

# Division I

**Proposal Number:** 2020-6

**Title:** AMATEURISM -- USE OF NAME, IMAGE AND LIKENESS -- STUDENT-ATHLETES

**Intent:** To permit a student-athlete to use his or her name, image and likeness for compensation, as specified.

**A. Bylaws:** Amend 12, as follows:

12 Amateurism and Athletics Eligibility

[12.01 unchanged.]

12.02 Definitions and Applications.

12.02.1 Agent. An agent is any individual who, directly or indirectly:

(a) Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain **as a professional athlete**; or

[12.02.1-(b) unchanged.]

[12.02.1.1 through 12.02.1.2 unchanged.]

[12.02.2 through 12.02.8 unchanged.]

**12.02.9 Name, Image and Likeness Activity. A name, image and likeness activity is any activity in which a prospective student-athlete or student-athlete's name, image, likeness or personal appearance is used for promotional purposes by a noninstitutional entity, including the individual prospective student-athlete or student-athlete, a commercial entity or a noninstitutional nonprofit or charitable entity. Such use may be compensated (e.g., cash, product or other benefit) or uncompensated.**

[12.02.9 through 12.02.16 renumbered as 12.02.10 through 12.02.17, unchanged.]

12.1 General Regulations. An individual must comply with the following to retain amateur status. (See Bylaw 12.12 regarding the eligibility restoration process.)

[12.1.1 unchanged.]

12.1.2 Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

(a) Uses his or her athletics skill (~~directly or indirectly~~) for pay in any form **for participation** in that sport;

(b) Accepts a promise of pay **for participating in that sport** even if such pay is to be received following completion of intercollegiate athletics participation;

[12.1.2-(c) through 12.1.2-(f) unchanged.]

(g) Enters into an agreement with an agent **to secure an opportunity as a professional athlete**.

[12.1.2.1 through 12.1.2.4 unchanged.]

[12.1.3 unchanged.]

[12.2 unchanged.]

12.3 Use of Agents.

12.3.1 General Rule. An individual shall be ineligible for participation in an intercollegiate sport if he or she ever has agreed (orally or in writing) to be represented by an agent for the purpose of marketing his or her athletics ability or reputation in that sport **to secure an opportunity as a professional athlete**. Further, an agency contract not specifically limited in writing to a sport or particular sports shall be deemed applicable to all sports, and the individual shall be ineligible to participate in any sport.

[12.3.1.1 through 12.3.1.5 unchanged.]

[12.3.2 through 12.3.4 unchanged.]

#### 12.4 Employment **Unrelated to Name, Image or Likeness.**

12.4.1 Criteria Governing Compensation to Student-Athletes. Compensation may be paid to a student-athlete: [R]

[12.4.1-(a) through 12.4.1-(b) unchanged.]

~~12.4.1.1 Athletics Reputation. Such compensation may not include any remuneration for value or utility that the student-athlete may have for the employer because of the publicity, reputation, fame or personal following that he or she has obtained because of athletics ability.~~

#### 12.4.2 Specific Athletically Related Employment Activities.

12.4.2.1 Fee-for-Lesson Instruction. A student-athlete may receive compensation for teaching or coaching sport skills or techniques in his or her sport on a fee-for-lesson basis, provided: [R]

(a) ~~Institutional~~ **If institutional** facilities are ~~not~~ used, **institutional policies and procedures for renting such facilities apply;**

[12.4.2.1-(b) unchanged.]

(c) The compensation is paid by the lesson recipient (or the recipient's family member) and not another individual or entity; **and**

(d) Instruction to each individual is comparable to the instruction that would be provided during a private lesson when the instruction involves more than one individual at a time; ~~and,~~

~~(e) The student-athlete does not use his or her name, picture or appearance to promote or advertise the availability of fee-for-lesson sessions.~~

12.4.2.2 National Team Practice and Competition A student-athlete may receive actual and necessary expenses and reasonable benefits associated with national team practice and competition (e.g., health insurance, broken-time payments). [R]

~~12.4.2.3 Athletics Equipment Sales. A student-athlete may not be employed to sell equipment related to the student-athlete's sport if his or her name, picture or athletics reputation is used to advertise or promote the product, the job or the employer. If the student-athlete's name, picture or athletics reputation is not used for advertising or promotion, the student-athlete may be employed in a legitimate sales position, provided he or she is reimbursed at an hourly rate or set salary in the same manner as any nonathlete salesperson.~~ [R]

12.4.2.4~~3~~ Goodwill Tour Commissions. A student-athlete representing the institution in a goodwill tour during summer months, in conjunction with the tour, may sell such items as jackets, blazers or similar institutional promotional items to booster groups or other friends of the institution on a salary, but not a commission, basis. [R]

12.4.2.4~~2~~ Camp/Clinic Employment, General Rule. A student-athlete may be employed by his or her institution, by another institution, or by a private organization to work in a camp or clinic as a counselor, unless otherwise restricted by NCAA legislation (see Bylaw 13.12 for regulations relating to camps and clinics).

~~12.4.4 Self-Employment. A student-athlete may establish his or her own business, provided the student-athlete's name, photograph, appearance or athletics reputation is not used to promote the business.~~

#### 12.5 Promotional **Name, Image and Likeness** Activities.

~~12.5.1 Permissible.~~

~~12.5.1.1 Promotions Involving NCAA Championships, Events, Activities or Programs. The NCAA (or a third party acting on behalf of the NCAA (e.g., host institution, conference, local organizing committee)) may~~

~~use the name or picture of an enrolled student-athlete to generally promote NCAA championships or other NCAA events, activities or programs.~~

~~12.5.1.1.4.1 Exception — Olympic, Paralympic or National Team. A national governing body may sell player/trading cards that bear the name or picture of a student-athlete who is a member of the Olympic, Paralympic or national team in that sport, provided all of the funds generated through the sale of such cards are deposited directly with the applicable Olympic, Paralympic or national team.~~

~~12.5.1.2 U.S. Olympic and Paralympic Committee/National Governing Body Advertisement Prior to Collegiate Enrollment. Prior to initial, full-time collegiate enrollment, an individual may receive payment for the display of athletics skill in a commercial advertisement, provided:~~

- ~~(a) The individual receives prior approval to appear in the advertisement from the U.S. Olympic and Paralympic Committee or the applicable national governing body;~~
- ~~(b) The U.S. Olympic and Paralympic Committee or national governing body approves of the content and the production of the advertisement;~~
- ~~(c) The individual forwards the payment to the U.S. Olympic and Paralympic Committee or national governing body for the general use of the organization(s); and~~
- ~~(d) The funds are not earmarked for the individual.~~

~~12.5.1.3 Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment. If an individual accepts remuneration for or permits the use of his or her name or picture to advertise or promote the sale or use of a commercial product or service prior to enrollment in a member institution, continued remuneration for the use of the individual's name or picture (under the same or similar circumstances) after enrollment is permitted without jeopardizing his or her eligibility to participate in intercollegiate athletics only if all of the following conditions apply:~~

- ~~(a) The individual's involvement in this type of activity was initiated prior to his or her enrollment in a member institution;~~
- ~~(b) The individual became involved in such activities for reasons independent of athletics ability;~~
- ~~(c) No reference is made in these activities to the individual's name or involvement in intercollegiate athletics;~~
- ~~(d) The individual does not endorse the commercial product; and~~
- ~~(e) The individual's remuneration under such circumstances is at a rate commensurate with the individual's skills and experience as a model or performer and is not based in any way upon the individual's athletics ability or reputation.~~

~~12.5.1.4 Congratulatory Advertisement. It is permissible for a student-athlete's name or picture, or the group picture of an institution's athletics squad, to appear in an advertisement of a particular business, commercial product or service, provided:~~

- ~~(a) The primary purpose of the advertisement is to publicize the sponsor's congratulations to the student-athlete or team;~~
- ~~(b) The advertisement does not include a reproduction of the product with which the business is associated or any other item or description identifying the business or service other than its name or trademark;~~
- ~~(c) There is no indication in the makeup or wording of the advertisement that the squad members, individually or collectively, or the institution endorses the product or service of the advertiser;~~
- ~~(d) The student-athlete has not signed a consent or release granting permission to use the student-athlete's name or picture in a manner inconsistent with the requirements of this section; and~~
- ~~(e) If the student-athlete has received a prize from a commercial sponsor in conjunction with participation in a promotional contest and the advertisement involves the announcement of receipt of the prize, the receipt of the prize is consistent with the provisions of Bylaw 12.5.2.3.3 and official interpretations.~~

*12.5.1.5 Educational Products Related to Sport Skill Instruction. It is permissible for a student-athlete's name or picture to appear in books, articles and other publications, films, videotapes, and other types of electronic reproduction related to sport-skill demonstration, analysis or instruction, provided:*

- (a) Such print and electronic media productions are for educational purposes;*
- (b) There is no indication that the student-athlete expressly or implicitly endorses a commercial product or service;*
- (c) The student-athlete does not receive, under any circumstances, any remuneration for such participation; however, the student-athlete may receive actual and necessary expenses related to his or her participation; and*
- (d) The student-athlete has signed a release statement ensuring that the student-athlete's name or image is used in a manner consistent with the requirements of this section.*

*12.5.1.6 Camps. An institutional or privately owned camp may use a student-athlete's name, picture and institutional affiliation only in the camp counselor section in its camp brochure to identify the student-athlete as a staff member. A student-athlete's name or picture may not be used in any other way to directly advertise or promote the camp. [D]*

*12.5.1.7 Promotion by Third Party of Highlight Video or Media Guide. Any party other than the institution or a student-athlete (e.g., a distribution company) may sell and distribute an institutional highlight video or an institutional or conference media guide that contains the names and pictures of enrolled student-athletes only if:*

- (a) The institution specifically designates any agency that is authorized to receive orders for the video or media guide;*
- (b) Sales and distribution activities have the written approval of the institution's athletics director;*
- (c) The distribution company or a retail store is precluded from using the name or picture of an enrolled student-athlete in any poster or other advertisement to promote the sale or distribution of the video or media guide; and*
- (d) There is no indication in the makeup or wording of the advertisement that the squad members, individually or collectively, or the institution endorses the product or services of the advertiser.*

*12.5.1.8 Promotion of NCAA and Conference Championships. The NCAA (or a third party acting on behalf of the NCAA (e.g., host institution, conference, local organizing committee)) may use the name or picture of a student-athlete to generally promote NCAA championships. A student-athlete's name or picture may appear in a poster that promotes a conference championship, provided the poster is produced by a member that hosts a portion of the championship or by the conference.*

*12.5.1.9 Olympic, Paralympic, Pan American, Parapan American, World Championships, World Cup, World University Games (Universiade) and World University Championships. A student-athlete's name or picture may be used to promote Olympic, Paralympic, Pan American, Parapan American, World Championships, World Cup, World University Games (Universiade) or World University Championships as specified in this section.*

*12.5.1.9.1 Sale and Distribution of Promotional Items. Promotional items (e.g., posters, postcards, film, videotapes) bearing the name or picture of a student-athlete and related to these events may be sold or distributed by the national or international sports governing body sponsoring these events or its designated third-party distributors. It is not permissible for such organizations to sell player/trading cards that bear a student-athlete's name or picture, except as noted in Bylaw 12.5.1.1.4.1. Promotional items may include a corporate sponsor's trademark or logo but not a reproduction of the product with which the business is associated. The name or picture of the student-athlete may not be used by the distribution company or retail store on any advertisement to promote the sale or distribution of the commercial item.*

*12.5.1.9.1.1 Corporate Sponsors. A corporate sponsor may sell a promotional item related to these events that uses the name or picture of a team but not an individual student-athlete.*

*12.5.2 Nonpermissible.*

*12.5.2.1 Advertisements and Promotions After Becoming a Student-Athlete. After becoming a student-athlete, an individual shall not be eligible for participation in intercollegiate athletics if the individual:*

