

**ATHLETICS AND SPORTS (5 PA.C.S.) - EXTENSIVELY REVISING THE  
UNIFORM ATHLETE AGENTS ACT, INTERCOLLEGIATE ATHLETICS, MAKING  
RELATED AND INCONSISTENT REPEALS AND AN EDITORIAL CHANGE**

**Act of Nov. 3, 2022, P.L. 1996, No. 139**

**Cl. 05**

Session of 2022  
No. 2022-139

HB 2633

AN ACT

Amending Title 5 (Athletics and Sports) of the Pennsylvania Consolidated Statutes, extensively revising the Uniform Athlete Agents Act; providing for intercollegiate athletics; making related and inconsistent repeals; and making an editorial change.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The heading of Part II of Title 5 of the Pennsylvania Consolidated Statutes is amended to read:

PART II  
[ATHLETE AGENTS] **ATHLETES**

Section 2. Subparts A and B of Part II of Title 5 are repealed:

[SUBPART A  
GENERAL PROVISIONS

Chapter

31. Preliminary Provisions

CHAPTER 31  
PRELIMINARY PROVISIONS

Sec.

3101. Short title of part.

3102. Definitions.

3103. Administration.

3104. Service of process.

3105. Subpoenas.

3106. Rules and regulations.

§ 3101. Short title of part.

This part shall be known and may be cited as the Uniform Athlete Agents Act.

§ 3102. Definitions.

The following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency contract." Any contract or agreement in which an individual or a student athlete authorizes or empowers a person to negotiate or solicit on behalf of the individual or the student athlete one or more professional sports services contracts.

"Athlete agent." A person who enters into an agency contract with an individual or a student athlete or directly or indirectly recruits or solicits an individual or a student athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, son, daughter or grandparent of the individual or student athlete, an individual acting solely on behalf of a professional sports team or a coach, trainer or other employee of a secondary or postsecondary school who is acting on behalf of a student athlete of the same secondary or postsecondary school, provided that such activities are within the scope of employment

of the coach, trainer or other employee. The term includes a person who represents to the public that the person is an athlete agent.

"Athletic director." An individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females.

"Commission." The State Athletic Commission.

"Contact." A communication, direct or indirect, between an athlete agent and an individual or a student athlete to recruit or solicit the individual or student athlete to enter into an agency contract, including by telephonic, facsimile or other electronic method, mail, electronic mail or personal means.

"Conviction." A finding of guilt by a judge, jury, a plea of guilty or a plea of nolo contendere.

"Department." The Department of State of the Commonwealth.

"Institution of higher education." A public or private college or university, including a community college.

"Intercollegiate sport." A sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.

"Person." An individual, corporation, partnership, limited liability company, association, joint venture, public corporation or any other legal or commercial entity.

"Professional sports services contract." A contract or agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization or as a professional athlete.

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Registration." Registration as an athlete agent pursuant to Chapter 33 (relating to registration).

"State." A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

"Student athlete." An individual who engages in, is eligible to engage in or may be eligible in the future to engage in any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport.

§ 3103. Administration.

The commission shall administer this part.

§ 3104. Service of process.

By engaging in the business of an athlete agent in this Commonwealth, a nonresident individual appoints the Secretary of the Commonwealth as the individual's agent to accept service of process in any civil action related to the individual's business as an athlete agent in this Commonwealth.

§ 3105. Subpoenas.

The commission may issue subpoenas for any relevant material under this part.

§ 3106. Rules and regulations.

The commission shall have the power and duty to adopt and revise regulations in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, as are reasonably necessary to administer and effectuate the purposes of this part.

REGISTRATION OF ATHLETE AGENTS

Chapter

33. Registration

CHAPTER 33  
REGISTRATION

Sec.

- 3301. Athlete agent registration.
- 3302. Application for registration.
- 3303. Issuance of registration.
- 3304. Denial of registration.
- 3305. Renewal of registration.
- 3306. Period of registration.
- 3307. Suspension, revocation, restriction or refusal to renew registration.
- 3308. Fees.
- 3309. Form of contract for student athletes.
- 3310. Notice to educational institution.
- 3311. Student athlete's right to cancel.
- 3312. Required records.
- 3313. Prohibited acts.
- 3314. Civil remedies.
- 3315. Administrative penalty.
- 3316. Bonding requirements.
- 3317. Exemption from registration and bonding requirement.
- 3318. Disposition of commission receipts.
- 3319. Records.
- 3320. Transferability of registration.

§ 3301. Athlete agent registration.

(a) Certificate of registration required.--Except as otherwise provided in subsection (b), a person shall not directly or indirectly serve or offer to serve as an athlete agent in this Commonwealth before being issued a certificate of registration under section 3303 (relating to issuance of registration). An out-of-State agent must register if the agent through direct or indirect contact recruits or solicits an individual or student athlete to enter into an agency contract or procures, offers, promises or attempts to obtain employment for an individual or student athlete with a Pennsylvania professional sports team as a professional athlete in this Commonwealth where any one or more of the following conditions apply:

- (1) The athlete agent is a resident of this Commonwealth.
- (2) The athlete is a resident of this Commonwealth or is attending an institution of higher education in this Commonwealth.

(3) The professional sports team has its home field or its corporate headquarters in this Commonwealth.

(b) Exception.--An unregistered out-of-State agent or person may act as an athlete agent in this Commonwealth before being issued a certificate of registration for all purposes except signing an agency contract if the following conditions are met:

- (1) A student athlete or another acting on behalf of the student athlete initiates contact with the person.
- (2) Within seven days after an initial act as an athlete agent, the person submits an application to register as an athlete agent in this Commonwealth.

(3) The unregistered out-of-State agent or person has never had registration issued under this chapter or a predecessor statute revoked by the commission.

(c) Certain contracts void.--An agency contract resulting from conduct in violation of this section is void. The athlete agent shall return any consideration received under the contract.

§ 3302. Application for registration.

(a) Procedure.--An applicant for registration shall submit an application for registration to the commission in writing on a form supplied by the commission and approved by the department. Except as otherwise provided in subsection (b), the application must be in the name of an individual and be verified by the applicant and must state, contain or be accompanied by:

(1) The information required by this chapter and such other information as the commission may reasonably require.

(2) A processing fee of \$100.

(3) The name of the applicant and the address of the applicant's principal place of business.

(4) The name of the applicant's business or employer, if applicable.

(5) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application.

(6) A description of the applicant's:

(i) Formal training as an athlete agent.

(ii) Practical experience as an athlete agent.

(iii) Educational background relating to the applicant's activities as an athlete agent.

(7) The names and addresses of three individuals not related to the applicant who are willing to serve as references.

(8) The name, sport and last known team for each individual for whom the applicant provided services as an athlete agent during the five years next preceding the date of submission of the application.

(9) The names and addresses of all persons who are:

(i) With respect to the athlete agent's business if it is not a corporation, the partners, officers, associates or profit-sharers.

(ii) With respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation with a 5% or greater interest.

(10) Whether the applicant or any other person named pursuant to paragraph (9) has been convicted of a crime that, if committed in this Commonwealth, would be a felony or other crime involving moral turpitude, and identify the crime.

(11) Whether there has been any administrative or judicial determination that the applicant or any other person named pursuant to paragraph (9) has made a false, misleading, deceptive or fraudulent representation.

(12) Any instance in which the conduct of the applicant or any other person named pursuant to paragraph (9) resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution.

(13) Any sanction, suspension or disciplinary action taken against the applicant or any other person named pursuant to paragraph (9) arising out of occupational or professional conduct.

(14) Whether there has been any denial of an application for, suspension or revocation of or refusal to renew the registration or licensure of the applicant or any other person named pursuant to paragraph (9) as an athlete agent in any state.

(b) Out-of-State agents.--A person who has submitted an application for and received a certificate of registration or licensure as an athlete agent in another state may submit a copy of the application and a valid certificate of registration or licensure from the other state in lieu of submitting an

application in the form prescribed pursuant to subsection (a). The commission shall accept the application and the certificate from the other state as an application for registration in this Commonwealth if the application to the other state:

(1) Was submitted in the other state within the six months next preceding the submission of the application in this Commonwealth and the applicant certifies the information contained in the application is current.

(2) Contains information substantially similar to or more comprehensive than that required in an application submitted in this Commonwealth.

(3) Was signed by the applicant.

(4) The unregistered out-of-State agent has never had registration issued under this chapter or a predecessor statute revoked by the commission.

(c) Criminal background check.--Every applicant shall complete an application or process as may be necessary to request the Pennsylvania State Police to provide a copy of the applicant's criminal history record to the commission.

§ 3303. Issuance of registration.

Except as otherwise provided in section 3304 (relating to denial of registration), the commission shall issue a certificate of registration to a person:

(1) Who complies with section 3302(a) and (c) (relating to application for registration).

(2) Whose application has been accepted under section 3302(b).

(3) Who is 21 years of age or older.

(4) Who possesses good moral character.

(5) Who neither at the time of application nor within ten years prior to the time of application has been finally found to have participated in any conduct that led to the imposition of sanctions against an individual or student athlete, institution of higher education or professional sports team by any association or organization that establishes rules for the conduct of amateur or professional sports.

§ 3304. Denial of registration.

(a) Grounds.--The commission may refuse to issue a certificate of registration if the commission determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to serve as an athlete agent. In making the determination, the commission may consider whether the applicant has:

(1) Made a materially false, misleading, deceptive or fraudulent representation as an athlete agent or in the application.

(2) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity.

(3) Engaged in conduct prohibited by section 3313 (relating to prohibited acts).

(4) Had a registration or licensure as an athlete agent suspended, revoked or denied or been refused renewal of registration or licensure in any state.

(5) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty or integrity.

(b) Additional considerations.--In making a determination under subsection (a), the commission shall consider:

(1) How recently the conduct occurred.

(2) The nature of the conduct and the context in which it occurred.

(3) Any other relevant conduct of the applicant.

(c) Issuance of registration prohibited.--The commission shall not issue athlete agent registration to or renew the athlete agent

registration of a person who has been convicted of any of the following offenses, or any comparable offense in another jurisdiction, within ten years of the date of application:

(1) An offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(2) An offense under the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 902 (relating to criminal solicitation).

Section 908 (relating to prohibited offensive weapons).

Section 2502 (relating to murder).

Section 2709(a)(4), (5), (6) or (7) (relating to harassment).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 3121 (relating to rape).

Section 3126 (relating to indecent assault).

Section 3923 (relating to theft by extortion).

Section 4109 (relating to rigging publicly exhibited contest).

Section 4302 (relating to incest).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

Section 4701 (relating to bribery in official and political matters).

Section 4902 (relating to perjury).

Section 5501 (relating to riot).

Section 5512 (relating to lotteries, etc.).

Section 5513 (relating to gambling devices, gambling, etc.).

Section 5514 (relating to pool selling and bookmaking).

Section 5901 (relating to open lewdness).

Section 5902 (relating to prostitution and related offenses).

Section 5903 (relating to obscene and other sexual materials and performances).

Section 5904 (relating to public exhibition of insane or deformed person).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

Section 7107 (relating to unlawful actions by athlete agents).

(3) The commission shall not issue registration to any person who has been found by the commission to have engaged in the activities of an athlete agent in this Commonwealth without acquiring registration as required by this chapter within 12 months prior to the date of application.

§ 3305. Renewal of registration.

(a) Procedure.--An athlete agent may apply to renew a registration by submitting an application for renewal in writing on a form supplied by the commission and approved by the department. The application for renewal must be in the name of an individual and be verified by the applicant and must state, contain or be accompanied by:

(1) Current information on all matters required in an original registration.

(2) Such other information as the commission may reasonably require.

(3) A processing fee of \$100.

(b) Out-of-state agents.--An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the

form prescribed under subsection (a), may file a copy of the application for renewal and a valid certificate of registration from the other state. The commission shall accept the application for renewal from the other state as an application for renewal in this Commonwealth if the application to the other state:

(1) Was submitted to the other state within the last six months and the applicant certifies the information contained in the application for renewal is current.

(2) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this Commonwealth.

(3) Was verified by the applicant.

(4) The unregistered out-of-State agent has never had registration issued under this chapter or a predecessor statute revoked by the commission.

§ 3306. Period of registration.

A certificate of registration or a renewal of a registration is valid for two years.

§ 3307. Suspension, revocation, restriction or refusal to renew registration.

(a) Investigation.--The commission or its designee may review the operations of all registered athlete agents and shall prepare a written report for review by the commission.

