develop a web-based platform for individuals to submit information to satisfy new disclosure requirements, report to an oversight entity (e.g., NCAA) national trends and monitor and evaluate NIL activities for possible malfeasance. In addition, the third-party administrator could help ease the burden on campuses by providing education to student-athletes, prospective student-athletes and key stakeholders (e.g., boosters, professional service providers).
Rationale	The Legislative Solutions Group has agreed to explore whether disclosure efforts could be conducted through the assistance of third-party entities. The Disclosure Subgroup noted that the NCAA Board of Governors Federal and State Legislation Working Group encouraged the exploration of whether disclosure or enforcement efforts in this area should utilize the assistance of third-party entities at the local, conference or Association-wide levels, in part to help relieve the burden that campus compliance personnel may face attempting to monitor the newly permitted activities. In addition, it was noted that feedback from various groups has included concern related activities of boosters and other involved individuals and entities.