

**Memo for the Uniform Law Commission Committee on the Uniform College Athlete  
Name, Image, and Likeness Act to Accompany Revised Version of the Draft for  
February 2021 Committee Meeting**

This memo summarizes the most significant changes to the revised draft of the Uniform College Athlete Name, Image and Likeness Act (the “Act”) and provides a brief response to the proposal submitted by Committee Members Harvey Perlman and Lane Kneedler. The Committee and Observers will have an opportunity to discuss these and other issues at the upcoming meeting.

**Section 2: Definitions**

A number of definitions were modified to harmonize the language of and intent of the Act with the Revised Uniform Athlete Agents Act (RUAAA). The primary changes or deletions were made to the following definitions to ensure consistency with RUAAA: “Agency contract” (Sec. 2(1)); “Athlete agent” (Sec. 2(2)); and “Professional service provider” (deleted; formerly Sec. 2 (22)).

We also recommend including a legislative note in the Act to encourage states to adopt RUAAA so that the language and provisions in the Act will be consistent with the state’s agent laws.

**Section 5: Right to Earn Compensation; Limits on Athletic Association and Institution**

*Section 5(a):* Two options are offered to define the general right of a college athlete to earn NIL compensation. Option 1 contains a “fair market value” limitation. Option 2 removes the “fair market value” limitation.

**Section 6: Limits and Restrictions on NIL Activity**

*Section 6(a):* Three options are offered regarding use of institutional or conference trademarks by the college athlete. In Option 1, college athletes may not use an institution or conference trademark in NIL activity, with the limited exception noted. In Option 2, a college athlete may use an institution or conference trademark in NIL activity, as long as such use is consistent with the use permitted by all students at the institution. Option 3 would not address use of trademarks (and thus would contain no restrictions). Options 2 and 3 were added in response to feedback from Observers and members of the Committee and to reflect the language used in many of the state NIL laws and bills.

*Section 6(g):* Four options are offered regarding the limitations on a college athlete engaging in NIL activity that is illegal, immoral, or inconsistent with the values of an institution. Option 1 prohibits an athlete from engaging in NIL activity that is illegal, immoral, unsafe or would adversely impact the reputation of an institution, conference, or association. Option 2

permits an institution to prohibit NIL activity that conflicts with existing institutional sponsorship arrangements or is determined to be immoral or in conflict with the institution's values. Option 3 permits an institution to prohibit NIL activity only if such prohibition also applies to all students at the institution. Option 4 permits an institution to prohibit NIL activity only if such prohibition also applies to all students at the institution and to the institution itself.

*Section 6(h):* These four options provide different approaches for limiting or prohibiting NIL activity that conflicts with institutional sponsorship agreements. The limits and prohibitions vary from complete prohibitions to prohibitions based on time of season or activity. Please note that, unlike the options provided in other sections, these options are not mutually exclusive and can be combined in part or whole with other options in this section.

### **Section 10**

Two options are offered regarding potential disclosure or registration requirements for third party entities. Under Option 1, a third party entity is required only to disclose certain information, and there is no registration requirement. Under Option 2, a third party entity is required to register. Option 2 also includes Sections 11-14 as part of the registration requirements.

### **Perlman-Kneedler Proposal**

The proposal submitted by Committee Members Harvey Perlman and Lane Kneedler offers a thoughtful and creative approach. The proposal would require, among other things, a college athlete to share a percentage of revenue they earned from NIL activity over a certain dollar amount with other college athletes in the same "sports program" and all other athletes at the institution.

We will engage in a more detailed and substantive discussion of the proposal during the upcoming meeting, but it is worth briefly noting two points with respect to the proposal. First, we are not aware of any state that has enacted or introduced legislation that would require revenue sharing of an individual athlete's NIL compensation. There are proposals at the state level (none have been enacted) that would require an institution to share a percentage of revenue generated by an athletics program with college athletes at the institution (similar to the revenue sharing model in professional team sports), but these proposals do not address revenue sharing of individual NIL activity. We are concerned that inclusion of this proposal in the Act would make it unlikely that states would adopt it.

Second, we are not aware of any system in sports—at the pro, Olympic, or amateur level—or outside of sports that requires a person to share their individual NIL compensation with others. Group licensing agreements typically include revenue sharing among athletes, but the group license includes the NIL of all athletes, not just an individual athlete.