(b) Cease and desist order.--The commission may issue an immediate cease and desist order against an athlete agent who has been found preliminarily by the commission to have committed a violation of 18 Pa.C.S. § 7107 (relating to unlawful actions by athlete agents) or a violation of this chapter. Within 20 days of issuance of the cease and desist order, the commission shall conduct a hearing to determine whether the cease and desist order should be dissolved or made permanent.

(c) Registration suspension, revocation, restriction or refusal to renew.--The commission may suspend, revoke, restrict or otherwise limit registration or refuse to renew a registration for conduct that would have justified denial of registration under section 3304(a) (relating to denial of registration).

(d) Notice and hearing.--The commission may deny, suspend, revoke, restrict or otherwise limit registration or refuse to renew a registration only after proper notice and an opportunity for a hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(e) Reciprocal disciplinary or corrective action.--The commission may deny, suspend, revoke, restrict or otherwise limit registration or refuse to renew a registration of an athlete agent on the basis of a disciplinary or corrective action having been taken against the athlete agent in another state, territory, possession or country, a branch of the Federal Government or by an athletic association.

§ 3308. Fees.

(a) Amounts.--An application for registration or renewal of registration must be accompanied by a fee in the following amount:

(1) \$200 for an initial application for registration for an individual or sole proprietor and \$400 for a partnership, association, corporation or other legal entity.

(2) \$150 for an application for registration based upon a certificate of registration or licensure issued by another state for an individual or sole proprietor and \$300 for a partnership, association, corporation or other legal entity.

(3) \$200 for an application for renewal of registration for an individual or sole proprietor and \$400 for a partnership, association, corporation or other legal entity.

(4) \$150 for an application for renewal of registration based upon an application for renewal of registration or

licensure submitted in another state for an individual or sole proprietor and \$400 for a partnership, association, corporation or other legal entity.

(b) Fee increase.--If the revenues raised by fees, fines and civil penalties imposed in accordance with this chapter are not sufficient to match the expenditures necessary to carry out the provisions of this chapter, the commission shall increase those fees by regulation so that the revenues match the expenditures.

§ 3309. Form of contract for student athletes.

(a) Form generally.--An agency contract must be in a record and signed by the parties.

(b) Contents.--An agency contract must state or contain:

(1) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services.

(2) The name of any person not listed in the application for registration or renewal who will be compensated because the student athlete signed the agency contract.

(3) A description of any expenses that the student athlete agrees to reimburse.

(4) A description of the services to be provided to the athlete student.

(5) The duration of the contract.

(6) The date of execution.

(c) Notice.--An agency contract must contain in close proximity to the signature of the student athlete a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT ATHLETE

If you sign this contract:

(1) You may lose your eligibility to compete as a student athlete in your sport.

(2) Both you and your athlete agent are required to tell your athletic director, if you have an athletic director, and the commission within 72 hours after entering into an agency contract.

(3) You may cancel this contract within 14 days after signing it. Cancellation of the contract may not reinstate your eligibility.

(d) Contracts not in conformity.--An agency contract that does not conform to this section is voidable by the student athlete.

(e) Contract copy to student athlete.--The athlete agent shall give a copy of the signed agency contract to the student athlete at the time of signing.

§ 3310. Notice to educational institution.

Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first:

(1) The athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll and to the commission.

(2) The student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that the student athlete has entered into an agency contract and to the commission.

§ 3311. Student athlete's right to cancel.

(a) Procedure.--A student athlete may cancel an agency contract by giving notice in a record to the athlete agent of the cancellation within 14 days after the contract is signed.



(b) Waiver not permitted.--A student athlete may not waive the right to cancel an agency contract.

(c) Consideration.--If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the agent to induce the student athlete to enter into the contract.

§ 3312. Required records.

(a) General rule.--An athlete agent shall retain the following records for a period of five years:

(1) The name and address of each individual represented by the athlete agent.

(2) Any agency contract entered into by the athlete agent.

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete.

(b) Records open to inspection.--Records required by subsection (a) to be retained are open to inspection by the commission during normal business hours.

§ 3313. Prohibited acts.

An athlete agent may not:

(1) Initiate contact with a student athlete unless registered under this part.

(2) Refuse or willfully fail to retain or permit inspection of the records required by section 3312 (relating to required records).

(3) Violate section 3301 (relating to athlete agent registration) by failing to register.

(4) Provide materially false or misleading information in an application for registration or renewal of registration.

(5) Predate or postdate an agency contract.

(6) Fail to notify a student athlete prior to the student athlete's signing an agency contract for a particular sport that the signing by the student athlete may make the student athlete ineligible to participate as a student athlete in that sport.

(7) Enter into an oral or written contract or professional sport services contract with a student athlete before the student athlete's eligibility for collegiate athletics has expired.

(8) Before the student athlete's eligibility for collegiate athletics has expired, give, offer or promise anything of value to:

(i) a student athlete;

(ii) any member of the student athlete's immediate family; or

(iii) any individual who substantially contributes to the economic support of the student athlete. For purposes of this subparagraph, an individual shall be deemed to have substantially contributed to the economic support of a student athlete if the individual provides 25% or more of the cost of tuition, room and board and incidental expenses of the student athlete's education or provides to the student athlete at minimal or no cost non-college-based lodging or meals or transportation to and from college classes.

(9) Give, offer or promise an oral or written contract which would require the athlete agent to give, offer or promise anything of value to any employee of an institution of higher education in return for a referral of a student athlete by the employee.

(10) Engage in the activities of an athlete agent without a current valid registration.

(11) Violate any provision of this part or regulation of the commission.

§ 3314. Civil remedies.

(a) Right of action.--An educational institution has a right of action against an athlete agent or a former student athlete for damages caused by a violation of this part or for a violation of 18 Pa.C.S. § 7107 (relating to unlawful actions by athlete agents). In an action under this section, the court may award to the prevailing party costs and reasonable attorney fees.

(b) Damages.--Damages of an educational institution under subsection (a) include losses and expenses incurred because, as a result of the activities of an athlete agent or former student athlete, the educational institution was injured by a violation of this part or was penalized, disqualified or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference or by reasonable self-imposed disciplinary action taken to mitigate sanctions.

(c) Accrual of action.--A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student athlete.

(d) Liability.--Any liability of the athlete agent or the former student athlete under this section is several and not joint.

(e) Other rights and remedies.--This part does not restrict rights, remedies or defenses of any person under law.

§ 3315. Administrative penalty.

(a) Civil penalty.--The commission may assess a civil penalty against an athlete agent not to exceed \$25,000 per violation of this part or per violation of 18 Pa.C.S. § 7107 (relating to unlawful actions by athlete agents).

(b) Injunctive relief.--The commission may, in the name of the people of this Commonwealth, through the Office of Attorney General, apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of this chapter. Injunctive relief shall be in addition to and not in lieu of all penalties and other remedies in this chapter.

§ 3316. Bonding requirements.

(a) Amount.--Before any athlete agent registration is issued, the applicant shall be required to execute and file a surety bond with the commission in such reasonable amount, but not less than \$20,000, as the commission shall require.

(b) Bond forms.--All bonds shall be upon forms supplied by the commission and which have been approved by the department. All bonds shall be accompanied by a \$25 filing fee.

(c) Conditions of bond.--The surety bond shall be conditioned upon the following:

(1) Compliance with this chapter.

(2) The payment of all sums due a person at the time the sums are due and payable.

(3) The payment of damages suffered by any person as a result of intentional or unintentional misstatements, misrepresentation, fraud, deceit or unlawful or negligent acts of the student athlete agent while acting as a student athlete agent.

(d) Alternate security.--

(1) In lieu of a surety bond, a registrant may deposit with the commission cash, a certified check or a letter of credit in an equivalent amount. The provisions of this section regarding bonds shall apply to the alternate security provided for in this subsection.

(2) The security shall not be returned to a registrant until one year after the student athlete agent's registration has expired. After that time if there are no claims against the registered athlete agent, the alternate security shall be returned to the depositor.

(e) Recovery on bond.--Recovery may be had on a bond or deposit of alternate security in the same manner as penalties are recoverable at law.

§ 3317. Exemption from registration and bonding requirement.

(a) Immediate family members.--Athlete agents who are representing an immediate family member are exempt from the provisions of this chapter.

(b) Definition.--As used in this section, the term "immediate family" means a spouse, parent, sibling, son, daughter or grandparent.

§ 3318. Disposition of commission receipts.

All fees, civil penalties, forfeitures and other moneys collected under this chapter and the regulations of the commission shall be paid into the Athletic Commission Augmentation Account.

§ 3319. Records.

A record of all persons registered under this chapter shall be kept in the office of the commission and shall be open to public inspection and copying upon payment of a nominal fee for copying the record.

§ 3320. Transferability of registration.

No registration issued under this chapter shall be assignable or transferable. In the event of a corporate change of status, the entity must register within 90 days.]

Section 3. Title 5 is amended by adding chapters to read:

**CHAPTER 35  
ATHLETE AGENTS**

**Sec.**

**3501. Short title of chapter.**

**3502. Definitions.**

**3503. Commission; authority; procedure.**

**3504. Athlete agent; registration required; void contract.**

**3505. Registration as athlete agent; application; requirements; reciprocal registration.**

**3506. Certificate of registration; issuance or denial; renewal.**

**3507. Suspension, revocation or refusal to renew registration.**

**3508. Temporary registration.**

**3509. Registration and renewal fees.**

**3510. Required form of agency contract.**

**3511. Notice to educational institution.**

**3512. Student athlete's right to cancel.**

**3513. Required records.**

**3514. Prohibited conduct.**

**3515. Criminal penalty.**

**3516. Civil remedy.**

**3517. Civil penalty.**

**3518. Uniformity of application and construction.**

**3519. Relation to Electronic Signatures in Global and National Commerce Act.**

**3520. Disposition of receipts.**

**3521. Registered athlete agent directory.**

§ 3501. Short title of chapter.

This chapter shall be known and may be cited as the Revised Uniform Athlete Agents Act (2015).

§ 3502. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency contract." An agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional-sports-services contract or an endorsement contract.

"Athlete agent." The following apply:

(1) The term means an individual, whether or not registered under this chapter, who:

(i) directly or indirectly:

(A) recruits or solicits a student athlete to enter into an agency contract; or

(B) for compensation, procures employment or offers, promises, attempts or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;

(ii) for compensation or in anticipation of compensation related to a student athlete's participation in athletics:

(A) serves the student athlete in an advisory capacity on a matter related to finances, business pursuits or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the educational institution for the benefit of the educational institution; or

(B) manages the business affairs of the student athlete by providing assistance with bills, payments, contracts or taxes; or

(iii) in anticipation of representing a student athlete for a purpose related to the student athlete's participation in athletics:

(A) gives consideration to the student athlete or another person;

(B) serves the student athlete in an advisory capacity on a matter related to finances, business pursuits or career management decisions; or

(C) manages the business affairs of the student athlete by providing assistance with bills, payments, contracts or taxes.

(2) The term does not include an individual who:

(i) acts solely on behalf of a professional sports team or organization;

(ii) is a coach, trainer or other employee of a secondary or postsecondary school who is acting on behalf of a student athlete of the same secondary or postsecondary school, if the activities are within the scope of employment of the coach, trainer or other employee; or

(iii) is a licensed, registered or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

(A) also recruits or solicits the student athlete to enter into an agency contract;

(B) also, for compensation, procures employment or offers, promises, attempts or negotiates to obtain employment for the student athlete as a professional athlete or member of a professional sports team or organization; or

(C) receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

"Athletic director." The individual responsible for administering:

(1) the overall athletic program of an educational institution; or

(2) if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

"Commission." The State Athletic Commission.

"Communicating or attempting to communicate." Contacting or attempting to contact by an in-person meeting, a record or any other method which conveys or attempts to convey a message.

"Educational institution." Any public or private elementary school, secondary school, technical or vocational school, community college, college or university.

"Endorsement contract." An agreement under which a student athlete is employed or receives consideration to use on behalf of the other party value that the student athlete may have because of publicity, reputation, following or fame obtained because of athletic ability or performance.

"Enroll." To register for courses and attend athletic practice or class.

"Enrolled." Registered for courses and attending athletic practice or class.

"Intercollegiate sport." A sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association which promotes or regulates collegiate athletics.

"Interscholastic sport." A sport played between educational institutions which are not community colleges, colleges or universities.