- (a) Accepts any remuneration for or permits the use of his or her name or picture to advertise, recommend or promote directly the sale or use of a commercial product or service of any kind; or*
- (b) Receives remuneration for endorsing a commercial product or service through the individual's use of such product or service.*

*12.5.2.1.1 Exceptions. The individual's eligibility will not be affected, provided the individual participated in such activities prior to enrollment and the individual:*

- (a) Meets the conditions set forth in Bylaw 12.5.1.3 that would permit continuation of such activities; or*
- (b) Takes appropriate steps upon becoming a student-athlete to retract permission for the use of his or her name or picture and ceases receipt of any remuneration for such an arrangement.*

*12.5.2.1.2 Improper Use of Student-Athlete's Name or Picture. If an institution, without the student-athlete's knowledge or consent, uses or permits the use of the student-athlete's name or picture in a manner contrary to Bylaw 12.5.2.1, the violation shall be considered an institutional violation; however, the student-athlete's eligibility shall not be affected.*

*12.5.2.2 Use of a Student-Athlete's Name or Picture Without Knowledge or Permission. If a student-athlete's name or picture appears on commercial items (e.g., T-shirts, sweatshirts, serving trays, playing cards, posters) or is used to promote a commercial product sold by an individual or agency without the student-athlete's knowledge or permission, the student-athlete (or the institution acting on behalf of the student-athlete) is required to take steps to stop such an activity in order to retain his or her eligibility for intercollegiate athletics. Such steps are not required in cases in which a student-athlete's photograph is sold by an individual or agency (e.g., private photographer, news agency) for private use.*

*12.5.2.3 Specifically Restricted Activities. A student-athlete's involvement in promotional activities specified in this section is prohibited:*

*12.5.2.3.1 Name-the-Player Contest. A student-athlete may not permit use of his or her name or picture in a "name-the-player" contest conducted by a commercial business for the purpose of promoting that business.*

*12.5.2.3.2 Athletics Equipment Advertisement. A student-athlete's name or picture may not be used by an athletics equipment company or manufacturer to publicize the fact that the institution's team uses its equipment.*

*12.5.2.3.3 Promotional Contests. Receipt of a prize for winning an institutional or noninstitutional promotional activity (e.g., making a half-court basketball shot, being involved in a money scramble) by a prospective or enrolled student-athlete (or his or her family member) does not affect his or her eligibility, provided the prize is won through a random drawing in which all members of the general public or the student body are eligible to participate.*

*12.5.2.4 Other Promotional Activities. A student-athlete may not participate in any promotional activity that is not permitted under Bylaw 12.5.1.*

*12.5.1.1 Institutional, Charitable, Educational or Nonprofit Promotions. An institution or recognized entity thereof (e.g., fraternity, sorority or student government organization); **or** a conference ~~or a noninstitutional charitable, educational or nonprofit agency~~ may use a student-athlete's name, picture **image, likeness** or appearance to support its charitable or educational activities or to support activities considered incidental to the student-athlete's participation in intercollegiate athletics, provided the following conditions are met:*

- (a) The student-athlete's participation is subject to the limitations on participants in such activities as set forth in Bylaw 17;*

- (b) The specific activity or project in which the student-athlete participates does not involve co-sponsorship, advertisement or promotion by a commercial agency other than through the reproduction of the sponsoring company's officially registered regular trademark or logo on printed materials such as pictures, posters or calendars. The company's emblem, name, address, telephone number and website address may be included with the trademark or logo. Personal names, messages and slogans (other than an officially registered trademark) are prohibited;
- (c) The name, ~~or picture~~ **image or likeness** of a student-athlete with remaining eligibility may not appear on an institution's printed promotional item (e.g., poster, calendar) that includes a reproduction of a product with which a commercial entity is associated if the commercial entity's officially registered regular trademark or logo also appears on the item;
- (d) The student-athlete does not miss class;
- (e) All moneys derived from the activity or project go directly to the institution; **or** conference ~~or the charitable, educational or nonprofit agency~~;
- (f) The student-athlete may accept actual and necessary expenses from the institution; **or** conference ~~or the charitable, educational or nonprofit agency~~ related to participation in such activity; **and**
- (g) ~~The student-athlete's name, picture or appearance is not used to promote the commercial ventures of any nonprofit agency;~~
- (h) **g)** Any commercial items with names, **images or** likenesses ~~or pictures~~ of multiple student-athletes (other than highlight films or media guides per Bylaw 12.5.1.7) may be sold only at the institution in which student-athletes are enrolled, the institution's conference; **or** institutionally controlled (owned and operated) outlets ~~or outlets controlled by the charitable, educational or nonprofit organization (e.g., location of the charitable or educational organization, site of charitable event during the event)~~. Items that include an individual student-athlete's name, ~~picture~~ **image** or likeness (e.g., name on jersey, name or likeness on a bobble-head doll), other than informational items (e.g., media guide, schedule cards, institutional publications), may not be sold; ~~and,~~
- (i) ~~The student-athlete and an authorized representative of the charitable, educational or nonprofit agency affirm that the student-athlete's name, image or appearance is used in a manner consistent with the requirements of this section.~~

12.5.1.1.2 Promotions Involving Commercial Locations/Sponsors. An institution; **or** a conference ~~or a charitable, educational or nonprofit organization~~ may use the appearance, name, ~~or picture~~ **image or likeness** of an enrolled student-athlete to promote generally its fundraising activities at the location of a commercial establishment, provided the commercial establishment is not a co-sponsor of the event and the student-athlete does not promote the sale of a commercial product in conjunction with the fundraising activity. A commercial establishment would become a co-sponsor if the commercial establishment either advertises the presence of the student-athlete at the commercial location or is involved directly or indirectly in promoting the activity.

12.5.1.1.3 Distribution of Institutional Items through Commercial Outlets. An institution may distribute noncommercial items that include names, **images or likenesses** ~~or pictures~~ of student-athletes (items not for sale) at commercial establishments, provided the institution generally distributes such items to other commercial establishments in the community and the distribution of the items does not require the recipient to make a purchase at the commercial establishment.

12.5.1.1.4 Player/Trading Cards. An institution or recognized entity thereof (e.g., fraternity, sorority or student government organization); **or** a conference ~~or a noninstitutional charitable, educational or nonprofit agency~~ may distribute but may not sell player/trading cards that bear a student-athlete's name or picture.

12.5.1.1.5 Schedule Cards. An advertisement on an institution's wallet-size playing schedule that includes the name, **image or likeness** ~~or picture~~ of a student-athlete may include language other than the commercial product's name, trademark or logo, provided the commercial language does not appear on the same page as the picture of the student-athlete. [D]

~~12.5.1.1~~<sup>5.6</sup> **Effect of Violations.** The ~~following violations~~ **A violation** of Bylaw 12.5.1.1 **in which the institution, without the student-athlete's knowledge or consent, uses or permits the use of the student-athlete's name, image or likeness in a manner contrary to Bylaw 12.5.1.1** shall be considered **an institutional violation**; however, the student-athlete's eligibility shall not be affected;

~~(a) An institution, without the student-athlete's knowledge or consent, uses or permits the use of the student-athlete's name or picture in a manner contrary to Bylaw 12.5.1.1; or~~

~~(b) A violation in which the only condition of the legislation not satisfied is the requirement that the student-athlete and an authorized representative of the charitable, educational or nonprofit agency affirm that the student-athlete's name, image or appearance is used in a manner consistent with the requirements of Bylaw 12.5.1.1, provided the affirmation would have been given if requested.~~

**12.5.2 Promotion of NCAA Championships, Events, Activities or Programs and Conferences** **Championships.** The NCAA [or a third party acting on behalf of the NCAA (e.g., host institution, conference, local organizing committee)] may use the name, image or likeness of a student-athlete to generally promote NCAA championships or other NCAA events, activities or programs. A conference [or a third party acting on behalf of the conference (e.g., host institution, local organizing committee)] may use the name, image or likeness of a student-athlete to generally promote conference championships.

**12.5.3 Noninstitutional Name, Image and Likeness Activities.** A student-athlete may permit the use of his or her name, image or likeness in noninstitutional promotional activities and receive compensation for such activities, including for personal appearances. A student-athlete shall not receive compensation for athletics performance or participation as an inducement for enrollment (see Bylaws 13.2 and 16.11.2.1).

**12.5.3.1 Institutional Involvement.** An institution shall not be involved in the development, operation or promotion of a noninstitutional name, image and likeness activity and shall not purchase a student-athlete's work product or service. A product or service that is developed as part of a student-athlete's coursework is not subject to these restrictions.

**12.5.3.1.1 Use of Institutional Marks.** A student-athlete shall not use and an institution shall not permit the use of institutional marks in noninstitutional name, image and likeness activities.

**12.5.3.1.2 Use of Institutional Facilities.** A student-athlete shall not use institutional facilities for noninstitutional name, image and likeness activities other than those permitted in Bylaws 12.5.3.1 and 12.4.2.1.

**12.5.3.1.3 Reference to the Institution.** A noninstitutional name, image and likeness activity may include a reference to the institution the student-athlete attends, consistent with institutional policies applicable to any student.

**12.5.3.1.4 Institutional Content.** A student-athlete may use content created by the institution or one of its vendors (e.g., photos, video), provided the institution retains the rights to the content and the student-athlete does not use the content in any activities for which the student-athlete is compensated.

**12.5.3.1.5 Merchandise and Memorabilia.** A student-athlete is not permitted to sell items provided by the institution, including awards and apparel retained by the student-athlete at the end of a season that the institution will not reuse, until the student-athlete has exhausted eligibility for intercollegiate competition or has become permanently ineligible for competition. A student-athlete may sell institutional merchandise he or she has purchased, subject to institutional restrictions related to the resale of items that include institutional marks.

**12.5.3.2 Specifically Prohibited Promotional Activities.** A student-athlete shall not engage in name, image and likeness activities involving a commercial product or service that conflicts with NCAA legislation (e.g., sports wagering, banned substances).

**12.5.3.3 Conflicts With Institutional Agreements and Other Considerations.** An institution may prohibit a student-athlete's involvement in name, image and likeness activities that conflict with existing institutional sponsorship arrangements. An institution, at its discretion, may prohibit a student-

athlete's involvement in name, image and likeness activities based on other considerations, such as conflict with institutional values, as defined by the institution. An institution shall have policies that set forth the name, image and likeness activities in which student-athletes may or may not engage.

**12.5.3.4 Autographs.** A student-athlete may receive compensation for his or her autograph; however, a student-athlete is not permitted to receive compensation for signing an autograph while he or she is participating in required athletically related activities or otherwise representing the institution and no institutional marks may be used in conjunction with the sale of an autograph.

#### **12.5.3.5 Crowdfunding.**

**12.5.3.5.1 Crowdfunding for Educational Expenses.** A student-athlete may use his or her name, image or likeness through a crowdfunding service (e.g., website) to raise funds for educational expenses that are not included in his or her cost of attendance (e.g., mission trips, internships), provided there is no institutional involvement. It is not permissible for a student-athlete to use his or her name, image or likeness through a crowdfunding service to raise funds to cover educational expenses that are included in the definition of cost of attendance.

**12.5.3.5.2 Crowdfunding for a Specific Charitable Purpose.** A student-athlete's name, image or likeness may be used through a crowdfunding service (e.g., website) to raise funds for a specific charitable purpose (e.g., relief efforts for victims of a catastrophic event, family hardship), provided any excess proceeds are given to a not-for-profit organization.

**12.5.3.5.3 Crowdfunding for Actual and Necessary Expenses.** A student-athlete's name, image or likeness may be used through a crowdfunding service (e.g., website) to raise funds to cover actual and necessary expenses pursuant to Bylaw 12.1.2.1.4.3.

**12.5.3.7 Disclosure of Name, Image and Likeness Activities.** A student-athlete shall disclose all name, image and likeness activities, including information related to transactions, compensation arrangements and details of relationships with an involved individual, commercial entity and third parties (e.g., contact information, identification of role). A student-athlete shall disclose information related to a prospective agreement to promote a commercial product or service in advance. If arrangements and details of agreements to promote a commercial product or service are amended, the student-athlete shall provide updates within 14 days of the change.

