

Name, Image, and Likeness in Pennsylvania Collegiate Athletics



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NCAA Student Athlete Compensation

As of July 1, 2021, the National Collegiate Athletic Association (“NCAA”) altered its long-standing rules against student athlete compensation for name, image, and likeness (“NIL”). While there is currently no federal law governing NIL in student athletics, the NCAA opened the door to states and universities to enact policies of their own. The Commonwealth of Pennsylvania has been no exception with Senate Bill 381, which capitalized on these landmark changes.

Article XX-K of the bill allows all college student athletes to earn compensation for the use of their NIL, so long as the NIL is not in connection with alcohol, adult entertainment, gambling, tobacco and electronic smoking, prescription pharmaceuticals, controlled substances, or other products or activities prohibited by the university. Any college student athlete is eligible, even if they are not a resident of Pennsylvania, as long as they attend an institution of higher education in Pennsylvania. Compensation for the student’s NIL must be commensurate with the market value of that student’s NIL.



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The role of “pay-for-play” and other guiderails

Despite these new freedoms, Pennsylvania has built in several important qualifications to NIL compensation. For example, “pay-for-play” is prohibited, meaning that compensation may not be provided in exchange for a student’s attendance at, or participation in, any particular institution of higher education. The bill also prohibits these institutions from

arranging third-party compensation for NIL to induce prospective students to attend a particular program. Additionally, the bill specifically protects student athletes’ rights to obtain professional representation from attorneys, athletic agents, or financial advisors, as long as those representatives are retained solely regarding NIL at the university level.

Since Senate Bill 381, the popularity of NIL compensation has quickly increased in Pennsylvania, and college athletes are now no longer the only athletes to benefit from this legal movement. As of December 7, 2022, the Pennsylvania Interscholastic Athletic Association voted to allow high school athletes to earn compensation for NIL. These Pennsylvania laws mark a transitional shift in student athletics. And, despite the lack of federal legislation on this topic, there is also movement in the national NIL landscape. Seven NIL collectives have come together to form The Collective Association,

which will lobby the NCAA on many pertinent NIL topics, such as revenue sharing, a registry of NIL deals, and a certification process for NIL agents.

Looking ahead

With its immediate popularity, it is likely that NIL will continue to be a hot button issue both locally and federally. Therefore, as more states implement and redefine their NIL policies, and as more athletics groups consider what this might mean for the future of the industry, additional developments in the laws surrounding NIL, including potential federal regulations, are sure to take place.

How can Meyer, Unkovic & Scott help you?

Our attorneys are happy to provide feedback based on your unique needs and challenges and answer any questions you may have about NIL. Visit our website to learn more.