

Florida Governor Clears Path for Student-Athletes to Earn Money, Accelerating Timeline for Restructuring of NCAA Rules and Passing of Federal Legislation

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By Curry Sexton and Greg Whiston

On Friday, June 12, Florida Governor Ron DeSantis signed the Intercollegiate Athlete Compensation and Rights Bill into law. The law will enable collegiate student-athletes in Florida to be compensated for the use of their name, image, and likeness ("NIL") beginning July 1, 2021. Florida joins California and Colorado as the only states to pass an NIL law targeting current NCAA rules that restrict student-athlete compensation. As it currently stands, Florida student-athletes would be the first to be permitted to earn NIL compensation, as the California and Colorado laws are not set to go into effect until January 1, 2023.

Florida's law includes some restrictions, including the requirement that compensation to student-athletes be "commensurate with market value" to "preserve the integrity, quality, character, and amateur nature of intercollegiate athletics and to maintain a clear separation between amateur intercollegiate athletics and professional sports." Additionally, colleges and universities are expressly prohibited from directly making NIL payments to student-athletes.

What is the Impact of Florida's Law?

In late April, the NCAA Board of Governors **announced that** it supports rule changes that would enable student-athletes to receive NIL compensation. A formal proposal for new NIL rules is not expected until October, and the new rules are not expected to be adopted until January 2021. If new NIL rules are adopted by the NCAA, they will go into effect at the start of the 2021-22 academic year, around the same time Florida's law will take effect.

The question then becomes: how does the Florida law impact future NCAA rules that permit NIL compensation?

The Florida law may require the NCAA to accelerate its timeline for adopting its own NIL rules. It also adds urgency to Congressional efforts to pass federal legislation that preempts the individual state laws. In its April announcement, the NCAA included an appeal to Congress to create a federal law that would supersede the individual state legislation in an effort to implement a uniform set of NIL rules and to preserve the collegiate model. Regardless, the new Florida law all but assures that NIL will make its initial appearance into the intercollegiate athletics landscape in 2021.

Senator Marco Rubio Introduces Bill to Protect NCAA from Court Challenge

On Thursday, June 18, Senator Marco Rubio (R-FL) introduced a bill that would protect the NCAA from being challenged in court if it changes its rules to permit NIL compensation. The bill gives the NCAA until June 2021 to have its new rules in place that will supersede state laws. In support of his bill, Senator Rubio stated that “We can’t have 50 separate laws. It will destroy college athletics.”

The introduction of this bill comes just six days after Governor DeSantis signed the Florida bill into law and a few days after the NCAA was hit with a federal antitrust lawsuit that seeks to prevent the NCAA from limiting the amount of NIL money student-athletes can make.

Suffice it to say, the landscape continues to change and the next several months are sure to bring a number of new developments. One thing is for certain: by this time in 2021, a much clearer picture should exist with respect to the future of NIL rights.

The authors of this article, Curry Sexton and Greg Whiston, are members of Seigfreid Bingham’s Sports and Entertainment Group and routinely represent clients in collegiate athletics. If you or your organization have questions about the impact of the Florida’s NIL compensation bill or other NIL developments, please contact either author at 816-421-4460.

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