12.5.34 Media Activities. A student-athlete may participate in media activities, including but not limited to, radio, television and internet-based programs (e.g., coaches' shows), and writing projects when the student-athlete's appearance or participation is related in any way to his or her status as a student-athlete. *The student-athlete shall not receive any remuneration for participation in the activity. The student-athlete shall not make any endorsement, expressed or implied, of any commercial product or service. The student-athlete may, however, receive actual and necessary expenses directly related to the appearance or participation in the activity.* A student-athlete participating in such media activities may not miss class, except for class time missed in conjunction with away-from-home competition or to participate in an NCAA or conference-sponsored media activity.

[12.5.4 renumbered as 12.5.6, unchanged.]

[12.6 through 12.12 unchanged.]

#### **B. Bylaws:** Amend 13.2, as follows:

##### 13.2 Offers and Inducements.

13.2.1 General Regulation. An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her family members or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her family members or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution's prospective students or their family members or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability. [R]

13.2.1.1 Specific Prohibitions. Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following: [R]

[13.2.1.1-(a) through 13.2.1.1-(i) unchanged.]

(j) Sponsorship of or arrangement for an awards banquet for high school, preparatory school or two-year-college athletes by an institution, representatives of its athletics interests or its alumni groups or booster clubs; ~~and~~

(k) Expenses for academic services (e.g., tutoring, test preparation) to assist in the completion of initial-eligibility or transfer-eligibility requirements or improvement of the prospective student-athlete's academic profile in conjunction with a waiver request; **and**

**(l) An arrangement for the use of a prospective student-athlete's name, image or likeness in business activities or noninstitutional promotional activities (see Bylaws 12.4.2.1.1 and 12.5.3.1.1).**

[13.2.1.2 through 13.2.1.5 unchanged.]

[13.2.2 through 13.2.11 unchanged.]

**C. Bylaws:** Amend 13.12.2, as follows:

13.12.2 Employment at Camp or Clinic.

13.12.2.1 Student-Athletes. A student-athlete may be employed in any sports camp or clinic, ~~provided compensation is provided pursuant to the criteria of Bylaw 12.4.1. A student-athlete who only lectures or demonstrates at a camp/clinic may not receive compensation for his or her appearance at the camp/clinic.~~

*13.12.2.1.1 Self-Employment. A student-athlete with remaining eligibility is not permitted to conduct his or her own camp or clinic.* [R]

[13.12.2.2 through 13.12.2.3 unchanged.]

**D. Bylaws:** Amend 15.2.7, as follows:

15.2.7 Employment. Earnings from a student-athlete's on- or off-campus employment that occurs at any time is exempt and is not counted in determining a student-athlete's cost of attendance or in the institution's financial aid limitations, ~~provided,~~

~~(a) The student-athlete's compensation does not include any remuneration for value or utility that the student-athlete may have for the employer because of the publicity, reputation, fame or personal following that he or she has obtained because of athletics ability;~~

~~(b) The student-athlete is compensated only for work actually performed; and~~

~~(c) The student-athlete is compensated at a rate commensurate with the going rate in that locality for similar services (see Bylaw 12.4).~~

**Source:** NCAA Division I Council (Name, Image and Likeness Legislative Solutions Group)

**Effective Date:** August 1, 2021

**Category:** Amendment

**Topical Area:** Amateurism

**Rationale:** This proposal would permit student-athletes to benefit from the use of their names, images and likenesses in a manner that is consistent with the NCAA Board of Governors' guiding principles and with the direction to consider appropriate rules changes based on recommendations from the Federal and State Legislation Working Group. These recommendations fall into two categories: (1) activities related to student-athlete business activities; and (2) promotion/endorsement of products and services. Student-athletes should have full use of their names, images and likenesses related to their own business activities, including autographs and appearances, noting the direct tie between these activities and a student-athlete's identity.

Allowing student-athletes to use their names, images and likenesses to promote their own business activities will provide student-athletes the opportunity to pursue entrepreneurial activities in the same manner as their peers who are not student-athletes. Many student-athletes may have limited opportunities in their lifetimes to profit from their names, images and likenesses. If a market exists for a student-athlete to be compensated for an appearance, he or she should be permitted to capitalize on that potential, provided the compensation is not an inducement to attend an institution or "pay for play" compensation. Moreover, an institution is permitted to request student-athletes to appear voluntarily on its behalf as part of being a member of an athletic team (e.g., institution fundraiser). Allowing student-athletes to be compensated for their independent appearances provides opportunities outside of official institutional appearances. Permitting student-athletes to use their names, images and likenesses for crowdfunding allows student-athletes to engage in activities in the same manner as their peers who are not student-athletes, supports student-athlete well-being and removes bureaucracy surrounding such activities. Importantly, these opportunities may occur in a manner that is consistent with the NCAA's core values, mission and principles, while prioritizing student-athlete well-being. Further, the recommended administrative framework for these legislative changes ensures that the legislation will be transparent and enforceable, consistent with the Board of Governors' principles. During the development of this proposal, representatives of institutions and conferences, including student-athletes, and constituent groups provided feedback on ways to modernize NCAA legislation to allow for student-athletes to receive compensation for their names, images and likenesses. Student-athlete voices were prioritized throughout the process.

**Estimated Budget Impact:** TBD.

**Impact on Student-Athlete's Time (Academic and/or Athletics):** A student-athlete's time may be impacted by engaging in name, image and likeness activities.

**Division I Commitment:** The Commitment to Student-Athlete Well-Being.

**Consequential or Nationally Significant:** Yes. The NCAA Board of Governors directed the divisions to consider appropriate rules changes to provide student-athletes the opportunity to benefit from the use of their names, images and likenesses in a manner consistent with the values and beliefs of intercollegiate athletics.

**Enforceable and Merits Outweigh Monitoring Burdens:** Yes. The merits of providing significant opportunities to student-athletes outweighs the potential monitoring burden.

**Student-Athlete Success/Well-Being:** This proposal would allow student-athletes to take advantage of opportunities to support themselves through the use of their names, images and likenesses.

**Position Statements:**

**History:**

Nov 13, 2020      In Progress

Dec 16, 2020      In Progress

The Council modified the proposal to permit a student-athlete to reference the institution he or she attends, consistent with institutional policies applicable to any student, in any name, image and likeness activities.

**Proposal Number:** 2020-7

**Title:** AMATEURISM -- USE OF NAME, IMAGE AND LIKENESS -- PROSPECTIVE STUDENT-ATHLETES

**Intent:** To permit a prospective student-athlete to use his or her name, image and likeness for compensation, as specified.

**A. Bylaws:** Amend 12, as follows:

12 Amateurism and Athletics Eligibility

[12.01 unchanged.]

12.02 Definitions and Applications.

12.02.1 Agent. An agent is any individual who, directly or indirectly:

(a) Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain **as a professional athlete**; or

[12.02.1-(b) unchanged.]

[12.02.1.1 through 12.02.1.2 unchanged.]

[12.02.2 through 12.02.8 unchanged.]

**12.02.9 Name, Image and Likeness Activity. A name, image and likeness activity is any activity in which a prospective student-athlete or student-athlete's name, image, likeness or personal appearance is used for promotional purposes by a noninstitutional entity, including the individual prospective student-athlete or student-athlete, a commercial entity or a noninstitutional nonprofit or charitable entity. Such use may be compensated (e.g., cash, product or other benefit) or uncompensated.**

[12.02.9 through 12.02.16 renumbered as 12.02.10 through 12.02.17, unchanged.]

12.1 General Regulations. An individual must comply with the following to retain amateur status. (See Bylaw 12.12 regarding the eligibility restoration process.)

[12.1.1 unchanged.]

12.1.2 Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

(a) Uses his or her athletics skill (~~directly or indirectly~~) for pay in any form **for participation** in that sport;

(b) Accepts a promise of pay **for participating in that sport** even if such pay is to be received following completion of intercollegiate athletics participation;

[12.1.2-(c) through 12.1.2-(f) unchanged.]

(g) Enters into an agreement with an agent **to secure an opportunity as a professional athlete**.

[12.1.2.1 through 12.1.2.4 unchanged.]

[12.1.3 unchanged.]

[12.2 unchanged.]

12.3 Use of Agents.

12.3.1 General Rule. An individual shall be ineligible for participation in an intercollegiate sport if he or she ever has agreed (orally or in writing) to be represented by an agent for the purpose of marketing his or her athletics ability or reputation in that sport **to secure an opportunity as a professional athlete**. Further, an agency contract not specifically limited in writing to a sport or particular sports shall be deemed applicable to all sports, and the individual shall be ineligible to participate in any sport.

[12.3.1.1 through 12.3.1.5 unchanged.]

[12.3.2 through 12.3.4 unchanged.]

[12.4 unchanged.]

12.5 *Promotional* **Name, Image and Likeness** Activities.

12.5.1 Permissible.

[12.5.1.1 unchanged.]

*12.5.1.2 U.S. Olympic and Paralympic Committee/National Governing Body Advertisement Prior to Collegiate Enrollment. Prior to initial, full-time collegiate enrollment, an individual may receive payment for the display of athletics skill in a commercial advertisement, provided:*

- (a) The individual receives prior approval to appear in the advertisement from the U.S. Olympic and Paralympic Committee or the applicable national governing body;*
- (b) The U.S. Olympic and Paralympic Committee or national governing body approves of the content and the production of the advertisement;*
- (c) The individual forwards the payment to the U.S. Olympic and Paralympic Committee or national governing body for the general use of the organization(s); and*
- (d) The funds are not earmarked for the individual.*

[12.5.1.3 through 12.5.1.9 renumbered as 12.5.1.2 through 12.5.1.8, unchanged.]

[12.5.2 unchanged.]

**12.5.3 Noninstitutional Name Image and Likeness Activities – Prospective Student-Athletes. A prospective student-athlete may permit the use of his or her name, image or likeness in noninstitutional promotional activities and receive compensation for such activities, including for personal appearances. A prospective student-athlete shall not receive compensation for athletics performance or participation as an inducement for enrollment (see Bylaws 13.2 and 16.11.2.1).**

**12.5.3.1 Institutional Involvement. An institution shall not be involved in the development, operation or promotion of a noninstitutional name, image and likeness activity and shall not purchase a prospective student-athlete's work product or service.**

**12.5.3.1.1 Use of Institutional Marks. A prospective student-athlete shall not use and an institution shall not permit the use of institutional marks in noninstitutional name, image and likeness activities.**

**12.5.3.1.2 Use of Institutional Facilities. A prospective student-athlete shall not use institutional facilities for noninstitutional name, image and likeness activities.**

**12.5.3.2 Specifically Prohibited Promotional Activities. A prospective student-athlete shall not engage in name, image and likeness activities involving a commercial product or service that conflicts with NCAA legislation (e.g., sports wagering, banned substances).**

**12.5.3.3 Conflicts With Institutional Agreements and Other Considerations. An institution shall have policies that set forth the name, image and likeness activities in which student-athletes may or may not engage. An institution shall provide such policies to a prospective student-athlete by the point in which an offer of financial aid and/or admission is provided to the prospective student-athlete.**

**12.5.3.4 Autographs. A prospective student-athlete may receive compensation for his or her autograph.**

**12.5.3.5 Crowdfunding.**

**12.5.3.5.1 Crowdfunding for Educational Expenses. A prospective student-athlete may use his or her name, image or likeness through a crowdfunding service (e.g., website) to raise funds for educational expenses that are not included in his or her cost of attendance (e.g., mission trips,**

internships), provided there is no institutional involvement. It is not permissible for a prospective student-athlete to use his or her name, image or likeness through a crowdfunding service to raise funds to cover educational expenses that are included in the definition of cost of attendance per Bylaw 15.02.2.