"Licensed, registered or certified professional." An individual licensed, registered or certified as an attorney, a dealer in securities, a financial planner, an insurance agent, a real estate broker or sales agent, a tax consultant, an accountant or a member of a profession who is licensed, registered or certified by the State or a nationally recognized organization which licenses, registers or certifies members of the profession on the basis of experience, education or testing. The term does not include an athlete agent.

"Person." Any individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality or other legal entity.

"Professional-sports-services contract." An agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Recruit or solicit." An attempt to influence the choice of an athlete agent by a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete. The term does not include giving advice on the selection of a particular athlete agent in a family, coaching or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the athlete agent.

"Registration." Registration as an athlete agent under this chapter.

"Secretary." The Secretary of the Commonwealth.

"Sign." With present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound or process.

"State." A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

"Student athlete." An individual who is eligible to attend an educational institution and engages in, is eligible to engage in or may be eligible in the future to engage in any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

§ 3503. Commission; authority; procedure.

(a) Regulations.--The commission may promulgate regulations to implement this chapter.

(b) Agent for service of process.--By acting as an athlete agent in this Commonwealth, a nonresident individual appoints the secretary as the individual's agent for service of process in a civil action in this Commonwealth related to the individual acting as an athlete agent in this Commonwealth.

(c) Subpoenas.--The commission may issue a subpoena for material which is relevant to the administration of this chapter.  
§ 3504. Athlete agent; registration required; void contract.

(a) Prohibition.--Except as specified in subsection (b), an individual may not act as an athlete agent in this Commonwealth without holding a certificate of registration under this chapter.

(b) Acting as athlete agent.--Before being issued a certificate of registration under this chapter, an individual may act as an athlete agent in this Commonwealth for all purposes except signing an agency contract, if:

(1) a student athlete or another person acting on behalf of the student athlete initiates communication with the individual; and

(2) not later than seven days after an initial act which requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this Commonwealth.

(c) Contract void.--An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return consideration received under the contract.

§ 3505. Registration as athlete agent; application; requirements; reciprocal registration.

(a) Application.--Except as specified in subsection (b), an applicant for registration as an athlete agent shall submit an application for registration to the commission in a form prescribed by the commission. The applicant shall be an individual, and the application must be signed by the applicant subject to the provisions of 18 Pa.C.S. §§ 4902 (relating to perjury), 4903 (relating to false swearing) and 4904 (relating to unsworn falsification to authorities). The application shall contain at least the following:

(1) Name, date and place of birth of the applicant and all of the following contact information for the applicant:

(i) Address of the applicant's principal place of business.

(ii) Work and mobile telephone numbers.

(iii) Any means of communicating electronically, including a facsimile number, an electronic mail address and personal and business or employer websites.

(2) Name of the applicant's business or employer, if applicable, including for each business or employer its mailing address, telephone number, organization form and the nature of the business.

(3) Each social media account with which the applicant or the applicant's business or employer is affiliated.

(4) Each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration or certification held by the applicant during that time.

(5) Description of the applicant's:

- (i) formal training as an athlete agent;
- (ii) practical experience as an athlete agent; and
- (iii) educational background relating to the applicant's activities as an athlete agent.

(6) Statement listing the:

(i) name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the student athlete is a minor, name of the parent or guardian of the student athlete; and

(ii) student athlete's sport and last known team.

(7) Name and address of each person that:

(i) is a partner, member, officer, manager, associate or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if the business is not a corporation; and

(ii) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation.

(8) Description of the status of each application by the applicant or a person named under paragraph (7) for a Federal or state business, professional or occupational license, other than as an athlete agent, from a Federal or state agency. This paragraph includes the denial, refusal to renew, suspension, withdrawal or termination of the license and each reprimand or censure related to the license.

(9) Whether the applicant or a person named under paragraph (7) has pleaded guilty or no contest to, has been convicted of or has charges pending for an offense which involves moral turpitude or would constitute a felony if committed in this Commonwealth. For an offense subject to this paragraph, the application must identify:

(i) the offense;

(ii) the state and date of the offense or disciplinary action;

(iii) the law enforcement agency involved; and

(iv) if applicable, the date of the plea or conviction and the penalty imposed.

(10) Whether, within 15 years before the date of application, the applicant or a person named under paragraph (7) has been a defendant or respondent in a civil proceeding, including a proceeding under 20 Pa.C.S. Ch. 55 Subch. C (relating to appointment of guardian; bonds; removal and discharge). For a proceeding under this paragraph, the application shall state the date and a full explanation of the proceeding.

(11) Whether the applicant or a person named under paragraph (7) has an unsatisfied judgment or a judgment of continuing effect, including an order under 23 Pa.C.S. Ch. 37 (relating to alimony and support) or 43 (relating to support matters generally), which is not current at the date of the application.

(12) Whether, within 10 years before the date of application, the applicant or a person named under paragraph (7) was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt.

(13) Whether there has been any administrative or judicial determination that the applicant or a person named under paragraph (7) made a false, misleading, deceptive or fraudulent representation.

(14) Each instance in which conduct of the applicant or a person named under paragraph (7) resulted in:

(i) imposition on a student athlete of a sanction, suspension or declaration of ineligibility to participate in an interscholastic, intercollegiate or professional athletic event; or

(ii) imposition of a sanction on an educational institution.

(15) Each sanction, suspension or disciplinary action taken against the applicant or a person named under paragraph (7) arising out of occupational or professional conduct.

(16) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew or abandonment of the registration of the applicant or a person named under paragraph (7) as an athlete agent in any state.

(17) Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent.

(18) If the applicant is certified or registered by a professional league or players association:

(i) name of the league or association;

(ii) date of certification or registration and, if applicable, date of expiration of the certification or registration;

(iii) date of denial of an application for, suspension or revocation of, refusal to renew, withdrawal of or termination of the certification or registration; and

(iv) date of reprimand or censure related to the certification or registration.

(19) Additional information required by the commission.

(b) Alternative application.--Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this Commonwealth by submitting to the commission:

(1) a copy of the application for registration in the other state;

(2) a statement which identifies every material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and

(3) a copy of the certificate of registration from the other state.

(c) Certificate of registration.--The commission shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the commission determines all of the following:

(1) The application and registration requirements of the other state are substantially similar to or more restrictive than this chapter.

(2) The registration has not been revoked or suspended by the other state.

(3) No action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(d) Implementation.--For purposes of implementing subsection (c), the commission shall:

(1) cooperate with national organizations concerned with athlete agent issues and with agencies in other states which register athlete agents to develop a common registration form



and determine which states have laws that are substantially similar to or more restrictive than this chapter; and

(2) exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

(e) Criminal history background check.--An individual who applies for registration under subsection (a) or (b) shall submit to the commission, pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the Pennsylvania State Police central repository contains no such information relating to the individual. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

§ 3506. Certificate of registration; issuance or denial; renewal.

(a) Issuance.--Except as specified in subsection (b), the commission shall issue a certificate of registration to an applicant for registration who complies with section 3505(a) (relating to registration as athlete agent; application; requirements; reciprocal registration).

(b) Refusal.--The commission may refuse to issue a certificate of registration to an applicant for registration under section 3505(a) if the commission determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the commission may consider whether the applicant has:

(1) pleaded guilty or no contest to, has been convicted of or has charges pending for an offense which involves moral turpitude or would constitute a felony if committed in this Commonwealth;

(2) made a materially false, misleading, deceptive or fraudulent representation in the application or as an athlete agent;

(3) engaged in conduct which would disqualify the applicant from serving in a fiduciary capacity;

(4) violated section 3514 (relating to prohibited conduct);

(5) had a registration as an athlete agent suspended, revoked or denied in any state;

(6) been refused renewal of registration as an athlete agent in any state;

(7) engaged in conduct resulting in:

(i) imposition on a student athlete of a sanction, suspension or declaration of ineligibility to participate in an interscholastic, intercollegiate or professional athletic event; or

(ii) imposition of a sanction on an educational institution; or

(8) engaged in conduct which adversely reflects on the applicant's credibility, honesty or integrity.

(c) Determination.--In making a determination under subsection (b), the commission shall consider:

(1) how recently the conduct occurred;

(2) the nature of the conduct and the context in which it occurred; and

(3) other relevant conduct of the applicant.

(d) Renewal of registration.--An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the commission. The applicant shall sign the application under penalty

of perjury and include current information on all matters required in an original application for registration.

(e) Renewal in other state.--

(1) An athlete agent registered under section 3505(c) may renew the registration by:

(i) proceeding under subsection (d); or

(ii) if the registration in the other state has been renewed, submitting to the commission copies of the application for renewal in the other state and the renewed registration from the other state.

(2) The commission shall renew the registration if the commission determines that:

(i) the registration requirements of the other state are substantially similar to or more restrictive than this chapter;

(ii) the renewed registration has not been suspended or revoked; and

(iii) no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(f) Validity.--A certificate of registration or renewal of registration under this chapter is valid for two years.

§ 3507. Suspension, revocation or refusal to renew registration.

(a) Authority.--The commission may limit, suspend, revoke or refuse to renew a registration of an individual registered under section 3506(a) (relating to certificate of registration; issuance or denial; renewal) for conduct which would have justified refusal to issue a certificate of registration under section 3506(b).

(b) Suspension or revocation.--The commission may suspend or revoke the registration of an individual registered under section 3505(c) (relating to registration as athlete agent; application; requirements; reciprocal registration) or renewed under section 3506(e) for a reason for which the commission could have refused to grant or renew registration or for conduct which would justify refusal to issue a certificate of registration under section 3506(b).

(c) Notice and hearing.--The commission may deny, suspend, revoke, restrict or otherwise limit registration or refuse to renew a registration only after proper notice and an opportunity for a hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

§ 3508. Temporary registration.

The commission may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

§ 3509. Registration and renewal fees.

(a) Registration fee.--An application for registration or renewal of registration shall be accompanied by a fee in the following amounts:

(1) For an initial application for registration or an application for renewal of registration for an individual or sole proprietor, \$200.

(2) For an application for registration or an application for renewal of registration based upon a certificate of registration or licensure issued by another state for an individual or a sole proprietor, \$150.

(b) Fee increase.--The commission may increase the fees in subsection (a), by regulation, if the revenues raised by fees, fines and civil penalties imposed under this chapter are not sufficient to cover the costs of the commission to implement the provisions of this chapter. Any increase in fee may not exceed the amounts necessary to fund the commission to carry out the provisions of this chapter.

§ 3510. Required form of agency contract.

(a) Requirement.--An agency contract shall be in a record signed by the parties.

(b) Contents of contract.--An agency contract shall contain:

(1) a statement that the athlete agent is registered as an athlete agent in this Commonwealth and a list of any other states in which the athlete agent is registered as an athlete agent;

(2) the amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or providing the services;

(3) the name of any person that:

(i) is not listed in the athlete agent's application for registration or renewal of registration; and

(ii) will be compensated because the student athlete signed the contract;

(4) a description of any expenses the student athlete agrees to reimburse;

(5) a description of the services to be provided to the student athlete;

(6) the duration of the contract; and

(7) the date of execution.

(c) Notice.--Subject to subsection (g), an agency contract shall contain a conspicuous notice in boldface type and in substantially the following form:

**WARNING TO STUDENT ATHLETE**

**IF YOU SIGN THIS CONTRACT:**

(1) IF YOU ENTER INTO NEGOTIATIONS FOR, OR SIGN, A PROFESSIONAL-SPORTS-SERVICES CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT SHALL NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.

(d) Signed acknowledgment.--An agency contract shall be accompanied by a separate record:

(1) signed by:

(i) the student athlete; or

(ii) if the student athlete is a minor, the parent or guardian of the student athlete; and

(2) acknowledging that signing the contract may result in the loss of the student athlete's eligibility to participate in the student athlete's sport.

(e) Voided contract.--A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may void an agency contract which does not conform to this section. If the contract is voided, consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.

(f) Copies.--At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete a copy in a record of the contract and the separate acknowledgment required by subsection (d).

(g) Minors.--If a student athlete is a minor, the notice under subsection (c) shall be revised in accordance with subsection (d) (1) (ii).

§ 3511. Notice to educational institution.

(a) (Reserved).

(b) Athlete agent notice.--If an athlete agent and a student athlete enter into an agency contract, all of the following apply:

(1) The athlete agent shall give notice in a record of the existence of the agency contract to the athletic director of:

(i) the educational institution at which the student athlete is enrolled; or

(ii) an educational institution at which the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(2) Notice under paragraph (1) shall be given not later than the earlier of:

(i) 72 hours after entering into an agency contract;

or

(ii) before the next scheduled athletic event in which the student athlete may participate.

