

ULC – College Student-Athlete NIL Act – Clemson Athletics Compliance (Archuleta) Feedback on Red-Lined 5/3 Version

Page 1 (Line 9)

- For “conduct athletic competition among its member institutions”, edit to “conduct athletic competition between and among its amateur member institutions” to be inclusive of solely amateur collegiate competition.

Page 1 (Line 17)

- For “booster” definition, this is one of the strictest definitions for boosters in any of the proposed NIL legislation. Someone could provide a \$5 burger impermissibly to a student-athlete, and they would trigger the “booster” definition in this legislation. Most of the federal and state bills proposed to this date are not this restrictive and include a more permissive definition (e.g., must have made a \$5,000 financial contribution to the institution to trigger booster status).

Page 2 (Line 19)

- For “intercollegiate sport”, consider editing “established by an athletic association” to “established by an athletic association and sponsored by such athletic association”.

Page 3 (Line 11)

- For “name, image and likeness agreement”, consider specifying that an agreement includes any oral or written meeting of the minds to be inclusive of any type of agreement and consistent with current NCAA Division I agent rules.

Page 3 (Line 14)

- For “name, image and likeness compensation”, consider editing “money or other thing of value” to “money or other tangible items of value as well as intangible items of value such as services” to be inclusive of the different types of possible compensation.

Page 4 (Line 19)

- For “grade twelve, youth, recreation, intramural, club, or similar level”, consider adding in “preparatory school” to account for prep school prospective student-athletes.

Page 7 (Line 2)

- For college student athlete restrictions, while this “illegal” language addresses this, consider adding in some specific type of language that protects institutions if an athlete were to engage in NIL activity that runs afoul of existing contractual language between the institution and its partner (e.g., college student athlete engages in NIL activity for Adidas, but the institution has a Nike agreement).

Page 10 (Line 10)

- For disclosure timing, consider specifically defining when a college athlete must disclose such activity beyond the general term of “before engaging in name, image, and likeness activity”. The NCAA transfer portal notification of transfer deadline is two business days (i.e., when a student-athlete asks in writing to be placed in the portal, the institution has two business days to input their name in the portal). Maybe require college athletes to give two business days’ notice to their institution ahead of any specific NIL activity? If this is too strict, then consider some type of documentation standard clarification need to clarify when an athlete meets this requirement (e.g., athlete emailed institution an hour before activity began = meets the requirement; athlete input NIL activity into database an hour before activity begun = meets the requirement; athlete emailed institution 5 hours after an NIL activity was completed = does not meet the requirement).

Page 12 (Line 9)

- For “calendar year”, consider defining exactly what is meant by “calendar year” (e.g., regular annual year of January 1 – December 31 or academic fiscal year of July 1 – June 30).

Page 18 (Line 20)

- For the civil penalty of up to \$50,000 for a NIL agent, consider a revocation of the NIL agent’s license to further deter the unlawful activity.

Page 19 (Line 21)

- For the effective date, consider July 1, 2021 or August 1, 2021 to account for the various state NIL bills scheduled to be in effect in Summer 2021.