12.5.3.5.2 Crowdfunding for a Specific Charitable Purpose. A prospective student-athlete's name, image or likeness may be used through a crowdfunding service (e.g., website) to raise funds for a specific charitable purpose (e.g., relief efforts for victims of a catastrophic event, family hardship), provided any excess proceeds are given to a not-for-profit organization.

12.5.3.5.3 Crowdfunding for Actual and Necessary Expenses. A prospective student-athlete's name, image or likeness may be used through a crowdfunding service (e.g., website) to raise funds to cover actual and necessary expenses pursuant to Bylaw 12.1.2.1.4.3.

12.5.3.6 Disclosure of Name, Image and Likeness Activities. A prospective student-athlete who has received an offer of athletically related financial aid is required to report all name, image and likeness activities to an entity, as determined by the NCAA. Disclosure shall include information related to transactions, compensation arrangements and details of relationships with an involved individual, commercial entity and third parties (e.g., contact information, identification of role).

[12.5.3 through 12.5.4 renumbered as 12.5.4 through 12.5.5, unchanged.]

[12.6 through 12.12 unchanged.]

**B. Bylaws:** Amend 13.2, as follows:

13.2 Offers and Inducements.

13.2.1 General Regulation. An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her family members or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her family members or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution's prospective students or their family members or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability. [R]

13.2.1.1 Specific Prohibitions. Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following: [R]

[13.2.1.1-(a) through 13.2.1.1-(i) unchanged.]

(j) Sponsorship of or arrangement for an awards banquet for high school, preparatory school or two-year-college athletes by an institution, representatives of its athletics interests or its alumni groups or booster clubs; ~~and~~

(k) Expenses for academic services (e.g., tutoring, test preparation) to assist in the completion of initial-eligibility or transfer-eligibility requirements or improvement of the prospective student-athlete's academic profile in conjunction with a waiver request; **and**

**(l) An arrangement for the use of a prospective student-athlete's name, image or likeness in business activities or noninstitutional promotional activities (see Bylaws 12.4.2.1.1 and 12.5.3.1.1).**

[13.2.1.2 through 13.2.1.5 unchanged.]

[13.2.2 through 13.2.11 unchanged.]

**Source:** NCAA Division I Council (Name, Image and Likeness Legislative Solutions Group)

**Effective Date:** August 1, 2021

**Category:** Amendment

**Topical Area:** Amateurism

**Rationale:** The recommended regulatory approach to name, image and likeness addresses both prospective student-athletes and student-athletes given that name, image and likeness-related relationships and agreements can be developed well before collegiate enrollment. This model would ensure consistency and clarity for prospective student-athletes and student-athletes, as well as other entities involved in name, image and likeness-related activities (e.g., professional service providers). It also minimizes the risk of prospective student-athletes entering into agreements or relationships before full-time enrollment that could render them ineligible when they become student-athletes.

**Estimated Budget Impact:** TBD.

**Impact on Student-Athlete's Time (Academic and/or Athletics):** A student-athlete's time may be impacted by engaging in name, image and likeness activities.

**Division I Commitment:** The Commitment to Student-Athlete Well-Being.

**Consequential or Nationally Significant:** Yes. The NCAA Board of Governors directed the divisions to consider appropriate rules changes to provide student-athletes the opportunity to benefit from the use of their names, images and likenesses in a manner consistent with the values and beliefs of intercollegiate athletics.

**Enforceable and Merits Outweigh Monitoring Burdens:** Yes. The merits of providing significant opportunities to prospective student-athletes outweighs the potential monitoring burden.

**Student-Athlete Success/Well-Being:** This proposal would allow prospective student-athletes to take advantage of opportunities to support themselves through the use of their names, images and likenesses.

**Position Statements:**

**History:**

Nov 13, 2020      In Progress

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**Proposal Number:** 2020-8

**Title:** AMATEURISM -- NAME, IMAGE AND LIKENESS ACTIVITIES -- USE OF PROFESSIONAL SERVICE PROVIDERS

**Intent:** To permit an individual to use the services of a professional service provider in name, image and likeness activities, as specified.

**A. Bylaws:** Amend 11.1, as follows:

11.1 Conduct of Athletics Personnel.

[11.1.1 through 11.1.3 unchanged.]

**11.1.4 Professional Service Provider for Name, Image and Likeness Activities. An institutional staff member shall not provide professional services related to a prospective student-athlete or student-athlete's name, image and likeness activities.**

[11.1.4 through 11.1.5 renumbered as 11.1.5 through 11.1.6, unchanged.]

**B. Bylaws:** Amend 12, as follows:

12 Amateurism and Athletics Eligibility

[12.01 unchanged.]

12.02 Definitions and Applications.

12.02.1 Agent. An agent is any individual who, directly or indirectly:

(a) Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain **as a professional athlete**; or

[12.02.1-(b) unchanged.]

[12.02.1.1 through 12.02.1.2 unchanged.]

[12.02.2 through 12.02.16 unchanged.]

12.1 General Regulations. An individual must comply with the following to retain amateur status. (See Bylaw 12.12 regarding the eligibility restoration process.)

[12.1.1 through 12.1.3 unchanged.]

[12.2 unchanged.]

12.3 Use of Agents.

12.3.1 General Rule. An individual shall be ineligible for participation in an intercollegiate sport if he or she ever has agreed (orally or in writing) to be represented by an agent for the purpose of marketing his or her athletics ability or reputation in that sport **to secure an opportunity as a professional athlete**. Further, an agency contract not specifically limited in writing to a sport or particular sports shall be deemed applicable to all sports, and the individual shall be ineligible to participate in any sport.

[12.3.1.1 through 12.3.1.5 unchanged.]

[12.3.2 through 12.3.4 unchanged.]

[12.4 unchanged.]

12.5 Promotional Activities.

[12.5.1 through 12.5.3 unchanged.]

**12.5.4 Use of Professional Service Provider for Name, Image and Likeness Activities.**

**12.5.4.1 Use of Professional Service Provider.** An individual may use the services of a professional service provider in the following name, image and likeness activities:

**(a) Advice regarding name, image and likeness activities;**

**(b) Representation in contract negotiations related to name, image and likeness activities; and**

**(c) Marketing of the student-athlete's name, image and likeness activities.**

**12.5.4.1.1 Limitations on Marketing Athletics Ability or Reputation.** A professional service provider who represents an individual in name, image and likeness activities may not also represent a student-athlete for the purpose of marketing his or her athletics ability or reputation in a sport to secure an opportunity as professional athlete.

**12.5.4.1.2 Institutional Employees or Independent Contractors.** A student-athlete is not permitted to use a professional service provider in name, image and likeness activities who is an employee or independent contractor of the institution. For purposes of this provision, an entity that contracts with an institution for the primary purpose of providing products but not services is not considered to be an independent contractor.

**12.5.4.1.3 Fees and Payment Arrangements for Services.** A fee arrangement for professional services shall be consistent with typical industry arrangements and must not be discounted as a result of athletics ability. Fees must be disclosed pursuant to a written agreement (e.g., flat fee, profit share, upfront guarantee) with the service provider. A student-athlete may receive the same de minimis benefits (e.g., meals, copies, mailing) from a professional service provider that nonstudent-athletes receive.

**12.5.4.2 Institutional Involvement.** An institution may provide information and education related to name, image and likeness activities and may assist a student-athlete with evaluating professional service providers related to such activities. However, an institution may not identify or select a professional service provider or arrange for or provide payment for services rendered to the student-athlete.

[12.5.4 renumbered as 12.5.5, unchanged.]

[12.6 through 12.12 unchanged.]

**Source:** NCAA Division I Council (Name, Image and Likeness Legislative Solutions Group)

**Effective Date:** August 1, 2021

**Category:** Amendment

**Topical Area:** Amateurism

**Rationale:** Any use of a student-athlete's name, image or likeness for an activity that has an athletics nexus could result in the student-athlete being paid, at least in part, based on athletics reputation. Many of these activities will necessitate a student-athlete securing professional services to navigate a complex business environment. It is imperative that student-athletes receive guidance from qualified professionals in name, image and likeness activities and that the collegiate model is upheld by not allowing an agent to promote the student-athlete's athletics ability for future professional sports opportunities. To fall into the category of "no institutional involvement," at a minimum, an institution may not be involved in the development, operation or promotion of a name, image or likeness activity. In addition, it would not be permissible for institutional marks or institutional facilities to be used. However, it is in the best interests of student-athlete well-being for institutions to be permitted to provide some assistance and support to student-athletes involved in name, image and likeness activities to facilitate appropriate compliance, ensure integrity and protect student-athlete well-being.

**Estimated Budget Impact:** TBD.

**Impact on Student-Athlete's Time (Academic and/or Athletics):** A student-athlete's time may be impacted by engaging in name, image and likeness activities.

**Division I Commitment:** The Commitment to Student-Athlete Well-Being.

**Consequential or Nationally Significant:** Yes. The NCAA Board of Governors directed the divisions to consider appropriate rules changes to provide student-athletes the opportunity to benefit from the use of their names, images and likenesses in a manner consistent with the values and beliefs of intercollegiate athletics.

**Enforceable and Merits Outweigh Monitoring Burdens:** Yes. The merits of providing significant opportunities to student-athletes outweighs the potential monitoring burden.

**Student-Athlete Success/Well-Being:** This proposal would allow student-athletes to take advantage of opportunities to support themselves through the use of their names, images and likenesses.

**Position Statements:**

**History:**

Nov 13, 2020      In Progress

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**Proposal Number:** 2020-9

**Title:** AMATEURISM -- NAME, IMAGE AND LIKENESS ACTIVITIES -- THIRD-PARTY ADMINISTRATOR

**Intent:** To require an individual involved in name, image and likeness activities to disclose such activities to an independent third-party administrator, as specified.

**Bylaws:** Amend 12, as follows:

12 Amateurism and Athletics Eligibility

[12.01 through 12.4 unchanged.]

12.5 *Promotional* **Name, Image and Likeness** Activities.

[12.5.1 through 12.5.2 unchanged.]

**12.5.3 Noninstitutional Name Image and Likeness Activities.**

**12.5.3.1 Disclosure of Name, Image and Likeness Activities – Prospective Student-Athletes. A prospective student-athlete who has received an offer of athletically related financial aid is required to report all name, image and likeness activities to an independent third-party administrator. Disclosure shall include information related to transactions, compensation arrangements and details of relationships with an involved individual, commercial entity and third parties (e.g., contact information, identification of role).**

**12.5.3.2 Disclosure of Name, Image and Likeness Activities – Student-Athletes. A student-athlete shall disclose all name, image and likeness activities, including information related to transactions, compensation arrangements and details of relationships with an involved individual, commercial entity and third parties (e.g., contact information, identification of role) to an independent third-party administrator. A student-athlete shall disclose information related to a prospective agreement to promote a commercial product or service in advance. If arrangements and details of agreements to promote a commercial product or service are amended, the student-athlete shall provide updates within 14 days of the change.**

[12.5.3 through 12.5.4 renumbered as 12.5.4 through 12.5.5, unchanged.]

[12.6 through 12.12 unchanged.]

**Source:** NCAA Division I Council (Name, Image and Likeness Legislative Solutions Group)

**Effective Date:** August 1, 2021

**Category:** Amendment

**Topical Area:** Amateurism

**Rationale:** Prospective student-athletes and student-athletes should be required to disclose involvement in name, image and likeness activities. Disclosure requirements will help to provide support to student-athletes, monitor booster involvement, ensure integrity of the recruiting process, and identify activities that may not align with the values of the NCAA, conferences or institutions. A third-party administrator could develop a web-based platform for individuals to submit information to satisfy new disclosure requirements, report to an oversight entity (e.g., NCAA) national trends and monitor and evaluate NIL activities for possible malfeasance. In addition, the third-party administrator could help ease the burden on campuses by providing education to student-athletes, prospective student-athletes and key stakeholders (e.g., boosters, professional service providers). The NCAA Board of Governors Federal and State Legislation Working Group encouraged the exploration of whether disclosure or enforcement efforts in this area should utilize the assistance of third-party entities at the local, conference or Association-wide levels, in part to help relieve the burden that campus compliance personnel may face attempting to monitor the newly permitted activities. In addition, feedback from various groups included concern related activities of boosters and other involved individuals and entities. Integrity and disclosure requirements are designed to monitor and minimize impermissible

booster activity and recruiting inducements. The Legislative Solutions Group recognizes in many cases, boosters may be the most likely sources of opportunities for student-athletes to engage in name, image and likeness activities. Student-athletes should be permitted take advantage legitimate opportunities, even if the source of the opportunity comes from a booster of the institution.