(c) Student athlete notice.--If a student athlete and an athlete agent enter into an agency contract, all of the following apply:

(1) The student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled:

(i) that the student athlete has entered into an agency contract; and

(ii) of the name and contact information of the athlete agent.

(2) Notice under paragraph (1) shall be given not later than the earlier of:

(i) 72 hours after entering into an agency contract;

or

(ii) before the next scheduled athletic event in which the student athlete may participate.

(d) Notice after enrollment.--

(1) This subsection applies if:

(i) an athlete agent enters into an agency contract with a student athlete; and

(ii) the student athlete subsequently enrolls in an educational institution.

(2) If paragraph (1) applies, the athlete agent shall notify the athletic director of the educational institution of the existence of the contract not later than 72 hours after the athlete agent knew or should have known the student athlete enrolled.

(e) Notice of relationship.--

(1) This subsection applies if:

(i) an athlete agent has a relationship with a student athlete; and

(ii) the student athlete subsequently:

(A) enrolls in an educational institution; and

(B) receives an athletic scholarship from the educational institution.

(2) If paragraph (1) applies, the athlete agent shall notify the educational institution of the relationship not later than 10 days after the enrollment if the athlete agent knows or should have known of the enrollment and:

(i) the relationship was motivated in whole or part by the intention of the athlete agent to recruit or solicit the student athlete to enter an agency contract in the future; or

(ii) the athlete agent directly or indirectly recruited or solicited the student athlete to enter an agency contract before the enrollment.

(f) Notice prior to communication.--An athlete agent shall give notice in a record to the athletic director of the educational institution at which a student athlete is enrolled before the athlete agent communicates or attempts to communicate with:

(1) the student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, to influence the student athlete or parent or guardian to enter into an agency contract; or

(2) another individual to have that individual influence the student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete to enter into an agency contract.

(g) Communication initiated by student athlete.--If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the student athlete, the athlete agent shall notify in a record the athletic director of the educational institution at which the student athlete is enrolled. The notification shall be made not later than 10 days after the communication or attempt.

(h) Notification of violation.--The following apply:

(1) An educational institution that becomes aware of a violation of this chapter by an athlete agent shall provide notice in a record of the violation to the commission. The notice shall be provided on a form and in a manner specified by the commission.

(2) If the commission receives notice of a violation under paragraph (1), the commission shall notify any professional league or players association with which the athlete agent is licensed or registered.

(i) Notification of agency contract.--A student athlete and an athlete agent shall give notice in a record of the existence of an agency contract to the commission within 72 hours of entering into the agency contract.

(j) Designee.--

(1) An athletic director may designate an individual who is an employee of the athletic department to be responsible for receiving or making the notices required under this chapter.

(2) If the athletic director designates an individual under paragraph (1), the designation shall be made in writing.  
§ 3512. Student athlete's right to cancel.

(a) Right.--A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than 14 days after the contract is signed.

(b) Waiver prohibited.--A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may not waive the right to cancel an agency contract.

(c) Return of consideration.--If a student athlete, parent or guardian cancels an agency contract, the student athlete, parent or guardian is not required to pay consideration under the contract or return consideration received from the athlete agent to influence the student athlete to enter into the contract.

§ 3513. Required records.

(a) Records.--An athlete agent shall create and retain for five years records of the following:

(1) the name and address of each individual represented by the athlete agent;

(2) each agency contract entered into by the athlete agent; and

(3) the direct costs incurred by the athlete agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(b) Inspection.--Records under subsection (a) shall be open to inspection by the commission.

§ 3514. Prohibited conduct.

An athlete agent may not intentionally do any of the following:

(1) Give a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the student athlete, parent or guardian to enter into an agency contract.

(2) Furnish anything of value to a student athlete or another individual if the thing of value may result in loss of the student athlete's eligibility to participate in the athlete's sport, unless:

(i) the athlete agent notifies the athletic director of the educational institution at which the student athlete is enrolled or at which the athlete agent has reasonable grounds to believe the athlete intends to enroll, not later than 72 hours after giving the thing of value; and

(ii) the student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete acknowledges to the athlete agent in a record that receipt of the thing of value may result in loss of the athlete's eligibility to participate in the student athlete's sport.

(3) Initiate contact, directly or indirectly, with a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, to recruit or solicit the student athlete, parent or guardian to enter an agency contract unless registered under this chapter.

(4) Fail to create, retain or permit inspection of the records required by section 3513 (relating to required records).

(5) Fail to register when required under section 3504 (relating to athlete agent; registration required; void contract).

(6) Provide materially false or misleading information in an application for registration or renewal of registration.

(7) Predate or postdate an agency contract.

(8) Fail to notify a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, before the student athlete, parent or guardian signs an agency contract for a particular sport that the signing may result in loss of the student athlete's eligibility to participate in the student athlete's sport.

(9) Encourage another individual to do any of the prohibited activities under paragraph (1), (2), (3), (4), (5), (6), (7) or (8) on behalf of the athlete agent.

(10) Encourage another individual to assist any other individual in doing any of the prohibited activities under paragraph (1), (2), (3), (4), (5), (6), (7) or (8) on behalf of the athlete agent.

§ 3515. Criminal penalty.

An athlete agent who violates section 3514 (relating to prohibited conduct) commits a misdemeanor of the third degree.

§ 3516. Civil remedy.

(a) Cause of action.--

(1) An educational institution or a student athlete may bring an action for damages against an athlete agent if the

educational institution or student athlete is adversely affected by an act or omission of the athlete agent in violation of this chapter.

(2) An educational institution is adversely affected by an act or omission of an athlete agent only if, because of the act or omission, the educational institution:

(i) is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association which promotes or regulates interscholastic or intercollegiate sports; or

(ii) suffers financial damage.

(3) A student athlete is adversely affected by an act or omission of an athlete agent only if all of the following apply:

(i) At the time of the the act or omission, the student athlete was enrolled in an educational institution.

(ii) Because of the act or omission, the student athlete:

(A) is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association which promotes or regulates interscholastic or intercollegiate sports; or

(B) suffers financial damage.

(b) Recovery.--A plaintiff that prevails in an action under this section may recover actual damages and court costs. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund consideration paid to the athlete agent by or on behalf of the student athlete.

§ 3517. Civil penalty.

(a) Administrative penalty.--The commission may assess an administrative penalty against an athlete agent not to exceed \$50,000 for a violation of this chapter.

(b) Administrative agency law.--A penalty under this section is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 3518. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 3519. Relation to Electronic Signatures in Global and National Commerce Act.

To the extent permitted by section 102 of the Electronic Signatures in Global and National Commerce Act (Public Law 106-229, 15 U.S.C. § 7002), this chapter may supersede provisions of that act.

§ 3520. Disposition of receipts.

All fees, civil penalties, forfeitures and other money collected under this chapter and the regulations of the commission shall be paid into the Athletic Commission Augmentation Account.

§ 3521. Registered athlete agent directory.

The commission shall develop and maintain a database for all registrations of an athlete agent under this chapter. The database shall be made available on the commission's publicly accessible Internet website.

## CHAPTER 37 INTERCOLLEGIATE ATHLETICS

Sec.

3701. Scope of chapter.

3702. Definitions.

- 3703. Compensation regarding college student athlete's name, image or likeness rights.
- 3704. Professional representation.
- 3705. Scholarships.
- 3706. Contracts.
- 3707. Violations and claims.
- 3708. Settlements.
- 3709. Severability.

§ 3701. Scope of chapter.

This chapter relates to college student athlete compensation related to name, image or likeness and professional representation.

§ 3702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Athlete agent." As defined in section 3502 (relating to definitions).

"College student athlete." An individual enrolled at an institution of higher education who participates in intercollegiate athletics for the institution of higher education. The term does not include an individual whose participation is or was in a college intramural sport, club sport or in a professional sport outside of intercollegiate athletics.

"Institution of higher education." Any of the following:

- (1) A university within the State System of Higher Education.
- (2) The Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University or any other institution designated as State-related by the Commonwealth.
- (3) The Thaddeus Stevens College of Technology.
- (4) A community college as defined in Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.
- (5) A college established under Article XIX-G of the Public School Code of 1949.
- (6) An institution of higher education located in and incorporated or chartered by the Commonwealth and entitled to confer degrees as specified in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and as provided for by the standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).
- (7) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.

(8) A foreign corporation approved to operate an educational enterprise under 22 Pa. Code Ch. 36 (relating to foreign corporation standards).

"NCAA." The National Collegiate Athletic Association.

§ 3703. Compensation regarding college student athlete's name, image or likeness rights.

(a) Compensation allowed.--A college student athlete may earn compensation for the use of the college student athlete's name, image or likeness under this chapter. The compensation shall be commensurate with the market value of the college student athlete's name, image or likeness. The compensation may not be provided in exchange, in whole or in part, for a current or prospective college student athlete to attend, participate or perform at a particular institution of higher education.

(b) Prohibition regarding institutions of higher education.--An institution of higher education may not uphold a rule, requirement, standard or other limitation that prevents a college



student athlete of the institution of higher education from earning compensation through the use of the college student athlete's name, image or likeness rights.

(c) Prohibitions regarding intercollegiate athletic entities.--An athletic association, conference or other group or organization with authority over intercollegiate athletics, including the NCAA, may not:

(1) Prevent a college student athlete from earning compensation through the use or license of the college student athlete's name, image or likeness rights.

(2) Prevent an institution of higher education from fully participating in intercollegiate athletics as a result of a college student athlete's use of the college student athlete's name, image or likeness rights to seek compensation.

(d) Royalty payment.--A person that produces a college team jersey, a college team video game or college team trading cards for the purpose of making a profit shall make a royalty payment to each college student athlete whose name, image, likeness or other individually identifiable feature is used.

§ 3704. Professional representation.

(a) Prohibitions.--

(1) An institution of higher education, athletic association, conference or other group or organization with authority over intercollegiate athletics, including the NCAA, may not interfere with or prevent a college student athlete from fully participating in intercollegiate athletics for obtaining professional representation in relation to contracts or legal matters, including representation provided by athlete agents or legal representation provided by attorneys, in relation to a college student athlete's use of the college student athlete's name, image or likeness rights.

(2) An athletic association, conference or other group or organization with authority over intercollegiate athletics, including the NCAA, may not prevent an institution of higher education from fully participating in intercollegiate athletics without penalty to the institution or individual student as a result of a college student athlete obtaining professional representation in relation to contracts or legal matters, including representation provided by athlete agents or legal representation provided by attorneys, in relation to a college student athlete's use of the college student athlete's name, image or likeness rights.

(b) Qualifications.--Professional representation obtained by a college student athlete shall be from a person:

(1) acting as an athlete agent in accordance with Chapter 35 (relating to athlete agents); or

(2) admitted to practice law by a court of record of this Commonwealth.

(c) Contents.--A contract by which a college student athlete authorizes an athlete agent, acting in accordance with Chapter 35, to negotiate or solicit compensation for the use of the college student athlete's name, image or likeness shall include a statement that the contract does not obligate the college student athlete to use the athlete agent for any service beyond professional representation in relation to the use of the name, image or likeness.

§ 3705. Scholarships.

(a) Eligibility.--Earning compensation from the use of a college student athlete's name, image or likeness rights may not affect the college student athlete's scholarship eligibility, duration or renewal.

(b) Compensation.--

(1) For purposes of this chapter, an athletics grant-in-aid or stipend scholarship from an institution of higher education in which a college student athlete is enrolled may not be considered to limit a college student athlete's right to use the college student athlete's name, image or likeness rights, except as expressly provided in this section.

(2) An athletics grant-in-aid or stipend scholarship may not be revoked or reduced as a result of a college student athlete earning compensation under this chapter, except if otherwise mandated by Federal or State student aid guidelines.

§ 3706. Contracts.

(a) Opportunities.--An institution of higher education, athletic association, conference or other group or organization with authority over intercollegiate athletics may not be required to identify, create, facilitate, negotiate or enable opportunities for a college student athlete to earn compensation for the college student athlete's use of the college student athlete's name, image or likeness rights.

(b) Use of trademarks.--This chapter shall not establish or grant a right to a college student athlete to use the name, trademarks, services marks, logos, symbols or any other intellectual property, registered or unregistered, of an institution of higher education, athletic association, conference or other group or organization with authority over intercollegiate athletics, in furtherance of the college student athlete's opportunities to earn compensation for the college student athlete's use of the college student athlete's name, image or likeness rights.

