



WHY YOUR STATE SHOULD ADOPT THE UNIFORM COLLEGE ATHLETE NAME, IMAGE, OR LIKENESS ACT (2021)

The Uniform College Athlete Name, Image, or Likeness Act provides states with a comprehensive, uniform framework for state-level regulation of college athlete name, image, or likeness (NIL) activities that will provide college athletes with robust protections for their NIL rights while also creating a level playing field for athletes and institutions competing across state lines. This Act seeks to correct the competitive imbalances created by the patchwork of inconsistent state NIL laws and exacerbated by the NCAA's interim NIL policy that allows college athletes to engage in NIL activities that are consistent with the law of the state where the school is located and allows college athletes who attend school in a state without a NIL law to engage in NIL activity without violating NCAA rules relating to NIL. The specific provisions built into the Act to correct the competitive imbalances include:

- ***Prohibiting the use of school logos in NIL activity.*** The Act states that a college athlete may not include in NIL activity an institution, conference, or athletic association name, trademark, service mark, logo, uniform design, etc. Because some university logos are inherently more valuable to advertisers than others, the use of university logos in NIL activity could lead to discrepancies in the amount of NIL compensation offered to college athletes based solely on the school the college athlete attends and not the value of the college athlete's NIL.
- ***Prohibits educational institutions from limiting NIL activities*** based on the institution's own sponsorships or advertising deals. Many state NIL laws allow an institution to prohibit NIL activity that conflicts with the sponsorships or advertising deals of the institution or its athletic department (i.e., a Nike school prohibiting college athletes from entering NIL agreements with Adidas). The drafting committee felt that college athletes' NIL rights should not be limited by the existing sponsorships of their educational institution.
- ***Prohibits educational institutions from limiting specific types of NIL activities*** that the institution determines has an adverse impact on its reputation *unless* the institution complies with the same policy with respect to its sponsorships and advertising deals. Some state laws list categories of NIL activity that are prohibited (alcohol, tobacco, marijuana, gambling, etc.) while others allow the institution to ban any NIL activity that it determines has an adverse impact on its reputation. The Uniform Act's approach has the effect of allowing an institution to prohibit college athletes from entering NIL deals with, for example, an alcohol company, only if the institution refrains from engaging in sponsorships or similar commercial activity with alcohol companies.
- ***Does not expressly require NIL activity to be commensurate with the fair market value*** of the college athlete's NIL. Many of the existing state NIL laws contain some sort of "fair market value" requirement, with a smaller subset allows institutions to require, and establish procedures for ascertaining, that a college athlete's NIL use is commensurate with the fair market value. The drafting committee felt that any such requirement would be nearly impossible to measure given the ever-evolving landscape and myriad factors including differences in value based on the student's state, city, and region, sport(s) played, existing social media following, etc.

- ***Permits institutional, conference, and athletic association involvement*** in NIL activity. Under the Act, educational institutions, conferences, or athletic associations may educate college athletes about NIL compensation, agreements, and activity, and assist college athletes in evaluating the permissibility of NIL activities, including compliance with state law and institution, conference, and association rules, assist with the disclosure requirements under the Act, and assist by providing good-faith evaluations of NIL agents or third parties. Some existing state laws expressly prohibit institutional involvement in college athlete NIL activity, while other states implicitly permit institutions to arrange or facilitate NIL opportunities for college athletes.
- ***Provides remedies for college athletes and educational institutions*** by giving college athletes and educational institutions the right to sue NIL agents or third parties for damages caused by violation of the act.

For more information on the Uniform College Athlete Name, Image, or Likeness Act, please contact ULC Legislative Counsel Libby Snyder at (312) 450-6619 or lsnyder@uniformlaws.org.