**Estimated Budget Impact:** TBD

**Impact on Student-Athlete's Time (Academic and/or Athletics):** A student-athlete's time may be impacted by engaging in name, image and likeness activities.

**Division I Commitment:** The Commitment to Student-Athlete Well-Being.

**Consequential or Nationally Significant:** Yes. The NCAA Board of Governors directed the divisions to consider appropriate rules changes to provide student-athletes the opportunity to benefit from the use of their names, images and likenesses in a manner consistent with the values and beliefs of intercollegiate athletics.

**Enforceable and Merits Outweigh Monitoring Burdens:** Yes. The merits of providing significant opportunities to student-athletes outweighs the potential monitoring burden.

**Student-Athlete Success/Well-Being:** This proposal would allow student-athletes to take advantage of opportunities to support themselves through the use of their names, images and likenesses.

**Position Statements:**

**History:**

Nov 13, 2020      In Progress

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# **Division II**

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## Name, Image and Likeness

### No. 2021-1 (2-1) VARIOUS BYLAWS – STUDENT-ATHLETE USE OF NAME, IMAGE AND LIKENESS

**Intent:** To permit Division II student-athletes to utilize their name, image and likeness, as specified; further, consistent with the Board of Governors' principles that any legislative changes be transparent and enforceable, to recommend the necessary administrative framework, as specified.

**A. Bylaws:** Amend 11.1.4, as follows:

[Division II, Roll Call]

11.1.4 Representing Individuals in Marketing Athletics Ability/Reputation. Staff members of the athletics department of a member institution shall not represent, directly or indirectly, any individual in the marketing of athletics ability or reputation to an agent, a professional sports team or a professional sports organization, including receiving compensation for arranging commercial endorsements or personal appearances for **prospective, current or** former student-athletes, except as specified in Bylaw 11.1.4.1, and shall not receive compensation or gratuities of any kind, directly or indirectly, for such services.

[11.1.4.1 unchanged.]

**11.1.4.2 Professional Service Provider. Institutional staff members shall not serve as a professional service provider (see Bylaw 12.02.7) for a prospective student-athlete's name, image and likeness activities.**

**B. Bylaws:** Amend 12.02, as follows:

[Division II, Roll Call]

12.02 Definitions and Applications.

12.02.1 Agent. An agent is any individual who, directly or indirectly: **represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation in order to secure a professional sports opportunity.**

*(a) Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain; or*

*(b) Seeks to obtain any type of financial gain or benefit from securing a prospective student-athlete's enrollment at an educational institution or from a student-athlete's potential earnings as a professional athlete.*

*12.02.1.1 Application. An agent may include, but is not limited to, a certified contract advisor, financial advisor, marketing representative, brand manager or anyone who is employed or associated with such persons.*

[12.02.2 through 12.02.6 unchanged.]

**12.02.7 Professional Service Provider. A professional service provider is an individual who provides third party services to an individual regarding their name, image and likeness. A professional service provider includes, but shall not be limited to, an agent, tax advisor, marketing consultant, attorney or anyone who is employed or associated with such persons.**

[12.02.7 through 12.02.9 renumbered as 12.02.8 through 12.02.10, unchanged.]

**C. Bylaws:** Amend 12.1.2, as follows:

[Division II, Roll Call]

12.1.2 Activities Prior to Initial Full-Time Collegiate Enrollment. An individual ~~loses~~ **may retain** amateur status and thus ~~shall not~~ be eligible for intercollegiate participation in a particular sport if the individual ~~previously enters~~ **entered** into an agreement with or ~~receives~~ **received** benefits from an agent, **provided the agreement is terminated upon initial full-time enrollment at a Division II institution** (See Bylaws 12.02.1 and 12.3 for additional information regarding agents.)

**D. Bylaws:** Amend 12.1.3, as follows:

[Division II, Roll Call]

12.1.3 Permissible -- Following Initial Full-Time Collegiate Enrollment. Following initial full-time collegiate enrollment, participation in the following activities and receipt of the following benefits will not jeopardize the amateur status of an individual:

[12.1.3-(a) through 12.1.3-(h) unchanged.]

**(i) Professional Service Providers. A student-athlete may retain a professional service provider (see Bylaws 12.02.7 and 12.3) for assistance with name, image and likeness activities (see Bylaws 12.4.2 and 12.5.1.2).**

**E. Bylaws:** Amend 12.1.4, as follows:

[Division II, Roll Call]

12.1.4 Impermissible -- Following Initial Full-Time Collegiate Enrollment. Following initial full-time collegiate enrollment, an individual's participation in the following activities or receipt of the following benefits will jeopardize the individual's amateur status and eligibility for intercollegiate participation in a particular sport:

[12.1.4-(a) through 12.1.4-(g) unchanged.]

**(h) Agreement With or Benefits From an Agent. Entrance into an agreement with or receipt of benefits from an agent in order to secure a professional sports opportunity.**

[12.1.4-(i) through 12.1.4-(r) unchanged.]

**F. Bylaws:** Amend 12.2.4.2, as follows:

[Division II, Roll Call]

12.2.4.2 Draft List. An enrolled student-athlete may enter a professional league's draft an unlimited number of times during his or her collegiate career and be drafted by any team in the league without jeopardizing eligibility in that sport, provided the student-athlete does not ever agree (orally or in writing) to be represented by an agent for the purposes of marketing his or her athletics ability or reputation in that sport, ~~sign a professional sport contract~~ **in order to secure a professional sports opportunity** or otherwise jeopardize his or her amateur status.

**G. Bylaws:** Amend 12.3, as follows:

[Division II, Roll Call]

12.3 Use of Agents **and Professional Service Providers.**

12.3.1 General Rule -- **Agents.** *An individual **A student-athlete** shall be ineligible for participation in an intercollegiate sport, if, **after initial full-time enrollment at a Division II institution**, he or she ever has agreed (orally or in writing) to be represented by an agent for the purpose of marketing his or her athletics ability or reputation in that sport **in order to secure a professional sports opportunity**. Further, an agency contract not specifically limited in writing to a sport or particular sports shall be deemed applicable to all sports, and the individual shall be ineligible to participate in any sport.*

12.3.1.1 Nonbinding Agreements. *An individual **A student-athlete** who signs a contract or commitment **in order to secure a professional sports opportunity** that does not become binding until the agent also signs the document, is ineligible, even if the contract remains unsigned by the other parties until after the student-athlete's eligibility is exhausted.*

12.3.1.2 Representation for Future Negotiations. *An individual **A student-athlete** shall be ineligible per Bylaw 12.3.1, if he or she enters into a verbal or written agreement with an agent for representation in future professional sports negotiations that are to take place after the individual has completed his or her eligibility in that sport.*

12.3.1.3 Benefits From Prospective Agents. *An individual **A student-athlete** shall be ineligible per Bylaw 12.3.1, if he or she (or his or her relatives or friends) accepts transportation or other benefits from: **any person who represents any individual in the marketing of his or her athletics ability in order to secure a professional sports opportunity. The receipt of such expenses constitutes compensation based on athletics skill and is an extra benefit not available to the student body in general. In addition, compensation to a student-athlete shall not be provided as an inducement for enrollment (see Bylaw 13.2).***

*(a) Any person who represents any individual in the marketing of his or her athletics ability. The receipt of such expenses constitutes compensation based on athletics skill and is an extra benefit not available to the student body in general; or*

*(b) An agent, even if the agent has indicated that he or she has no interest in representing the student-athlete in the marketing of his or her athletics ability or reputation and does not represent individuals in the student-athlete's sport.*

[12.3.1.3.1 unchanged.]

*12.3.1.4 Exception -- Career Counseling and Internship/Job Placement Services. A student-athlete may use career counseling and internship/job placement services available exclusively to student-athletes, provided the student-athlete is not placed in a position in which the student-athlete uses his or her athletics ability.*

[12.3.2 unchanged.]

*12.3.3 Athletics Scholarship Agent. Any individual, agency or organization that represents a prospective student-athlete for compensation in placing the prospective student-athlete in a collegiate institution as a recipient of institutional financial aid shall be considered an agent or organization marketing the individual's athletics ability or reputation.*

*12.3.3.1 Talent Evaluation Services and Agents. A prospective student-athlete may allow a scouting service or agent to distribute personal information (e.g., high school academic and athletics records, physical statistics) to member institutions*

*without jeopardizing his or her eligibility, provided the fee paid to such an agent is not based on placing the prospective student-athlete in a collegiate institution as a recipient of institutional financial aid.*

12.3.43 Professional Sports Counseling Panel. It is permissible for an institution to have an authorized institutional professional sports counseling panel appointed and overseen by the institution's president or chancellor (or his or her designated representative from outside the athletics department).

**12.3.4 General Rule -- Professional Service Providers. A student-athlete may use the services of a professional service provider (see Bylaw 12.02.7) in the following name, image and likeness activities:**

- (a) Advice regarding name, image and likeness activities;**
- (b) Representation in contract negotiations related to name image and likeness activities; and**
- (c) Marketing of the student-athlete's name, image and likeness activities.**

**12.3.4.1 Limitation on Marketing Athletics Ability or Reputation. A professional service provider that represents a student-athlete in name, image and likeness activities may not also represent a student-athlete for the purpose of marketing his or her athletics ability or reputation in order to secure a professional sports opportunity.**

**12.3.4.2 Institutional Involvement. An institution may provide information and education related to name, image and likeness activities and may assist a student-athlete with evaluating professional service providers related to such activities. However, an institution may not identify or select a professional service provider or arrange for or provide payment for services rendered to the student-athlete.**

**12.3.4.3 Fees and Payment Arrangements for Services. A student-athlete is required to pay the rate commensurate with the going rate for services provided by a professional service provider, consistent with payment arrangements (e.g., flat fee, profit share, upfront guarantee) the service provider makes with nonstudent-athlete clients. A student-athlete may receive the same benefits (e.g., meals, copies, mailing) from a professional service provider that nonstudent-athletes receive but may not receive anything that would constitute an extra benefit. In addition, compensation to a student-athlete shall not be provided as an inducement for enrollment (see Bylaw 13.2).**

**12.3.5 Name, Image and Likeness Counseling Panel. It is permissible for an institution to have an authorized institutional name, image and likeness counseling panel appointed and overseen by the institution's president or chancellor (or his or her designated representative from outside the athletics department).**

H. **Bylaws:** Amend 12.4, as follows:

[Division II, Roll Call]

12.4 Employment **and Student-Athlete Business Activities.**

12.4.1 Criteria Governing Compensation to Student-Athletes. All compensation received by a student-athlete must be consistent with the limitations on financial aid set forth in Bylaw 15. Compensation may be paid to a student-athlete: [R]

- (a) Only for work actually performed; **and**

- (b) At a rate commensurate with the going rate in that locality for similar services; ~~and,~~
- (c) ~~An employer shall not use the athletics reputation of a student-athlete employee to promote the sale of the employer's product or services.~~

#### *12.4.2 Specific Athletically-Related Employment Activities:*

~~12.4.2.1 National Team Practice and Competition. A student-athlete may receive actual and necessary expenses and reasonable benefits associated with national team practice and competition (e.g., health insurance, broken-time payments). [R]~~

~~12.4.2.2 Fee-for-Lesson Instruction. A student-athlete may receive compensation for teaching or coaching sport skills or techniques in his or her sport on a fee-for-lesson basis, provided all compensation received by the student-athlete is consistent with the criteria governing compensation to student-athletes (see Bylaw 12.4.1). [R]~~