(c) Enforcement.--This chapter shall not limit the right of an institution of higher education to establish and enforce any of the following:

(1) Academic standards, requirements, regulations or obligations for the institution of higher education's college student athletes.

(2) Team rules of conduct or other rules of conduct.

(3) Standards or policies regarding the governance or operation of or participation in intercollegiate athletics.

(4) Disciplinary rules and standards generally applicable to all students of the institution of higher education.

(d) Prohibition.--A college student athlete may not earn compensation as a result of the use of the college student athlete's name, image or likeness in connection with a person, company or organization related to or associated with the development, production, distribution, wholesaling or retailing of any of the following:

(1) Adult entertainment products and services.

(2) Alcohol products.

(3) Casinos and gambling, including sports betting, the lottery and betting in connection with video games, online games and mobile devices.

(4) Tobacco and electronic smoking products and devices.

(5) Prescription pharmaceuticals.

(6) A controlled dangerous substance.

(e) Prohibition.--

(1) An institution of higher education may prohibit a college student athlete's involvement in name, image or likeness activities that conflict with existing institutional sponsorship arrangements at the time the college student athlete discloses a contract to the institution of higher education as required under subsection (f).

(2) An institution of higher education, at the institution of higher education's discretion, may prohibit a college student athlete's involvement in name, image or likeness

activities based on other considerations, such as conflict with institutional values, as defined by the institution of higher education.

(3) An institution of higher education shall have policies that specify the name, image or likeness activities in which college student athletes may or may not engage.

(f) Disclosure.--The following apply:

(1) A college student athlete who proposes to enter into a contract providing compensation to the college student athlete for use of the college student athlete's name, image or likeness rights shall disclose the contents of the contract prior to execution of the contract to an official of the institution of higher education, who is designated by the institution of higher education.

(2) An institution of higher education shall have policies that specify when the contract shall be disclosed and the contents of the contract to be disclosed in accordance with paragraph (1).

(3) If an institution of higher education receives direct financial compensation from a third party arising from the third party's contract with a college student athlete relating to the use of a college student athlete's name, image or likeness, the institution shall be required to disclose in a timely manner the financial relationship between the institution and the third party to the college student athlete. This section shall not apply to compensation received by the institution of higher education for the use of the institution's intellectual property.

#### § 3707. Violations and claims.

(a) Protections and right to adjudicate.--A college student athlete, institution of higher education or conference shall not be deprived of a protection provided under State law with respect to a controversy that arises in this Commonwealth and shall have the right to adjudication in this Commonwealth of a claim that arises in this Commonwealth.

(b) Private civil action.--A college student athlete shall have the right to pursue a private civil action against a person that violates this chapter. The court shall award costs and reasonable attorney fees to a prevailing plaintiff in an action brought against a person violating this chapter.

#### § 3708. Settlements.

Legal settlements made on or after June 30, 2021, may not permit noncompliance with this chapter.

#### § 3709. Severability.

The provisions of this chapter are severable. If any provision of this chapter or the application of any provision of this chapter is held to be invalid, that invalidity shall not affect any other provision or application of any other provision that can be given effect without the invalid provision or application.

Section 4. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 5 Pa.C.S. Ch. 35.

(2) 18 Pa.C.S. § 7107 is repealed insofar as it is inconsistent with this act.

(3) The General Assembly declares that the repeal under paragraph (4) is necessary to effectuate the addition of 5 Pa.C.S. Ch. 37.

(4) Article XX-K of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is repealed.

Section 5. The addition of 5 Pa.C.S. Ch. 37 is a continuation of Article XX-K of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. All activities initiated

under Article XX-K of the Public School Code of 1949 shall continue and remain in full force and effect and may be completed under 5 Pa.C.S. Ch. 37. Orders, regulations, rules and decisions which were made under Article XX-K of the Public School Code of 1949 and which are in effect on the effective date of section 4(4) of this act shall remain in full force and effect until revoked, vacated or modified under 5 Pa.C.S. Ch. 37. Contracts, obligations and collective bargaining agreements entered into under Article XX-K of the Public School Code of 1949 are not affected nor impaired by the repeal of Article XX-K of the Public School Code of 1949.

Section 6. This act shall take effect immediately.

APPROVED--The 3rd day of November, A.D. 2022.

TOM WOLF



## 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.

- Booster/NIL entity may **not** communicate (e.g., call, text, direct message) with a PSA, a PSA's family, or others affiliated with the PSA for a recruiting purpose or to encourage the PSA's enrollment at a particular institution.
- An NIL agreement between a PSA and a booster/NIL entity may **not** be guaranteed or promised contingent on initial or continuing enrollment at a particular institution.
- Institutional coaches and staff may **not** organize, facilitate or arrange a meeting between a booster/NIL entity and a PSA (e.g., *provide the individual or entity with a recruiting list or watch list, including the NCAA Transfer Portal*).
- Institutional coaches and staff may **not** communicate directly or indirectly with a PSA on behalf of a booster/NIL entity.
- *NIL agreements **must** be based on an independent, case-by-case analysis of the value that each athlete brings to an NIL agreement as opposed to providing compensation or incentives for enrollment decisions (e.g., signing a letter of intent or transferring), athletic performance (e.g., points scored, minutes played, winning a contest), achievement (e.g., starting position, award winner) or membership on a team (e.g., being on roster).*

#### **Guidance Related to Current Student-Athletes.**

- An NIL agreement between a SA and a booster/NIL entity may **not** be guaranteed or promised contingent on initial or continuing enrollment at a particular institution.
- *NIL agreements **must** be based on an independent, case-by-case analysis of the value that each athlete brings to an NIL agreement as opposed to providing compensation or incentives for enrollment decisions (e.g., signing a letter of intent or transferring), athletic performance (e.g., points scored, minutes played, winning a contest), achievement (e.g., starting position, award winner) or membership on a team.*

A nonexhaustive list of relevant NCAA Division I legislation is provided below.

#### **Applicable NCAA Division I Legislation.**

- Athletics department staff members are prohibited from representing a prospective student-athlete (PSA) or enrolled student-athlete (SA) in marketing their athletics ability or reputation. (NCAA Bylaw 11.1.3 – Representing Individuals in Marketing Athletics Ability/Reputation)
- Before a PSA signs a National Letter of Intent (NLI) or written offer of admission and/or financial aid or before the institution receives a financial deposit, an institution may comment publicly only to the extent of confirming its recruitment of the PSA. (Bylaw 13.10 – Publicity)

- Boosters may not engage in recruiting activities, including recruiting conversations, on behalf of a school. (Bylaw 13.1.2.1 – Permissible Recruiters)
- Recruiting is defined as “any solicitation of a PSA or a PSA’s family members by an institutional staff member or by a booster for the purpose of securing the PSA’s enrollment and ultimate participation in the institution’s intercollegiate athletics program.” (Bylaw 13.02.14 – Definition of Recruiting)
- Boosters may not be involved in making arrangements for or giving or offering to give any financial aid or other benefits to a PSA. Receipt of a benefit by a PSA is not a violation if the same benefit is generally available to the institution’s prospective students. (Bylaw 13.2.1 – Offers and Inducements)
- Athletics participation for pay and payment based on performance or given on an incentive basis are prohibited. (Bylaws 12.1.2, 12.1.2.1.4.1 and 12.1.2.1.5 – Athletics Eligibility)
- Institutions are held responsible for any impermissible recruiting activities engaged in by a representative of athletics interest. (NCAA Constitution 2.1.2 and 2.8.1, and Bylaw 13.01.2 – Institutional Responsibility)

# 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.







The NCAA national office continues to receive numerous questions about the application of NCAA legislation and the Name, Image and Likeness (NIL) Interim Policy when various state laws address NIL in different and sometimes contrary ways. The NCAA Division I Board of Directors emphasized the need to publish additional guidance as needed to assist institutions in complying with rules prohibiting pay-for-play or improper recruiting inducements in connection with NIL activity. The Association has been clear and maintains that schools must adhere to NCAA legislation (or policy) when it conflicts with permissive state laws. In other words, if a state law permits certain institutional action and NCAA legislation prohibits the same action, institutions must follow NCAA legislation.

In an effort to facilitate more stability in an ever evolving and often confusing national environment, the national office developed summaries of how NCAA regulations have been applied to various scenarios posed by the membership. While the questions and answers below are based on actual circumstances, they have been altered for brevity and clarity.

**Question No. 1:** It is clear that institutions may not compensate a student-athlete for use of NIL. Is it permissible for an entity closely associated with an institution to compensate student-athletes for use of their NIL?

**Answer:** No. Institutions may not use NIL transactions to compensate student-athletes for athletics participation or achievement or as an improper inducement. Any entity that is so closely aligned with an institution that it is viewed as an extension of the university is subject to the same NIL scrutiny as the institution and must adhere to NCAA rules and policy. This includes the prohibition on compensating student-athletes for use of their NIL. Further, institutions are accountable for such entities since they meet the NCAA's definition of a booster - even if the group is formed as a separate 501(c)(3).

**Question No. 2:** Are boosters or a collection of boosters permitted to have contact with prospective student-athletes (PSA) and discuss potential NIL opportunities should the individual decide to attend a particular school?

**Answer:** No. A booster or collection of boosters is not permitted to engage in recruiting activities, including recruiting conversations. When a booster's interaction with a PSA includes encouraging the PSA to attend an institution, NCAA rules have been violated.

**Question No. 3:** Is it permissible for an institution to provide special benefits to boosters in return for the booster donating funds to a collective?

**Answer:** No. Institutions may not provide assets (e.g., tickets, suite access, club seating) to a donor as an incentive for providing funds to the NIL entity.

**Question No. 4:** Is it permissible for an individual or collection of individuals

to condition payment of NIL compensation on a student-athlete's attendance at a particular school?

**Answer:** No. NIL compensation may not be contingent upon enrollment at a particular school. In addition, NIL compensation may not be contingent upon residency in a certain location simply to circumvent this standard.

**Question No. 5:** It is clear student-athletes may not be compensated for participating in a competition and may not be compensated for promoting such competition. Is it permissible for an event sponsor or another institution to pay a collective, which, in turn, compensates student-athletes?


**Answer:** No. It is impermissible for student-athletes to receive compensation directly or indirectly for participating in an athletics competition. As a result, events operators, event sponsors and institutional opponents may not pay an NIL entity (e.g., collective) for a competition in which student-athletes participate. Further, an institution may not provide direct compensation to student-athletes related to NIL activities nor may an institution share revenue with student-athletes. Finally, an athletics department staff member (or entity acting on behalf of the athletics department) is prohibited from representing enrolled student-athletes for NIL deals, including securing and negotiating deals on behalf of the student-athlete.

**Question No. 6:** Some current and proposed state laws appear to now prohibit the NCAA from enforcing its rules. What is the NCAA's position on its approach when an institution in one of those states violates NCAA legislation?

**Answer:** NCAA rules are adopted by member schools. It is not fair to those schools who follow the rules to not enforce rules against those who choose not to do so. Schools who do not like the application of a particular rule should work through the NCAA governance process to change the rule. Unless and until the membership changes a particular rule, all schools, as part of a voluntary membership, are required to comply.

---

*This email was sent to the NCAA athletics directors, conference commissioners, presidents and chancellors, senior compliance administrators, sports information directors, student-athlete affairs administrators and senior woman administrators in Division I based on contact information in the [NCAA Directory](#); as well as select NCAA staff.*



## Name, Image and Likeness Policy

# Question and Answer

### **1. What is a name, image and likeness activity?**

It is an activity that involves the use of an individual's name, image and likeness for commercial or promotional purposes.

### **2. What is the effective date of the interim NIL policy?**

The effective date is July 1, 2021.

### **3. How long will the interim NIL policy remain in effect?**

Until such time that either federal legislation or new NCAA rules are adopted.

### **4. What is the impact of the interim NIL policy on prospective student-athletes?**

Prospective student-athletes may engage in the same types of NIL opportunities available to current student-athletes under the interim NIL policy without impacting their NCAA eligibility. NIL opportunities may not be used as a recruiting inducement or as a substitute for pay-for-play. Individuals are encouraged to consider state laws, if applicable, and the rules of any relevant amateur governing bodies.

### **5. Will compensation for NIL activities jeopardize a prospective student-athlete's high school eligibility?**

Given that rules vary by state, prospective student-athletes should consult their state high school athletics association regarding questions pertaining to high school eligibility.

