



## NCAA Takes Step Toward Allowing Student-Athletes to Earn Compensation Through Endorsements and Promotions

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The NCAA Board of Governors **announced** Wednesday that it supports rule changes that would enable student-athletes to receive compensation for third-party endorsements, social media influencing, personal appearances, and other promotions that are both related to and separate from athletics. The compensation that student-athletes would become entitled to would be required to fall within the **guiding principles** outlined by the Board of Governors in October 2019.

Though the announcement marks a significant step toward student-athletes being permitted to receive compensation for name, image, and likeness (“NIL”) activities, it provides little detail and therefore, invites more questions than it provides answers. NCAA President Mark Emmert acknowledged as much, stating on Wednesday that the announcement “was essentially a green light to explore those kinds of questions.”

If the proposed rule changes are enacted, student-athletes would be entitled to more money and would be allowed to hire agents or advisors to help negotiate endorsements and other promotional opportunities. Further, it appears student-athletes would be permitted to use their NIL to advertise and/or host a camp or autograph signings and be compensated for the appearances.

Based on the recommendations, there would be limitations imposed on NIL activities. For example, although student-athletes would be permitted to identify themselves by sport and school, the use of conference or school logos or trademarks would be prohibited. Additionally, the board made clear that at no point should a university or college pay student-athletes for NIL activities. Other “guardrails” discussed by the board include: no NIL activities would be allowed that could be considered “pay for play”; schools and conferences would not be permitted to be involved in NIL activities; NIL could not be used for recruiting by schools and boosters; and involvement by agents and advisors would be

regulated. Finally, it appears a body of some kind – potentially a third party – will be developed to approve NIL transactions as having a “fair market value.”

The board’s recommendations will now move through the appropriate rule-making process. During the rule-making process, NCAA member schools will have a chance to provide input and feedback. A formal proposal for the new rules is expected to be submitted by no later than October, and new NIL rules are expected to be adopted by January 2021. If adopted, the NIL rules would take effect at the start of the 2021-22 academic year.

One question that remains is how the NCAA announcement – and the eventual new NIL rules – will impact the various state legislative efforts across the country. California and Colorado have already passed laws that will allow college athletes to profit from the use of their NIL, and approximately 30 others have similar legislation in process. On Wednesday, the NCAA suggested a need for Congress to pass a national NIL law that would preempt state laws, create uniformity, and offer an antitrust exemption that would allow the NCAA to adjust rules as it sees fit. If Congress does not pass such a law, the NCAA would likely be forced to navigate the differing state laws.

The discourse throughout the remainder of 2020 promises to provide a lot of excitement and new developments. We will continue to monitor developments and provide updates.

*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 NCAA’s most recent announcement, please feel free to contact either author at 816-421-4460.*

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