#### **12.4.2 Student-Athlete Business Activities. A student-athlete may use his or her name, image and likeness to promote his or her athletically and nonathletically related business activities (e.g., products, services, personal appearances).**

**12.4.2.1 Restrictions. A student-athlete shall not receive compensation for athletics performance or participation. In addition, compensation to a student-athlete shall not be provided as an inducement for enrollment (see Bylaw 13.2). (See also Bylaw 16.11.2.1.)**

**12.4.2.2 Autographs. A student-athlete is not permitted to receive compensation for signing an autograph while he or she is representing the institution (e.g., reported for practice or competition, community engagement event, institutional promotional activity).**

**12.4.2.3 Fee-for-Lesson Instruction. A student-athlete may receive compensation for teaching or coaching sport skills or techniques in his or her sport on a fee-for-lesson basis, provided all compensation received by the student-athlete is consistent with the criteria governing compensation to student-athletes (see Bylaw 12.4.1). If institutional facilities are used, a student-athlete must adhere to all applicable institutional processes for facility rentals in a manner consistent for members of the general public. (See 13.12.2.2.1.1 for camps and clinics.) [R]**

**12.4.2.4 Merchandise and Memorabilia. A student-athlete is permitted to sell items provided by the institution, conference or NCAA, including awards, used equipment and apparel retained by the student-athlete that the institution will not reuse, at any time. A student-athlete may sell institutional merchandise he or she has purchased, subject to institutional restrictions related to the resale of items that include institutional marks.**

**12.4.2.5 Missed Class Time. A student-athlete shall not miss class to participate in activities related to the use of their name, image and likeness.**

**12.4.2.6 Institutional Involvement. An institution may provide information and education related to name, image and likeness activities and may assist a student-athlete with evaluating professional service providers related to such activities (see Bylaw 12.3.5). Neither the institution nor an institutional staff member shall be involved in the arrangement, development, operation or promotion of a student-athlete's business activity.**

**12.4.2.6.1 Exception. A business activity that is developed as part of the student-athlete's coursework is not subject to these restrictions.**

**12.4.2.7 Use of Institutional Marks.** A student-athlete's promotion of his or her business activity may include a reference to the student-athlete's involvement in intercollegiate athletics and a reference to the institution he or she attends, consistent with institutional policies applicable to any student. A student-athlete must adhere to all applicable institutional processes for use of institutional marks in a manner consistent for members of the general public.

**12.4.2.8 Use of Professional Service Providers.** See Bylaw 12.3.

**12.4.2.9 Reporting of Name, Image and Likeness Activities.** A student-athlete shall report to the institution's athletics department information related to business activities that involve the use of his or her name, image or likeness on an annual basis.

- I. **Bylaws:** Amend 12.5, as follows:

[Division II, Roll Call]

12.5 Promotional Activities.

12.5.1 Permissible.

12.5.1.1 Institutional, Charitable, Educational or Nonprofit Promotions. A member institution or recognized entity thereof (e.g., fraternity, sorority or student government organization), a member conference or a noninstitutional charitable, educational, nonprofit or government agency (e.g., the armed services) may use a student-athlete's name, picture or appearance to support its charitable or educational activities or to support activities considered incidental to the student-athlete's participation in intercollegiate athletics, provided the following conditions are met:

[12.5.1.1(a) unchanged.]

[12.5.1.1(a)-(1) through 12.5.1.1(a)-(3) unchanged.]

**(4) A commercial establishment may use the appearance, name or picture of an enrolled student-athlete to promote an institutional fundraising activity;**

[12.5.1.1(b) through 12.5.1.1(c) unchanged.]

~~(d) The student-athlete's name, picture or appearance is not used to promote the commercial ventures of any nonprofit agency;~~

~~(e) Any commercial items with names or pictures of student-athletes (other than items specified per Bylaws 12.5.1.6 and 12.5.1.7) may be sold only by the member institution, member conference or NCAA, through outlets controlled by the member institution, member conference or the NCAA or outlets controlled by the charitable or educational organization (e.g., location of the charitable or educational organization, site of charitable event during the event);~~

[12.5.1.1(f) through 12.5.1.1(g) relettered as 12.5.1.1(d) through 12.5.1.1(e), unchanged.]

12.5.1.1.1 Exception - Promotional Activities Not Sponsored or Organized by a Member Institution's Athletics Department or Member Conference. The promotional activity conditions apply to activities sponsored or organized by an institution's athletics department or a conference office. Promotional

activities in which a student-athlete participates independent of his or her status as a student-athlete (e.g., institutional community service requirement) are not subject to the legislation. **See Bylaw 12.5.1.2.**

[12.5.1.1.2 through 12.5.1.1.3 unchanged.]

12.5.1.1.4 Promotions Involving Commercial Locations/Sponsors. A member institution or a charitable, educational, nonprofit or government agency may use the appearance, name or picture of an enrolled student-athlete to promote generally its fundraising activities at the location of a commercial establishment; ~~provided the commercial establishment is not a cosponsor of the event and the student-athlete does not promote the sale of a commercial product in conjunction with the fundraising activity. A commercial establishment would become a cosponsor, if the commercial establishment either advertises the presence of the student-athlete at the commercial location or is involved directly or indirectly in promoting the activity.~~ **The commercial establishment may use the appearance, name or picture of an enrolled student-athlete to promote an institutional fundraising activity.**

[12.5.1.1.5 through 12.5.1.1.7 unchanged.]

~~12.5.1.2 Modeling and Other Nonathletically Related Promotional Activities. An individual may accept remuneration for or permit the use of his or her name or picture to advertise or promote the sale or use of a commercial product or service without jeopardizing his or her eligibility to participate in intercollegiate athletics only if all of the following conditions apply:~~

- ~~(a) The individual became involved in such activities for reasons independent of athletics ability;~~
- ~~(b) No reference is made in these activities to the individual's involvement in intercollegiate athletics;~~
- ~~(c) The individual's remuneration under such circumstances is at a rate commensurate with the individual's skills and experience as a model or performer and is not based in any way on the individual's athletics ability or reputation.~~

~~12.5.1.3 Congratulatory Advertisement. It is permissible for a student-athlete's name or picture, or the group picture of an institution's athletics squad, to appear in an advertisement of a particular business, commercial product or service, provided:~~

- ~~(a) The primary purpose of the advertisement is to publicize the sponsor's congratulations to the student-athlete or team;~~
- ~~(b) The advertisement does not include a reproduction of the product with which the business is associated or any other item or description identifying the business or service other than its name or trademark;~~
- ~~(c) There is no indication in the makeup or wording of the advertisement that the squad members, individually or collectively, or the institution endorses the product or service of the advertiser;~~
- ~~(d) The student-athlete has not signed a consent or release granting permission to use the student-athlete's name or picture in a manner inconsistent with the requirements of this section; and~~

~~(e) If the student-athlete has received a prize from a commercial sponsor in conjunction with participation in a member institution's promotional activities and the advertisement involves the announcement of receipt of the prize, the receipt of the prize is consistent with the provisions of Bylaw 12.5.2.3.3.~~

~~12.5.1.4 Educational Products Related to Sport-Skill Instruction. It is permissible for a student-athlete's name or picture to appear in books, articles and other publications, films, videotapes, and other types of electronic reproduction related to sport-skill demonstration, analysis or instruction, provided:~~

~~(a) Such print and electronic media productions are for educational purposes;~~

~~(b) There is no indication that the student-athlete expressly or implicitly endorses a commercial product or service;~~

~~(c) The student-athlete does not receive remuneration for such participation; however, the student-athlete may receive actual and necessary expenses related to his or her participation;~~

~~(d) The student-athlete does not miss class time to participate in the activity; and~~

~~(e) The student-athlete has signed a release statement ensuring that the student-athlete's name or image is used in a manner consistent with the requirements of this section and a copy of the statement is kept on file and shall be available for examination on request by an authorized representative of the NCAA.~~

**12.5.1.2 Advertisements and Promotions. A student-athlete may permit the use of his or her name, image or likeness and receive compensation to advertise or promote the sale or use of a commercial product or service.**

**12.5.1.2.1 Restrictions. A student-athlete shall not receive compensation for athletics performance or participation. In addition, compensation to a student-athlete shall not be provided as an inducement for enrollment (see Bylaw 13.2). (See also Bylaw 16.11.2.1.)**

**12.5.1.2.2 Specifically Prohibited Promotional Activities. A student-athlete shall not engage in name, image and likeness activities involving a commercial product or service that conflicts with NCAA legislation (e.g., sports wagering, banned substances).**

**12.5.1.2.3 Conflicts with Institutional Agreements and Other Considerations. An institution or conference, at its discretion, may prohibit a student-athlete's involvement in name, image and likeness activities based on other considerations, such as a conflict with institutional or conference values, as defined by the institution or conference. An institution or conference shall have policies that set forth the name, image and likeness activities in which student-athletes may or may not engage.**

**12.5.1.2.4 Missed Class Time. A student-athlete shall not miss class to participate in activities related to use of their name, image and likeness.**

**12.5.1.2.5 Institutional Involvement. An institution may provide information and education related to name, image and likeness activities. Neither the institution nor an institutional staff member shall be involved in the arrangement, development or promotion of the relationship between the student-athlete and an involved individual or commercial entity.**

**12.5.1.2.6 Use of Institutional Marks. A student-athlete's promotion or endorsement of a commercial product or service may include a reference to the student-athlete's involvement in intercollegiate athletics and a reference to the institution he or she attends, consistent with institutional policies applicable to any student. Institutional marks may not be used in the advertisement or promotion.**

**12.5.1.2.7 Use of Professional Service Providers. See Bylaw 12.3.**

**12.5.1.2.8 Reporting of Name, Image and Likeness Activities. A student-athlete shall report to the institution's athletics department information related to the use of his or her name, image or likeness in the advertising or promotion of a commercial product or service on an annual basis.**

[12.5.1.5 renumbered as 12.5.1.3, unchanged.]

12.5.1.64 Promotion by Third Party of Highlight Film, Videotape, Media Guide or Photographs. Any party other than the institution or a student-athlete (e.g., a distribution company) or any party hired by the institution, conference or NCAA may sell and distribute an institutional highlight film or videotape or an institutional or conference highlight film, videotape or media guide that contains the names and pictures of enrolled student-athletes or a picture of a student-athlete only if:

- (a) The institution, conference or NCAA specifically designates any agency that is authorized to receive orders for the film, videotape, media guide or photograph;**and**
- (b) The distribution company, retail store or a third party is precluded from using the name or picture of an enrolled student-athlete in any poster or other advertisement to promote the sale or distribution of the film, videotape, media guide or photograph;~~and,~~
- (c) ~~There is no indication in the makeup or wording of the advertisement that the squad members, individually or collectively, or the institution, conference or NCAA endorses the product or services of the advertiser or third party.~~

[12.5.1.7 renumbered as 12.5.1.5, unchanged.]

12.5.1.86 Olympic, Paralympic, Pan American, Parapan American, World Championships, World Cup, World University Games (Universiade) and World University Championships. A student-athlete's name or picture may be used to promote Olympic, Paralympic, Pan American, Parapan American, World Championships, World Cup, World University Games (Universiade) or World University Championships as specified in this section.