### **6. Who is a professional service provider?**

A professional service provider is an individual who provides third-party services to a prospective or current student-athlete. It includes, but is not limited to, an agent, tax advisor, marketing consultant, attorney, brand management company or anyone who is employed or associated with such persons.

### **7. Does the NIL interim policy permit individuals to use professional service providers in connection with their name, image and likeness activities?**

Use of a professional services provider for NIL activities is permissible.

### **8. Are institutions permitted to arrange NIL opportunities for student-athletes?**

A number of factors are relevant when institutions consider their possible involvement in arranging NIL transactions. During the interim NIL policy, the expectation is that schools and student-athletes will not use NIL transactions to compensate for athletic participation or achievement or as an improper inducement. In addition, institutions should not dictate how student-athletes use their compensation (e.g., should not require student-athletes to use compensation for financial aid). Beyond NCAA principles related to pay-for-play and impermissible inducements, such involvement may also raise other issues—including potential claims for contractual non-performance, Title IX issues, and employment issues—as to which campus compliance, Title IX, and general counsel staff can be consulted. Institutions should also be aware of and comply with all applicable state and federal laws, including gender equity requirements. Finally, institutions may consider how their legal counsel should be involved with the negotiation, review, and storage of NIL documents.



# Question and Answer

## **9. May an individual enter into an agreement regarding NIL with a professional service provider prior to July 1, 2021?**

No. If an individual enters into an agreement regarding NIL with a professional service provider prior to July 1, 2021, they will jeopardize their amateur status and eligibility for intercollegiate participation in a particular sport and will be subject to student-athlete reinstatement.

## **10. Which state law is applicable to prospective student-athletes prior to enrollment?**

The NCAA cannot provide guidance on issues of state law. The state you live in and the states where a prospective student-athlete may wish to enroll may have NIL laws with which you will want to be familiar. A prospective student-athlete may consult a professional services provider, contact the athletics compliance office of NCAA schools they may choose to attend, or research state law compliance requirements where they may wish to enroll. NCAA schools may also have specific NIL policies that should be considered.

## **11. What is prohibited under the new policy?**

Subject to state law, the following is prohibited under the new interim policy:

- NIL agreement without quid pro quo (e.g., compensation for work not performed). Student-athlete NIL agreements should include the expected NIL deliverables by a student-athlete in exchange for the agreed upon compensation and student-athletes must be compensated only for work actually performed.
- NIL compensation contingent upon enrollment at a particular school. For example, institutions should not use NIL arrangements to improperly induce matriculation (e.g., guaranteeing a particular NIL opportunity upon enrollment);
- Compensation for athletic participation or achievement. Athletic performance may enhance a student-athlete's NIL value, but athletic performance may not be the "consideration" for NIL compensation.
- Institutions providing compensation in exchange for the use of a student-athlete's name, image or likeness.

## **12. Can individuals enter into NIL agreements with boosters?**

Yes, provided the activity is in accordance with state laws and school policy, is not an impermissible inducement and it does not constitute pay-for-play. It is contrary to the NCAA NIL Interim Policy and NCAA rules for an institution, booster or third-party entity to offer NIL compensation based on enrollment at a particular NCAA institution, even if the compensation is provided through a legitimate NIL arrangement. If enrollment at a particular institution is a requirement for receiving payment, such payment would be contrary to the NCAA NIL Interim Policy and NCAA rules.



# Question and Answer

## **13. Do other sections of NCAA Bylaw 12 outside of NIL still apply under the interim policy?**

Individuals and institutions in states with NIL laws or executive actions with the force of law in effect: NCAA rules, including prohibitions on pay-for-play and improper recruiting inducements, remain in effect, but NIL activities protected by state law will not impact eligibility.

Individuals where there is no state law or executive actions: If an individual chooses to engage in an NIL activity, eligibility will not be impacted by NCAA amateurism and athletics eligibility bylaws, but other NCAA rules, including prohibitions on pay-for-play and improper recruiting inducements remain in effect.

## **14. Will an individual be required to report name, image and likeness activities to their school?**

The NCAA's interim policy does not address this issue, but state laws and institutional policies may impose reporting requirements.

## **15. Can international student-athletes benefit from name, image and likeness activities?**

Yes. International individuals are covered by the interim NIL policy; however, they may consider consulting with the Designated School Official at the institution they are attending for guidance related to maintaining their immigration status and tax implications. Specifically, student-athletes, prospective student-athletes, schools or school officials who have questions may write to the U.S. Student and Exchange Visitor Program at [SEVP@ice.dhs.gov](mailto:SEVP@ice.dhs.gov).

## **16. How do I report NIL compensation for tax purposes?**

Individuals should follow all applicable tax laws for reporting NIL compensation. Requirements may vary based on state and/or country.

## **17. How does the interim NIL policy impact a SAs athletic financial aid?**

The interim NIL policy does not impact a student-athlete's financial aid. Compensation, including NIL compensation, remains excluded from NCAA financial aid limitations.

## **18. Where can I go for questions regarding a specific NIL activity?**

General information regarding NIL can be found [here](#). Prospective and current student-athletes with additional questions should consult with the athletics compliance department at the NCAA school they attend or plan to attend. NCAA member schools with additional questions should submit an interpretation request in Requests/Self-Reports Online. Note: NCAA prohibitions on pay-for-play and improper recruiting inducements remain in effect; however, the national office will not interpret state or federal laws or institutional policies.





Division I Council approves NIL disclosure and transparency rules

Proposals introduced for school involvement in NIL activities

Meghan Durham Wright

Media Center

Posted: 1/10/2024 7:56:00 PM

The Division I Council on Wednesday unanimously adopted a proposal to address student-athlete protections related to name, image and likeness effective Aug. 1.

"The action taken by the council today, including the creation of standardized contract recommendations and voluntary registration of service providers, will give student-athletes more confidence as they seek NIL opportunities," said Morgyn Wynne, vice chair of the Division I Student-Athlete Advisory Committee and former softball student-athlete at Oklahoma State. "Division I student-athletes in many states are already reporting the details of their NIL agreements. Disclosing that same information to schools — which would later be shared with the NCAA for the purposes of identifying trends — will offer student-athletes the benefit of better understanding about what a reasonable agreement might be for them."

The four elements of student-athlete protections are:

- *Voluntary registration.*

The NCAA will establish a voluntary registration process for NIL service providers (agents, financial advisors, etc.) to serve as a centralized source for providers interested in working with student-athletes. A national, centralized registration process that collects and publishes information on service providers interested in working with student-athletes will assist student-athletes with making informed decisions as they select their service providers. The details of the process will be finalized and then monitored by a to-be-determined committee to ensure it meets the needs of student-athletes.

- *Disclosure requirements.*

Student-athletes will be required to disclose to their schools information related to NIL agreement exceeding \$600 in value, no later than 30 days after entering or signing the NIL agreement. The data will include contact information for involved parties and service providers, terms of the arrangement (services rendered, term length, compensation and payment structure), and applicable compensation between a student-athlete and service provider. Prospective student-athletes will be required to disclose the same information within 30 days of enrollment.

Data will be deidentified and provided to the NCAA (or a designee) at least twice per year. The NCAA will use that information to develop an aggregated database so student-athletes can better understand trends in NIL agreements and so the national office and member schools can make informed decisions about NIL-related policy.

Currently, more than 20 state laws require student-athletes to disclose NIL agreements. The rule adopted by the council now establishes a consistent national requirement.

- *Standardized contracts.*

The NCAA will work with schools to provide student-athletes with robust education on contractual obligations, including developing a template contract and recommended contract terms, to ensure student-athletes and their families make informed decisions about NIL agreements.

- *Comprehensive NIL education.*

The NCAA will develop a comprehensive plan to provide ongoing education and resources to support student-athletes (and those assisting student-athletes) on policies, rules and best practices pertaining to NIL. Education will be provided to other key stakeholders, as well.

## **Council introduces proposals for school involvement in NIL**

At the recommendation of the NIL Working Group and other key stakeholders, including student-athletes, the council also introduced proposals pertaining to school involvement and recruiting in NIL activities, noting that the proposals taken together should better support student-athlete decision-making and stabilize some of the current challenges associated with NIL activities. The proposals — which could be adopted as early as April after considering membership feedback — would allow increased school support of student-athlete NIL activities and require that entities associated with a school are subject to the same standards as the school.

The proposals would also clearly define an NIL entity for purposes of NCAA rules and expressly prohibit contact between NIL entities and prospects until the prospect signs a letter of intent, participates in summer activities or practices with the team, or enrolls at the school and attends classes.

### **School support of NIL activities**

If adopted, the proposals would remove national restrictions on the level of support provided by schools and their third-party service providers to enrolled student-athletes as they pursue NIL opportunities. Schools would not be permitted to directly compensate student-athletes for the use of their NIL but could identify potential NIL opportunities for student-athletes and even facilitate deals between student-athletes and third parties. However, student-athletes should be able to retain their own representation if they choose and must ultimately retain independent authority over any resulting terms in the NIL agreement. Further, any entity that is associated with or closely aligned with a school would be subject to the same rules as the school itself when it comes to NIL and may not directly compensate a student-athlete.

"The working group heard directly from student-athletes that removing restrictions on school involvement would benefit their experiences with NIL," said Lynda Tealer, chair of the Division I Council, chair of the working group and deputy athletics director at Florida. "These proposals would increase the amount of support a student-athlete could choose to receive from a trusted source — their own school — exponentially. Institutions provide significant assistance to student-athletes in so many areas of their college experience, and broadening what is permitted in the NIL space is something that institutions have expressed an interest in doing."

### **Define NIL entities**

The proposals would clearly define an NIL entity as an individual, group of individuals or any other entity (for example, a collective) organized to support the athletics interest of an NCAA school or group of schools by compensating student-athletes for NIL activities on behalf of itself or another third party.

### **School support of NIL entities**

The proposals would also eliminate regulations governing communications between schools and NIL entities regarding enrolled student-athletes but would continue to prohibit a school from directly or indirectly providing financial support or assets to NIL entities. The working group identified a need for schools and entities to be able to communicate to ensure NCAA rules are followed by both parties.

### **Prospects**

Finally, the proposal prohibits an NIL entity from engaging in any contact, correspondence or other communication with or providing any benefits to a prospect, potential transfer or any individual associated with them, until the prospect signs a letter of intent, participates in summer activities or practices with the team, or enrolls at the school and attends classes.

## University of Pittsburgh (Pittsburgh Campus) Athletics Name, Image and Likeness Policy & Resource Documents

**Scope:** University of Pittsburgh, Pittsburgh Campus (“University” or “Pitt”)

**Applicability:** This Policy applies to Pitt Student-Athlete(s) at the Pittsburgh Campus. This Policy also applies to the Athletic Department coaches and staff at the Pittsburgh Campus.

**Statement of Purpose:** The Department of Athletics is committed to creating an extraordinary student-athlete experience that prepares Pitt Student-Athletes at the Pittsburgh campus for success beyond their collegiate careers. This includes supporting their pursuit of name, image, likeness activities while enrolled at the University and an eligible member of a Pitt Athletics team, consistent with applicable NCAA rules and applicable state and federal laws.

This Policy applies to all student-athletes participating in intercollegiate athletic programs at Pitt and outlines the expectations surrounding a student-athlete’s involvement in NIL Activities. Participation as a college student-athlete is a privilege and participation in NIL Activities as a Pitt Student-Athlete are the responsibility of each student-athlete who chooses to engage in them. As some of the University’s most visible ambassadors, Pitt Student-Athletes are expected to conduct themselves in a manner which will reflect positively upon themselves, their families, coaches, teammates, the Department of Athletics and the University of Pittsburgh.

Under Pennsylvania law, a student-athlete may earn compensation as a result of the use of a student-athlete’s name, image, or likeness. Consistent with the definition below, NIL Activities may include but are not limited to: autograph signings, personal appearances, social media endorsements, camps/clinics, private lessons, and promoting a commercial product or service. Compensation includes any form of payment, including but not limited to cash, gifts, in-kind items of value, discounts, social media compensation, payments for licensing or use of publicity rights, and payments for other intellectual or intangible property rights. Unless expressly stated below, this Policy covers both uncompensated and compensated NIL Activities, including both for-profit and not-for-profit or charitable work.

**Policy Effective Date:** January 2, 2023.

This Policy and attached Resource Documents are subject to change at the discretion of the University. Pitt Student-Athletes are required to comply with the then current Policy and Resource Documents. To ensure you have the most recent version, please visit [<https://pittsburghpanthers.com/forgedhere>].