12.5.1.86.1 Sale and Distribution of Promotional Items. Promotional items (e.g., posters, postcards, film, videotapes) bearing the name or picture of a student-athlete and related to these events may be sold or distributed by the national or international sports governing body sponsoring these events or its designated third-party distributors. ~~It is not permissible for such organizations to sell player/trading cards that bear a student-athlete's name or picture. Promotional items may include a corporate sponsor's trademark or logo but not a reproduction of the product with which the business is associated. The name or picture of the student-athlete may not be used by the distribution company or retail store on any advertisement to promote the sale or distribution of the commercial item.~~

~~12.5.1.8.1.1 Corporate Sponsors. A corporate sponsor may sell a promotional item related to these events that uses the name or picture of a team but not an individual student-athlete.~~

## 12.5.2 Nonpermissible.

~~12.5.2.1 Advertisements and Promotions Following Enrollment. After becoming a student-athlete, an individual shall not be eligible for participation in intercollegiate athletics, if the individual:~~

- ~~(a) Accepts any remuneration for or permits the use of his or her name or picture to advertise, recommend or promote directly the sale or use of a commercial product or service of any kind; or~~
- ~~(b) Receives remuneration for endorsing a commercial product or service through the individual's use of such product or service.~~

~~12.5.2.1.1 Exceptions. The individual's eligibility will not be affected, provided the individual:~~

- ~~(a) Meets the conditions set forth in Bylaw 12.5.1.2; or~~
- ~~(b) Takes appropriate steps upon becoming a student-athlete to retract permission for the use of his or her name or picture and ceases receipt of any remuneration for such an arrangement.~~

~~12.5.2.1.2 Improper Use of Student-Athlete's Name or Picture. If an institution, without the student-athlete's knowledge or consent, uses or permits the use of the student-athlete's name or picture in a manner contrary to Bylaw 12.5.2.1, the violation shall be considered an institutional violation; however, the student-athlete's eligibility shall not be affected.~~

~~12.5.2.2 Use of a Student-Athlete's Name or Picture Without Knowledge or Permission. If a student-athlete's name or picture appears on commercial items (e.g., T-shirts, sweatshirts, serving trays, playing cards, posters, photographs) or is used to promote a commercial product sold by an individual or agency without the student-athlete's knowledge or permission, the student-athlete (or the institution acting on behalf of the student-athlete) is required to take steps to stop such an activity in order to retain his or her eligibility for intercollegiate athletics. Such steps are not required in cases in which a student-athlete's photograph is sold by an individual or agency (e.g., private photographer, news agency) for private use.~~

12.5.2.31 Specifically Restricted Activities. A student-athlete's involvement in promotional activities specified in this section is prohibited.

~~12.5.2.3.1 Name-the-Player Contest. A student-athlete may not permit use of his or her name or picture in a "name-the-player" contest conducted by a commercial business for the purpose of promoting that business.~~

[12.5.2.3.2 through 12.5.2.3.3 renumbered as 12.5.2.1.1 through 12.5.2.1.2, unchanged.]

~~12.5.3 Media Activities. A student-athlete may participate in media activities (e.g., appearance on radio, television, in films or stage productions or participation in writing projects) when such an appearance or participation is related in any way to athletics ability or prestige provided:~~

- ~~(a) The student-athlete is eligible academically to represent the institution at the time of appearance or participation;~~

- ~~(b) The student-athlete does not receive any remuneration for the appearance or participation in the activity;~~
- ~~(c) The student-athlete does not make any endorsement, expressed or implied, of any commercial product or service. The institution or the entity sponsoring the activity may pay the actual and necessary expenses directly related to the appearance or participation by the student-athlete in the activity; and~~
- ~~(d) The student-athlete does not miss class to participate in the activity, except for class time missed in conjunction with away-from-home competition or to participate in NCAA or conference-sponsored media activity.~~

~~12.5.3.1 Writing Activities for a Commercial Entity. It is permissible for a student-athlete to write a column in a newsletter produced by a commercial company provided the individual meets the conditions set forth in Bylaw 12.5.1.2.~~

[12.5.4 renumbered as 12.5.3, unchanged.]

**J. Bylaws:** Amend 13.2, as follows:

[Division II, Roll Call]

13.2 Offers and Inducements.

[13.2.1 through 13.2.2 unchanged.]

13.2.3 Specific Prohibitions. Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following: [R]

[13.2.3-(a) through 13.2.3-(j) unchanged.]

- (k) Involvement of a prospective student-athlete in an institutional fundraiser or promotional activity if the prospective student-athlete has not signed a National Letter of Intent or the institution's written offer of admission and/or financial aid or the institution has not received his or her financial deposit in response to its offer of admission; ~~or~~
- (l) Educational expenses or services (e.g., tuition, fees, room and board, books, tutoring, standardized test preparatory classes); ~~or~~

**(m) An arrangement for use of a student-athlete's name, image or likeness (see Bylaws 12.4.2.1 and 12.5.1.2.1).**

[13.2.4 through 13.2.11 unchanged.]

**K. Bylaws:** Amend 13.12.2.2.1.1, as follows:

[Division II, Roll Call]

13.12.2.2.1.1 Self-Employment. A student-athlete with remaining eligibility is *not* permitted to conduct his or her own camp or clinic. **If institutional facilities are used, a student-athlete must adhere to all applicable institutional processes for facility rentals in a manner consistent for members of the general public.** [R]

**L. Bylaws:** Amend 15.2.3, as follows:

[Division II, Roll Call]

15.2.3 Employment. Earnings from a student-athlete's on- or off-campus employment that occurs at any time is exempt and is not included when determining a student-athlete's full grant-in-aid or the institution's financial aid limitations, provided:

- (a) The compensation is only for work actually performed; **and**
- (b) The compensation is at a rate commensurate with the going rate of that locality for similar services; ~~and.~~
- (c) ~~The employer shall not use the athletics reputation of a student-athlete employee to promote the sale of the employer's products or services. (See Bylaw 12.4.)~~

**M. Bylaws:** Amend 16.11.1, as follows:

[Division II, Roll Call]

16.11.1 Permissible.

[16.11.1.1 through 16.11.1.7 unchanged.]

**16.11.1.8 Fundraisers for Student-Athletes or Their Relatives. An institution, student-athletes, their relatives and their friends may organize a fundraiser for a student-athlete (or their relatives) under the following conditions: [R]**

- (a) Extreme circumstances should be extraordinary in the result of events beyond the control of the student-athlete;**
- (b) The proceeds must be designated for a specific purpose;**
- (c) The proceeds may be given directly to the beneficiaries, with receipt kept on file by the institution, which must include the amount of expenses incurred and the total amount received; and**
- (d) The excess proceeds must be given to a not-for-profit organization with the receipt kept on file by the institution.**

16.11.1.89 Miscellaneous Benefits. An institution may provide or arrange for the following benefits for a student-athlete: [R]

[16.11.1.8-(a) through 16.11.1.8-(d) renumbered as 16.11.1.9-(a) through 16.11.1.9-(d) unchanged.]

~~(e) Fundraisers for student-athletes (or their family members) under the following conditions:~~

- ~~(1) Extreme circumstances should be extraordinary in the result of events beyond the control of the student-athlete;~~
- ~~(2) The proceeds must be designated for a specific purpose;~~
- ~~(3) The proceeds may be given directly to the beneficiaries, with receipt kept on file by the institution, which must include the amount of expenses incurred and the total amount received; and~~
- ~~(4) The excess proceeds must be given to a not-for-profit organization with the receipt kept on file by the institution.~~

[16.11.1.8-(f) through 16.11.1.8-(g) relettered as 16.11.1.8-(e) through 16.11.1.8-(f) renumbered as 16.11.1.9-(f) through 16.11.1.9-(g) relettered as 16.11.1.9-(e) through 16.11.1.9-(f), unchanged.]

**Source:** NCAA Division II Presidents Council [Management Council (Legislation Committee)].

**Effective Date:** August 1, 2021

**Rationale:** This proposal would permit Division II student-athletes to benefit from the use of their name, image and likeness in a manner that is consistent with the NCAA Board of Governors' guiding principles and with the Board's direction to consider appropriate rules changes based on recommendations from the Federal and State Legislation Working Group. These recommendations fall into two categories: (1) activities related to student-athlete business activities; and (2) promotion/endorsement of third-party products and services. Student-athletes should have full use of their name, image and likeness related to their own business activities, including autographs and appearances, noting the direct tie between these activities and a student-athlete's identity. Importantly, these opportunities can occur in a manner that is consistent with the NCAA's core values, mission and principles, while prioritizing student-athlete well-being. Further, the recommended administrative framework for these legislative changes ensures that the legislation will be transparent and enforceable, in line with the Board's principles. A survey taken by more than 1,000 representatives of member institutions and conferences, including student-athletes, helped gather feedback on ways to modernize NCAA legislation to allow for student-athletes to receive compensation for their name, image and likeness. Student-athlete voices also were prioritized throughout the process.

**Frequently Asked Questions:**

**Question No. 1:** What is a name, image and likeness activity?

**Answer:** A name, image and likeness activity involves the use of a prospective and current student-athlete's name, image and likeness for promotional purposes.

**Question No. 2:** What types of name, image and likeness activities are subject to the proposal?

**Answer:** For purposes of this proposal, a name, image and likeness activity includes any promotional situation in which a prospective or current student-athlete is being compensated (e.g., cash, product or other benefit) for use of their name, image, likeness or personal appearance. Name, image and likeness activities include compensation in exchange for a prospective or current student-athlete's name, image or likeness as a product or service, such as the student-athlete's autograph, photograph or personal appearance.

<b>Examples of Name, Image and Likeness Activities</b>	
<b>Student-Athlete Businesses Activities</b>	<b>Third-Party Promotion of a Commercial Product or Service</b>
Self-employment or business ownership (providing a product or service), including examples such as music, selling sports equipment and others noted below.	Appearance in television advertisements for commercial products or services.
Providing lessons, including conducting camps, clinics and tutorials regardless of platform (e.g., live, in-person or streaming online).	Appearance in print or social media advertisements for commercial products or services.
Sale of merchandise owned by the student-athlete [including items provided by the institution for athletics	Use of a student-athlete's name or voice in audio advertisements for commercial products or services.

participation (e.g., awards, apparel no longer used by the institution)].	
Sale of autographs while not representing the institution.	Personal appearances (independent of the institution) by a student-athlete to promote commercial products or services (e.g., appearance at a commercial establishment).
Personal appearances (independent of the institution) not in promotion of commercial products or services.	Social media influencer (compensation for social media activity/posting).

**Question No. 3:** Does this proposal apply retroactively (e.g., prior to August 1, 2021)?

**Answer:** No.

**Question No. 4:** May a student-athlete miss class time to participate in name, image and likeness activities?

**Answer:** No.

**Question No. 5:** Will this proposal permit a student-athlete to use institutional marks in the promotion of their own business activities?

**Answer:** Yes; however, the student-athlete must adhere to all applicable institutional processes for use of institutional marks in a manner consistent for members of the general public.

**Question No. 6:** Will this proposal permit a student-athlete to use institutional marks in the promotion or endorsement of a third-party product or service?

**Answer:** No.

# Division III

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## Presidents Council Grouping

### No. 2021-1 (2-1) STUDENT ATHLETE USE OF NAME IMAGE AND LIKENESS FOR PROMOTIONAL PURPOSES

**Intent:** To permit Division III student-athletes to use their name, image and likeness, to promote their own work product or services and to promote third party products and services consistent with the Board of Governors guiding principles and subject to the conditions set forth in the proposal.

**A. Bylaws:** Amend 12.02, as follows:

[Roll Call]

12.02 Definitions and Applications.

12.02.1 Agent. An agent is any individual who, directly or indirectly:

(a) Represents or attempts to represent an individual for the purpose of marketing their athletics ability or reputation ~~for financial gain; or~~ **to secure professional sports opportunities.**

[12.02.1-(b) unchanged.]

[12.02.1.1 unchanged.]

[12.02.2 through 12.02.7 unchanged.]

**B. Bylaws:** Amend 12.1.3, as follows:

[Roll Call]

12.1.3 Amateurism Status -- Before Initial, Full-Time Collegiate Enrollment. Before initial, full-time collegiate enrollment, an individual's amateur status shall be determined using the following:

12.1.3.1 Permissible Activities -- Before Initial, Full-Time Collegiate Enrollment. Before initial, full-time collegiate enrollment, an individual may engage in the following without jeopardizing their amateur status:

[12.1.3.1-(a) through 12.1.3.1-(r) unchanged.]

**(s) Name, Image and Likeness. An individual may use their name, image and likeness to promote their own work product or service, or a third-party product or service in the same manner as student-athletes (see Bylaw 12.5.2).**

[12.1.3.2 unchanged.]