**International Athlete NIL Activity:** International Pitt Student-Athletes should take care to consider NIL Activities as such activities may impact their immigration status. International Pitt Student-Athletes may review the International Student Athlete FAQ below for general information and should consult their personal immigration counsel before proceeding with any NIL Activity.



## Compensation Do's and Don'ts

- A Pitt Student-Athlete **may** earn compensation for NIL Activities. Compensation includes, but is not limited to, any form of payment, such as, but not limited to cash, gifts, in-kind items of value, discounts, social media compensation, etc.
- Compensation **must be** for work actually performed by the Pitt Student-Athlete. If a Pitt Student-Athlete does not perform any work or does not perform the work agreed upon to receive compensation, their eligibility may be jeopardized.
- A Pitt Student-Athlete **may not** receive compensation as an inducement to enroll, remain enrolled, or to play at Pitt.
- A Pitt Student-Athlete **may not** receive compensation for athletic performance (e.g. a Pitt Student-Athlete may not be paid for scoring “X” number of points, winning a game etc.).
- A Pitt Student-Athlete may not sell team-issued equipment and apparel until their eligibility to participate in college athletics is exhausted.
- Pitt Student-Athletes may not earn compensation as a result of the use of their NIL in connection with any entity related to or associated with the development, production, distribution, wholesaling, or retailing of:
  - Adult entertainment products and services;
  - Alcohol products;
  - Casinos and gambling, including sports betting, the lottery, and betting in connection with video games, on-line games, and mobile devices;
  - Tobacco and electronic smoking products and devices;
  - Prescription pharmaceuticals;
  - A controlled dangerous substance; or
  - NCAA banned substances
- A Pitt Student-Athlete’s athletics grant-in-aid or scholarship will not be reduced because of earning compensation for NIL Activities in compliance with this Policy. However, Pell grant, federal aid, and/or other need-based aid could be impacted.
- Pitt student-athletes may not engage in NIL activities that impact their academic or athletic requirements.

## Additional Do's and Don'ts

- Pitt Student-Athletes may not engage in NIL Activities that violate this Policy, or any other Pitt policy, rule, code, or NCAA or conference rules or guidance.
- Pitt Student-Athletes are required to comply with all applicable federal, state, and local laws, including but not limited to [Pennsylvania’s law related to college athletes and NIL](#).
- Pitt Student-Athletes may also need to follow, and should make themselves aware of, the NIL laws of the state or country in which they legally reside and in which they perform NIL Activities.
- Pitt Student-Athletes may not participate in NIL Activities while officially representing the University in practice or competition, nor while participating in Pitt sponsored events. Accordingly, Pitt Student-Athletes may not participate in NIL Activities while on call for required athletically related activities (e.g., practice, pre- and postgame activities, celebrations on the court, press conferences) and other similar activities.
- Pitt Student-Athletes may not miss academic requirements for NIL Activity.

## **Professional Representation**

- A Pitt Student-Athlete may engage professional representation, including an agent or a lawyer, to assist them with NIL Activities.
  - According to PA Law, NIL-related professional representation obtained by a Pitt Student-Athlete shall be from a person: (i) acting as an Athlete Agent in accordance with the Commonwealth of Pennsylvania’s Revised Uniform Athlete Agent Act; or (ii) admitted to practice law by a court of record of the Commonwealth of Pennsylvania.
- A Pitt Student-Athlete who obtains any professional representation (including financial, marketing, legal or other professional advisors) must register the involvement in accordance with the Pitt Agent and Advisor Program.
- A Pitt Student-Athlete may not hire professional representation, such as an agent, to represent them directly or indirectly or attempt to represent them for purposes of marketing athletic ability or reputation for financial gain as a professional athlete or to secure opportunities as a professional athlete.
- To the extent required by applicable law, the University will disclose information, including without limitation, information related to NIL professional representation, to applicable regulatory bodies.

## **University Partners, Trademarks & Copyrights, & Facilities**

- Pitt Student-Athletes may not engage in any NIL Activity that conflicts with existing University of Pittsburgh contractual obligations to third parties, including but not limited to Athletic Department sponsors such as Nike, or PepsiCo.
- Pitt Student-Athletes may not use Pitt Marks or Pitt Gear in their NIL Activities without Pitt’s prior written approval. Similarly, they may not use photos or videos containing Pitt Marks or Pitt Gear without Pitt’s prior written approval. However, the Athletic Department will allow the limited use of Pitt Marks and/or Pitt Gear, including photos or videos, to the extent expressly stated in the attached NIL Logo & Mark FAQ.
- Pitt Student-Athletes may state in their personal biography (including but not limited to Twitter, Instagram, etc. bio sections), that they are a student-athlete at the University of Pittsburgh and list their personal academic or athletic accolades. They may not imply, directly or indirectly, that the University of Pittsburgh is endorsing any NIL Activities, or any products or services associated with their NIL Activities.
- Pitt Student-Athletes may not, nor may they grant permission to any other to, sponsor, endorse, promote, identify, or advertise another person or a product, service or entity while referring in any way to the University of Pittsburgh or Pitt Athletics, or otherwise use or display any Pitt Marks or Pitt Gear, without Pitt’s prior written approval.
- Pitt facilities may not be used in NIL Activities without the prior written consent of the Athletic Department. All approved uses must comply with Pitt facility use policies and procedures.

## Disclosure Requirements

- A Pitt Student-Athlete must disclose all NIL Activities, including but not limited to those involving charitable activities, to Pitt Athletic Compliance via the **INFLCR app** BEFORE:
  - a contract is signed
  - an oral contract is agreed upon (if there is no written contract being executed); and
  - the Pitt Student-Athlete exchanges or performs the agreed upon NIL Activity
- For the disclosure to be considered submitted on time, all of the following information must be provided:
  - Name
  - Sport
  - Dollar amount or item
  - Transaction name, date and type
  - Vendor name and contact (including email and phone)
  - Permission to use Pitt logos and marks
- For the disclosure to be considered submitted on time, the following information is recommended for submission:
  - Copy of agreement
  - Description of the activity(ies) the Pitt Student-Athlete is being compensated for
  - Brand, company, product, commercial entity, non-commercial entity, or charitable entity Pitt Student-Athlete wishes to work with
  - Details of the proposed arrangement
  - Duration of activity
  - Compensation arrangements
  - Details of relationships with involved individual/commercial entity/3rd parties/service providers
  - Other information as requested by Pitt Athletics Compliance
- Changes or updates to information originally reported shall be reported as soon as reasonably possible.
- Disclosures via e-mail, text, etc. will not be considered “disclosed” in compliance with the Policy until all required information is submitted via the INFLCR app.
- The Athletic Department will review disclosures of proposed NIL Activities and communicate further with the disclosing Pitt Student-Athlete. The review of such disclosures will be limited to compliance with this Policy and NCAA rules.
- Pitt’s review of any NIL Activity, and further communication with the Pitt Student-Athlete, should not be considered approval as to conformity with any applicable law. Pitt cannot provide legal, business or other advice to Pitt Student-Athletes regarding the appropriateness of any NIL Activity and Pitt’s review of and communication about such a proposal should not be considered such advice. It is recommended that Pitt Student-Athletes obtain such advice from their own personal advisors for such activities.

## **NCAA Guidance on Pitt's Role in NIL Activities**

Pitt Athletics is supportive of student-athletes' right and opportunity to earn compensation through the use of their Name, Image and Likeness and offers a variety of programs and tools as permitted by NCAA rules and Pennsylvania law to support these opportunities.

However, generally, the NCAA does not permit schools to use NIL transactions as a means to compensate student-athletes for athletics participation or achievement, or as a recruiting inducement to attend the University of Pittsburgh.

As such, per NCAA guidance, Pitt **MAY** engage in the following activities in support of Pitt Student-Athletes' pursuit of NIL opportunities:

### **EDUCATION**

Pitt Athletics may:

- Offer educational sessions for student-athletes on NIL-related topics (financial literacy, taxes, entrepreneurship, social media, etc.)
- Offer educational sessions for outside entities interested in working on NIL with Pitt student-athletes (e.g. donors, local businesses, collectives)
- Offer educational sessions for prospective student-athletes

### **MONITORING**

Pitt Athletics may:

- Require reporting of NIL activities by student-athletes

### **SUPPORT AND ENGAGEMENT**

Pitt Athletics may:

- Inform student-athletes of NIL opportunities
- Administer a market place that matches student-athletes with NIL opportunities
- Provide information to student-athletes about NIL opportunities that Pitt becomes aware of
- Provide contact information to NIL entities seeking to engage student-athletes
- Provide stock, stored photo/video/graphics to student-athletes or NIL entities
- Introduce students to representatives of NIL entities
- Arrange space for NIL entities and student-athletes to meet on campus
- Promote student-athletes' NIL activity, provided there is no cost to Pitt
- Promote student-athletes' NIL activity on a paid platform provided the student-athlete or another NIL entity is paying the going rate for advertisement
- Purchase items related to a student-athlete's NIL deal that are de minimis in value and for the same rate as the general public

While there are a variety of ways Pitt may support student-athletes' NIL opportunities, per NCAA guidance, Pitt **MAY NOT** participate in any of the following activities on behalf of student-athletes:

### **IMPERMISSIBLE SUPPORT**

Pitt Athletics may not:

- Communicate with NIL entities regarding specific student-athlete requests or demands for compensation, or encourage NIL entities to fulfill student-athlete requests
- Proactively assist in developing, creating, executing or implementing a student-athlete NIL activity (e.g. developing product or promotional materials, or ensuring performance of NIL activities)
- Provide services to support NIL activity (e.g. graphics design, tax preparation, contract review) unless the same benefit is generally available to all Pitt students
- Provide access to equipment to support NIL activity (e.g. cameras, graphics software, computers, etc.) unless the same benefit is generally available to all Pitt students
- Allow student-athletes to promote their NIL activities while on call for required athletically related activities (e.g. pre- and post-game activities, celebrations on court, press conferences)

### **IMPERMISSIBLE NEGOTIATION, REVENUE SHARING, COMPENSATION**

Per NCAA guidance, Pitt Athletics may not:

- Allow Pitt Athletics staff members (or companies owned by them) to represent enrolled student-athletes for NIL deals, including securing and negotiating deals on behalf of student-athletes
- Allow any individual or entity acting on behalf of the athletics department to represent enrolled student-athletes for NIL deals, including securing and negotiating deals on behalf of student-athletes
- Enter into a contract with a student-athlete for the sale of a product related to the student-athlete's NIL
- Enter into revenue sharing agreement with student-athletes for conference, broadcast or NIL revenue
- Provide NIL deals with student-athletes through businesses of staff members separate from Pitt
- Allow coaches to compensate student-athletes to promote the coach's camp
- Provide compensation directly or indirectly to student-athletes for promoting an athletics competition in which they participate

The lists of permissible and impermissible activities described in this section, above, are not considered exhaustive. The permissibility of all NIL Activities remains subject to review and interpretation by the Pitt Office of Athletic Compliance.

## Departmental NIL Activities

- Pitt Student-Athletes will be required to participate in, among other things, occasional departmental fundraising, or promotional events for which they will not be compensated for use of NIL. Examples of activities include but are not limited to:
  - Events for department-wide purposes including thanking donors or engaging prospects
  - Events for their sport which may promote their program, thank donors or engage prospects
  - Thanking of university, department and sport-specific donors via letters, videos, or other communications
  - Promotion of university, department or sport-specific initiatives via videos, photos, quotes, social media
  - Media interviews and team photo shoots
  - Team and department-wide community service events.

## Sanctions

- Failure to abide by this Policy may result in loss of privileges and other sanctions as appropriate, including but not limited to verbal or written reprimand, probation, loss of practice privileges, loss of competition privileges, suspension, or dismissal from the athletic program.
- Prior to sanctioning, Pitt Student-Athletes will be provided with notice of the alleged violation and opportunity to respond to the allegations.

## NIL Resource: Definitions

- **“Athlete Agent”** As defined in [Chapter 31 of Act of November 3, 2022, P.L. 1996, No. 139](#). (See also 5 Pa. C. S. A. 3502.)
- **“Entity”** Any individual, brand, company, organization, product, or service, whether for-profit, non-profit or charity, other than the University of Pittsburgh. “Entities” is the plural of “Entity.”
- **“NCAA”** The National Collegiate Athletic Association.
- **“NIL”** The name, image and/or likeness of an individual.
- **“NIL Activity”** Any activity in which a Pitt Student-Athlete uses their NIL or personal appearance, to promote or endorse, directly or indirectly, whether compensated or not, any Entity, including but not limited to autograph signings. “NIL Activities” is the plural of “NIL Activity.”
- **“Pitt Gear”** Includes all parts of any Pitt team uniform as well as any and every item of apparel or footwear on which any Pitt Marks are displayed.
- **“Pitt Marks”** Shall include the names, symbols, designs and colors of the University of Pittsburgh, including, without limitation, the trademarks, service marks, designs, team names, nicknames, abbreviations, city/state names in the appropriate context, slogans, logo graphics, mascots, seals and other symbols related to, associated with or referring to the University.
- **“Pitt Student-Athlete”** Any individual who is then eligible to participate as a student-athlete member of a Pitt Athletics intercollegiate athletics team in accordance with all applicable NCAA rules.

## NIL Resource: Logo and Mark FAQ

**Philosophy:** The University of Pittsburgh's Office of Trademark Licensing exists to protect Pitt's image and reputation through appropriate and legal use of the University's trademarks and other intellectual property. It seeks to promote Pitt through quality official partnerships and contractual obligations.

Q: Can I wear Pitt Gear or other Pitt Apparel in Social Media posts?

A: Yes, provided you are only promoting yourself. You may NOT wear Pitt Gear or otherwise use Pitt Marks and Pitt Gear to sponsor, endorse, promote, identify, or otherwise identify another person, product, service, or Entity. Nor may you grant others the right to do so.

Q: Can I use Pitt colors in self-promotion that does not include me sponsoring, endorsing, promoting or otherwise identifying another person product, service or Entity?

A: Yes, provided there is no other use of Pitt intellectual property.

Q: Can I develop and use my own logo/trademark/tag line?

A: Yes, Pitt Student-Athletes can develop and use their own logo/trademark/tag line, however they may not incorporate any Pitt Marks or confusingly similar marks, into their independent marks. In addition, Pitt Student-Athletes may incorporate Pitt colors into their independent logos/trademarks.

Q: I was offered compensation to eat at a local restaurant while being filmed or photographed in my Pitt Gear. Is this an acceptable use of Pitt Marks?

A: No. As described above, the use of Pitt Marks or Pitt Gear in NIL Activities generally requires Pitt's prior written approval. Since this proposed use is not purely personal and, in fact, would serve to promote the local restaurant, you may not display your Pitt Gear or Pitt Marks unless you first obtain Pitt's prior written approval.

Q: I was offered compensation to eat or shop at a local establishment. I would not be wearing any Pitt Gear, or otherwise display any Pitt Marks, but I would be identified as a Pitt Student-Athlete. Is this acceptable?

A: No. This would not be acceptable unless you first obtain Pitt's prior written approval, as it would refer to the University of Pittsburgh/Pitt Athletics in the endorsement.

Q: I found an action photo or video of myself in my Pitt uniform on the internet. Is it acceptable for me to use this photo or video to promote myself on social media?

A: As long as you are only promoting yourself, and not sponsoring, endorsing, promoting, identifying or advertising another person, or a product, service or Entity—and you are not giving such permission to any other—that is an acceptable use of your Pitt Gear or Pitt Marks. However, you should be very careful about the use of the photo because, if the copyright to the photo is not owned by you or by the University of Pittsburgh, you will need permission from the copyright owner. If you are unsure of the copyright owner, or you have any other questions you may contact the Pitt Athletics Licensing Office for confirmation.

Q: I was offered compensation in return for having my image, in Pitt Gear, placed on a drinking glass to be given out to the first 100 people who visit a local commercial establishment on game day. Is this acceptable?

A: No. Since this proposed use is not purely personal and, in fact, would serve to promote the local establishment, you may not display your Pitt Gear or Pitt Marks unless you first obtain Pitt's prior written approval.

Q: I was offered compensation in return for having my image, in Pitt Gear, placed on a trading card. Is this acceptable?

A: No. Since this proposed use is not purely personal and, in fact, would serve to promote the company producing the trading card, you may not display your Pitt Gear or Pitt Marks unless you first obtain Pitt's prior written approval. Trading card opportunities may possibly be made available through a group licensing program approved by Pitt.

Q: I was offered compensation in return for wearing a particular company's branded footwear during my team's games or practices. Is that acceptable?

A: No. Pitt Student-Athletes may not engage in NIL Activities that conflict with existing University of Pittsburgh sponsorship arrangements.



## NIL Resource: International Athlete Supplement FAQ

The Department of Athletics and Office of International Services has prepared the following FAQ to address common questions related to international students' ability to participate in NIL activities. **However, each individual student's situation and immigration status is unique, accordingly, student athletes should consult with their personal immigration attorney prior to undertaking any compensation generating activity.**

- Q. Can nonimmigrants (e.g., foreign nationals in F-1, J-1, etc. status) work in the United States?
- A. Nonimmigrants cannot work in the United States unless the employment is specifically provided for in the regulations. A nonimmigrant who is permitted to engage in employment may engage only in such employment as has been authorized. Any unauthorized employment by a nonimmigrant constitutes a failure to maintain status within the meaning of section 241(a)(1)(C)(i) of the Immigration and Nationality Act.
- Q. What is the status of the rules concerning whether F-1 students (including F-1 student athletes) can be compensated for **name, image, and/or likeness (NIL) efforts**?
- A. Numerous state laws on college student athletes being compensated for the use of their NIL took effect on July 1, 2021. Other states are planning or considering such legislation, and there are several bills being considered in Congress, which could preempt state laws if passed.

The U.S. Department of Homeland Security (DHS) has not yet provided guidance concerning whether compensated NIL arrangements constitute employment under federal immigration law, or on the impact of such arrangements on the various nonimmigrant statuses. On June 21, 2021, the Student and Exchange Visitor Program (SEVP) announced:

The Student and Exchange Visitor Program (SEVP) is aware of and actively monitoring proposed federal and state legislation pertaining to the use of name, image and likeness for student athletes, including F and M nonimmigrant students. The program is working with its partners within the U.S. Department of Homeland Security to review how this legislation affects international student athletes and will provide updated guidance via Broadcast Messages, Study in the States, social media and SEVP field representatives.

Factors that could impact the outcome for a particular student include:

- the nature of the specific NIL activities (which gets to whether the activity constitutes employment)
- the student athlete's immigration status (e.g., a student could be in F-1 or J-1 status, or be here as a dependent in another nonimmigrant status; each of these statuses would require a separate analysis, unless DHS could craft a general policy that NIL activity authorized under a state statute would be permissible in all nonimmigrant categories, incident to status).
- the specific provisions of state, federal, and NCAA rules.

Q. Can F-1 student athletes receive NIL compensation while in the United States?

A. No. Foreign students can receive "passive income" without special/additional permission from USCIS. Passive income usually refers to money earned without the recipient actively working to earn/receive it at the time, such as earnings from a pension fund/accounts, royalties, rental property, or income from a company in whose operations you do not actively participate (e.g., dividends from a stock or the income from a bond).

Active income usually refers to money earned for work that the recipient performs, which includes freelancing, making promotional appearances, working for your own company, and being employed by a company.

Under the current rules, and because NIL compensation requires the participation of the athlete, it is not "passive income."

Unless NIL compensation is earned during "on-campus employment," USCIS could consider this activity unauthorized employment in violation of the student athlete's F-1 student visa status.

Q. Does signing autographs or making appearances in the United States for compensation constitute work?

A. Yes.

Q. What is permissible on-campus employment for F-1 student athletes?

A. The student visa regulations permit on-campus employment not to exceed 20 hours a week while school is in session. The employment must occur on the school's premises, such as a school bookstore or cafeteria, or at an off-campus location which is educationally affiliated with the school. Employment with an on-site commercial firm (such as a construction company building a school building) which does not provide direct student services is not considered permissible on-campus employment.

Q. Can an F-1 student-athlete apply for CPT or OPT work authorization to engage in NIL activities?

A. Maybe. The NIL activity must qualify for Curricular Practical Training (CPT) or Standard Optional Practical Training (OPT) for the student to be able to apply for CPT or OPT. Please contact OIS for more details.

**Unfortunately, it is rare that an NIL activity will qualify for authorization.**

Q. Is any off-campus employment permitted for foreign students?

A. An F-1 student may apply to USCIS for off-campus employment authorization based upon severe economic harm/hardship caused by unforeseen circumstances beyond the student's control. USCIS processing time for these applications is currently 7-14 months. It may be unlikely that a foreign student athlete on a full scholarship can make a persuasive case for suffering "severe economic harm."

Q. As an F-1 student athlete may I work at summer sports camps?

A. It depends, if the sports camp is a Pitt owned sports camp either on campus or at a facility licensed by the University, yes, an F-1 student athlete may work at the summer camp in accordance with the applicable guidance related to on-campus employment for F-1 students.

If the camp is sponsored by a third party (regardless of location, on or off campus), for example an independent coach's camp, a camp sponsored by a collective, etc., then no, the F-1 student athlete may not work at the summer camp.

Q. Can an F-1 student-athlete engage in an NIL activity for compensation during breaks from university (i.e., winter break, spring break, summer break) while abroad or in their home country, including social media endorsements for U.S. companies, products, or services?

A. Yes, when an international student-athlete is in his/her home country, he/she may receive compensation for services from a U.S. company. U.S. employment and tax laws are based on the physical location of the individual. However, the NIL activity must be completed while the student is abroad and in accordance with all local laws. Accordingly, foreign student athletes should seek guidance from their personal attorneys regarding any such activities.

International student-athletes should confirm with OIS that they are outside of the United States to properly document their physical location while conducting NIL activities.

Q. Can an F-1 student athlete accept income from jersey sales or other such licensing agreement (e.g., an agreement with Brandr).

A. Maybe, provided the F-1 student athlete does nothing other than agree to let Brandr use his/her existing NIL on clothing, pictures, etc. (no appearances, no photo shoots, etc.), and until USCIS issues specific guidance to the contrary, simply signing a licensing agreement may likely be considered passive income and permissible. Please consult your personal immigration attorney.

**Until/unless we have clarification from DHS, schools and international student athletes should approach NIL questions with caution. International students should seek advice from an experienced immigration lawyer before entering into an NIL agreement or engaging in compensated NIL activity.**

**OIS currently advises all F-1 visa holding international student athletes to not be compensated (financially, with merchandise, or otherwise) for use of your name, image, and/or likeness (either while in or outside of the United States) without first obtaining specific guidance from an immigration attorney.**

## NIL Resource: Key Information, Services and Contacts

### Legal and Regulatory

- [NCAA](#)
- [Pennsylvania Law](#)

### Group Licensing

- [Brandr Group Licensing Program](#)
- [Brandr Group Licensing Registration](#)

### NIL Collectives

- [Alliance 412](#)

### NIL Marketplace

- [Forged Here Exchange](#) (log-in required)
- [Forged Here Exchange Profile Set Up](#)

### NIL Programming

- [Forged Here NIL Website](#)

### NIL Reporting and Brand Development

- [INFLCR](#) (log-in required)
- [INFLCR Profile Set Up](#)
- [INFLCR Verified NIL Reporting](#)

### Pitt Athletics Key NIL Contacts

- Compliance Questions
  - Ryan Mitchell | Associate Athletic Director for Compliance | [rmitchell@athletics.pitt.edu](mailto:rmitchell@athletics.pitt.edu)
  - Tyler Wright | Assistant Athletic Director for Compliance | [twright@athletics.pitt.edu](mailto:twright@athletics.pitt.edu)
- Life Skills Questions
  - Penny Semaia | Senior Associate Athletic Director for Student Life | [psemaia@athletics.pitt.edu](mailto:psemaia@athletics.pitt.edu)
  - Kristen Marsters | Director of Strategic Initiatives for Life Skills | [kmarsters@athletics.pitt.edu](mailto:kmarsters@athletics.pitt.edu)
- Athletic Communications Questions
  - Matt Plizga | Assistant AD, Athletic Communications | [mplizga@athletics.pitt.edu](mailto:mplizga@athletics.pitt.edu)
  - Joe Lassi | Director of Social Media & Fan Engagement | [jlassi@athletics.pitt.edu](mailto:jlassi@athletics.pitt.edu)
- Pitt Marks, Licensing and Merchandise Questions
  - Lori Burens | Director of Licensing and Merchandising | [lburens@athletics.pitt.edu](mailto:lburens@athletics.pitt.edu)