**C. Bylaws:** Amend 12.3, as follows:

[Roll Call]

12.3 Use of Agents.

12.3.1 General Rule. An individual shall be ineligible for participation in an intercollegiate sport if they have ever agreed (orally or in writing) to be represented by an agent ~~for the purpose of marketing their athletics ability or reputation in that sport~~ **to secure professional sports opportunities.** Further, an agency contract not specifically

limited in writing to a sport or particular sports shall be deemed applicable to all sports, and the individual shall be ineligible to participate in any sport.

12.3.1.1 Representation for Future Negotiations. An individual shall be ineligible per Bylaw 12.3.1 if they enter into a verbal or written agreement with an agent for representation in future professional sports negotiations that are to take place after the individual has completed their eligibility in that sport.

12.3.1.2 Benefits from Prospective Agents. An individual shall be ineligible per Bylaw 12.3.1 if they (or their relatives or friends) accept transportation or other benefits from:

- (a) Any person who represents any individual ~~in the marketing of their athletics ability~~ **with the intent of securing professional sports opportunities**. The receipt of such expenses constitutes compensation based on athletics skill and is an extra benefit not available to the student body in general; or
- (b) An agent, even if the agent has indicated that they have no interest in representing the student-athlete ~~in the marketing of their athletics ability or reputation and does not represent individuals in the student-athlete's sport~~ **with the intent of securing professional sports opportunities**.

[12.3.2 through 12.3.3 unchanged.]

**12.3.4 General Rule -- Professional Service Providers. A student-athlete may use the services of a professional service provider in the following name, image and likeness activities:**

- (a) Advice regarding name, image and likeness activities;**
- (b) Representation in contract negotiations related to name, image and likeness activities; and**
- (c) Marketing of the student-athlete's name, image and likeness activities.**

**12.3.4.1 Limitation on Marketing Athletics Ability or Reputation. A professional service provider that represents a student-athlete in name, image and likeness activities may not also represent a student-athlete for the purpose of marketing their athletics ability or reputation in order to secure a professional sports contract.**

**12.3.4.2 Institutional Involvement. An institution may provide information and education related to name, image and likeness activities and may assist a student-athlete with evaluating professional service providers related to such activities. However, an institution may not identify or select a professional service provider or arrange for or provide payment for services rendered to the student-athlete.**

**12.3.4.3 Institutional Employees. An institutional employee may not be employed as a professional service provider for a prospective student-athlete's name, image and likeness activities.**

**D. Bylaws:** Amend 12.5, as follows:

[Roll Call]

12.5 Promotional Activities.

12.5.1 Permissible. Student-athletes may participate in promotional activities as provided in this bylaw. Any promotional activity not listed is specifically prohibited.

[12.5.1.1 unchanged.]

~~12.5.1.1.5 Use of a Student-Athlete's Name or Picture without Knowledge or Permission. If a student-athlete's name or picture appears on commercial items (e.g., T-shirts, sweatshirts, serving trays, playing cards, posters) or is used to promote a commercial product sold by an individual or agency without the student-athlete's knowledge or permission, the student-athlete (or the institution acting on behalf of the student-athlete) is required to take steps to stop such an activity in order to retain their eligibility for intercollegiate athletics. Such steps are not required when a student-athlete's photograph is sold by an individual or agency (e.g., private photographer, news agency) for private use.~~

12.5.1.1.65 Prospective Student-Athlete's Participation in Institutional Fundraisers or Promotions. Prospective student-athletes may not be involved in institutional fundraisers or promotional activities. (see Bylaw 13.02.7). [D]

12.5.1.1.65.1 Exception. A prospective student-athlete who has graduated from high school and has forwarded the paid acceptance of the institution's written offer of admission and/or financial aid may be involved in institutional fundraisers.

12.5.1.1.76 Effect of Violations. The following violations of Bylaw 12.5.1.1 shall be considered institutional violations per Constitution 2.8.1; however, the student-athlete's eligibility shall not be affected:

[12.5.1.1.7-(a) through 12.5.1.1.7-(d) renumbered as 12.5.1.1.6-(a) through 12.5.1.1.6-(d) unchanged.]

~~12.5.1.2 U.S. Olympic and Paralympic Committee or National Governing Body Advertisement Before Collegiate Enrollment. Before initial, full-time collegiate enrollment, an individual may receive payment for the display of athletics skill in a commercial advertisement, provided:~~

- ~~(a) The individual receives prior approval to appear in the advertisement from the U.S. Olympic and Paralympic Committee or the applicable national governing body;~~
- ~~(b) The U.S. Olympic and Paralympic Committee or national governing body approves of the content and the production of the advertisement;~~
- ~~(c) The individual forwards the payment to the U.S. Olympic and Paralympic Committee or national governing body for the general use of the organization(s); and~~
- ~~(d) The funds are not earmarked for the individual.~~

~~12.5.1.3 Modeling and Other Nonathletically Related Promotional Activities. It is permissible for an individual to accept remuneration for or permit the use of their name or picture to advertise or promote the sale or use of a commercial product or service without jeopardizing their eligibility to participate in intercollegiate athletics only if all of the following conditions apply:~~

- ~~(a) The individual became involved in such activities for reasons independent of athletics ability;~~
- ~~(b) No reference is made in these activities to the individual's involvement in intercollegiate athletics; and~~

- (e) ~~The individual's remuneration under such circumstances is at a rate commensurate with the individual's skills and experience as a model or performer and is not based in any way upon the individual's athletics ability or reputation.~~

[12.5.1.4 renumbered as 12.5.1.2, unchanged.]

~~12.5.1.4.2 Commercial Advertisements Not Permitted. If, before enrollment at a member institution, the student-athlete received remuneration for endorsing a commercial product or service through the student-athlete's use of such product or service and the student-athlete does not meet the requirements of Bylaw 12.5.1.3 or 12.5.1.4, the student-athlete must take appropriate steps once becoming a student-athlete at a member institution to retract permission for the use of their name or picture and must cease receipt of any remuneration for such an arrangement in order to retain their eligibility.~~

~~12.5.1.4.3 Use of a Student-Athlete's Name or Picture without Knowledge or Permission. If a student-athlete's name or picture appears on commercial items (e.g., T-shirts, sweatshirts, serving trays, playing cards, posters) or is used to promote a commercial product sold by an individual or agency without the student-athlete's knowledge or permission, the student-athlete (or the institution acting on behalf of the student-athlete) is required to take steps to stop such an activity in order to retain their eligibility for intercollegiate athletics. Such steps are not required when a student-athlete's photograph is sold by an individual or agency (e.g., private photographer, news agency) for private use.~~

[12.5.1.5 renumbered as 12.5.1.3, unchanged.]

~~12.5.1.6 Educational Products Related to Sport-Skill Instruction. It is permissible for a student-athlete's name or picture to appear in books, articles and other publications, films, videos, and other types of electronic reproduction related to sport-skill demonstration, analysis or instruction, provided:~~

- (a) ~~Such print and electronic media productions are for educational purposes;~~
- (b) ~~There is no indication that the student-athlete expressly or implicitly endorses a commercial product or service;~~
- (c) ~~The student-athlete receives only actual and necessary expenses related to such participation;~~
- (d) ~~The student-athlete does not miss class; and~~
- (e) ~~The student-athlete has signed a release statement ensuring that the student-athlete's name or image is used in a manner consistent with the requirements of this section and has filed a copy of the statement with the student-athlete's member institution.~~

**12.5.1.74 Camps and Clinics.** A member institution may use the name or picture of any student-athlete to publicize or promote its camps or clinics, including the use of the student-athlete's name or picture in camp brochures or other advertising. *However, a privately-owned camp or clinic may only use the name or picture of any student-athlete employed as a counselor to publicize or promote the camp or clinic.* [D]

[12.5.1.8 through 12.5.1.11 renumbered as 12.5.1.5 through 12.5.1.8, unchanged.]

12.5.2 Media Activities-Student-athlete Promotional Activities. *A student-athlete may participate in media activities (e.g., appearance on radio, television, in films or stage productions, or participate in writing projects) and may receive legitimate and normal expenses when the student-athlete's appearance or participation is related in any way to athletics ability or prestige. The student-athlete may engage in such activities at any time and may receive compensation at a rate commensurate with the going rate in that locale for similar services. Further, the student-athlete's name may be used to advertise their participation in such activity, provided the student-athlete's status as a student-athlete is not used for promotional purposes.*

**12.5.2.1 Student-Athlete Work Product and Services.** **A student-athlete may use their name, image and likeness to promote their athletically and nonathletically related work product and services.**

**12.5.2.1.1 Restrictions.** **A student-athlete shall not receive compensation for athletics performance or participation. In addition, potential promotional opportunities shall not be provided as an inducement for enrollment (see Bylaw 13.2).**

**12.5.2.1.2 Institutional Involvement.** **An institution may provide information and education related to name, image and likeness activities and may assist a student-athlete with evaluating professional service providers related to such activities (see Bylaw 12.3.5). Neither the institution nor an institutional staff member shall be involved in the development, operation or promotion of a student-athlete's business activity except to the extent such is provided to students generally at the institution.**

**12.5.2.1.3 Use of Institutional Marks.** **A student-athlete's promotion of their work product or service may include a reference to the student-athlete's involvement in intercollegiate athletics and a reference to their institution consistent with institutional policies applicable to any student. A student-athlete must adhere to all applicable institutional processes for use of institutional marks in a manner consistent for the general student-body.**

**12.5.2.1.4 Use of Professional Service Providers.** **See Bylaw 12.3.**

**12.5.2.2 Advertisements and Promotions.** **A student-athlete may permit the use of their name, image or likeness and receive remuneration to advertise or promote the sale or use of a commercial product or service.**

**12.5.2.2.1 Restrictions.** **A student-athlete shall not receive compensation for athletics performance or participation. Additionally, potential promotional opportunities shall not be provided as an inducement for enrollment (see Bylaw 13.2).**

**12.5.2.2.2 Specifically Prohibited Promotional Activities.** **A student-athlete shall not engage in promotional activities for a product or service that, per NCAA policy, is specifically prohibited from being promoted during an NCAA championship.**

**12.5.2.2.3 Conflicts With Institutional Agreements and Other Considerations.** **An institution or conference, at its discretion, may prohibit a student-athlete from engaging in promotional activities that may conflict with institutional or conference values, to the same extent students generally are prohibited from engaging in those promotional activities.**

**12.5.2.2.4 Institutional Involvement. An institution may provide information and education related to name, image and likeness activities. Neither the institution nor an institutional staff member shall be involved in the arrangement, development or promotion of the relationship between the student-athlete and an involved individual or commercial entity.**

**12.5.2.2.5 Use of Institutional Marks. A student-athlete may include a reference to the student-athlete's involvement in intercollegiate athletics and a reference to their institution, consistent with institutional policies applicable to any student. A student-athlete must adhere to all applicable institutional processes for use of institutional marks in a manner consistent for the general student-body.**

**12.5.2.2.6 Use of Professional Service Providers. See Bylaw 12.3.**

[12.5.3 unchanged.]

**Source:** NCAA Division III Presidents Council [Management Council (Interpretations and Legislation Committee)].

**Effective Date:** August 1, 2021

**Rationale:** This proposal would permit Division III student-athletes to benefit from the use of their name, image and likeness in a manner that is consistent with the NCAA Board of Governors' guiding principles and with the Board's direction to consider appropriate rules changes based on recommendations from the Federal and State Legislation Working Group. These recommendations fall into two categories: (1) activities related to a student-athlete's work product or service; and (2) promotion/endorsement of third-party products and services. Student-athletes should have full use of their name, image and likeness for commercial promotional purposes. Importantly, these opportunities can occur in a manner that is consistent with the NCAA's core values, mission and principles, while prioritizing student-athlete well-being. Further, the recommended administrative framework for these legislative changes ensures that the legislation will be transparent and enforceable, in line with the Board's principles.

**Budget Impact:**