

COMMITTEE TO CONDUCT AN INTERIM STUDY CONCERNING THE USE OF THE NAME, IMAGE, AND LIKENESS OF A STUDENT ATHLETE

Assembly Bill 254 (Chapter 202, *Statutes of Nevada 2021*)

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ASSEMBLY BILL 254
(Chapter 202, *Statutes of Nevada 2021*)

Section 8.

1. The Legislative Committee on Education shall appoint a committee to conduct an interim study concerning the use of the name, image and likeness of a student athlete.

2. The interim committee must consist of:

- (a) The Chancellor of the Nevada System of Higher Education, or his or her designee;
- (b) A representative of a community college athletic association located in this State, if any;
- (c) At least two student athletes enrolled in a community college, state college or university in this State;
- (d) An administrator of an athletics program at a community college, state college or university in this State;
- (e) A coach of an athletics program at a community college, state college or university in this State;
- (f) One member appointed by the Speaker of the Assembly; and
- (g) One member appointed by the Majority Leader of the Senate.

3. The Legislative Committee on Education shall appoint a Chair and Vice Chair from among the members of the interim committee.

4. The interim committee shall study and examine existing bylaws of state collegiate athletic associations and national collegiate athletic associations and state and federal laws relating to compensating a student athlete for the use of the name, image or likeness of the student athlete.

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INTRODUCTION

Assembly Bill 254 (2021) creates an Interim Committee to Conduct a Study Concerning the Use of the Name, Image, and Likeness of a Student Athlete. The Committee must study and examine existing bylaws of state collegiate athletic associations and national collegiate athletic associations and state and federal laws relating to compensating a student athlete for the use of the name, image, or likeness (NIL) of the student athlete. The Joint Interim Standing Committee on Education (COE) must submit a report of the results of the study, including any recommendations for legislation, to the director of the Legislative Counsel Bureau for transmission to the 2023 Session of the Nevada Legislature.

The Committee held four meetings during the 2021–2022 Interim. The first two meetings were held at the Grant Sawyer State Office Building in Las Vegas, Nevada, and videoconferenced to the Legislative Building in Carson City, Nevada. The remaining two meetings were held at the Legislative Building in Carson City and videoconferenced to the Grant Sawyer State Office Building in Las Vegas.

The Committee held four meetings with the following areas of review:

1. **March 24, 2022—Committee’s Originating Legislation, National Landscape Concerning Compensation and NIL of Student Athletes, and Recent NIL Policies and Related Oversight and Compliance**

The agenda items for the Committee’s first meeting included a presentation by two former students of the Boyd School of Law, University of Nevada, Las Vegas (UNLV), who participated in a legislation-based competition during their first year of law school that ultimately resulted in the bill that created the Committee, AB 254.

Presentations focused on the exigence of the bill and the student athlete perspective. The National Conference of State Legislatures (NCSL) provided an overview of the national landscape relating to the compensation and NIL of student athletes, including recent legislation and judicial action. Representatives of the National Collegiate Athletic Association and the National Junior College Athletic Association (NJCAA) presented to the Committee concerning recent NIL policies and related oversight and compliance from their perspective.

2. **April 28, 2022—NIL Policies and Challenges Related to Two- and Four-Year Colleges and Universities, and NIL Business and Marketing**

The agenda items for the Committee’s second meeting included a presentation by UNLV and NOCAP Sports concerning the NIL developments and challenges they have experienced. NOCAP Sports is the third-party administrator contracted by UNLV to provide the university’s students with necessary knowledge and a platform to navigate their NIL. While UNLV student athletes may explore NIL opportunities on other platforms, disclosures must occur via NOCAP Sports. The NJCAA provided a presentation regarding junior college involvement with NIL. Blueprint Sports presented the business and marketing components of NIL, including the use of collectives. A NIL

collective is generally defined as a group of people who come together for the purpose of creating NIL opportunities for the student athletes of a specific university. The people comprising a NIL collective are often passionate fans, alumni, or businesses.

3. **May 26, 2022—Legal Questions and Challenges of NIL, NIL Policies and Challenges at the University Level, and Student and Coach Perspectives**

The agenda items for the Committee’s third meeting included a presentation from the perspective of a professor with research expertise on the professionalization of college athletics on the legal challenges and developing NIL policies. The University of Nevada, Reno (UNR) and INFLCR, UNR’s third-party administrator contracted to provide the university’s students with necessary knowledge and a platform to navigate their NIL, presented regarding NIL developments and challenges they have experienced. Finally, various coaches and students in Nevada presented on the use of NIL from their perspective.

4. **June 23, 2022—Work Session**

At its fourth and final meeting, the Committee held its work session. During its work session, the Committee approved one proposal for issuing correspondence on behalf of the Committee to Nevada’s Congressional Delegation concerning uniform NIL policy. The Committee also approved four additional recommendations to be considered by the COE on topics including: (1) NIL policy and challenges at junior colleges; (2) NIL best practices; (3) NIL implications on Nevada’s gaming industry; and (4) student athlete and NIL deal disclosure requirements.

More information about the Committee’s activities—including minutes, recordings of meetings, and copies of presentations and other exhibits—may be accessed on the Legislature’s website for the [2021–2022 Interim](#).

BACKGROUND

According to the [National Collegiate Athletic Association \(NCAA\)](#), nearly half a million college students compete in 24 collegiate sports each year.¹ College athletics are a major revenue source for many athletic programs and schools. In September 2019, California passed the “Fair Pay to Play” law (Senate Bill 206) to let student athletes endorse products and use their name, sport, and school to identify themselves, but it prevents them from using school logos or other trademarked property in the endorsements. Following California’s action, many states soon enacted NIL legislation, including Nevada. The 2021 Nevada Legislature enacted AB 254, requiring this legislative study, and establishing certain parameters codified in Chapter 398 (“Intercollegiate Athletics”) of the *Nevada Revised Statutes* (NRS). In the summer of 2021, the NCAA adopted an [interim NIL policy](#) to allow individuals to “engage in NIL activities that are consistent with the

¹ NCAA, “Student-Athletes,” *NCAA*, 2022, [Student-Athletes - NCAA.org](#)

law of the state where the school is located.”² This policy also allows students to engage in NIL activity if their postsecondary institution is in a state without an NIL law. The NCAA’s interim policy expires upon the passage of federal NIL legislation.

DISCUSSION OF TESTIMONY AND RECOMMENDATIONS

At its final meeting and work session on June 23, 2022, the Committee considered a total of five proposed actions for legislation, letters, or statements to include in its final report. Several actions are proposed recommendations for the COE to consider at its future work session. Additional information regarding all recommendations considered is available in the Committee’s [Work Session Document](#).

A. National NIL Policy

Recommendation 1

Several presenters this interim discussed the lack of a national NIL policy and the difficulties stemming from that lack of guidance. The Committee heard discussion on the national impacts due to the absence of a standard policy from the NCAA at its [March 24, 2022](#), meeting and on the local impacts, as described by UNLV and UNR, at the [April 28, 2022](#), and [May 26, 2022](#), meetings. Testimony also indicated the potential benefits that a national policy might create.

At its final meeting and work session on [June 23, 2022](#), the Committee unanimously voted to:

Send a letter to Nevada’s Congressional Delegation on behalf of the Committee encouraging the development of a national, uniform policy for NIL.

According to testimony, the absence of federal legislation has led to disparity among states’ legislation, impacting recruitment and retention efforts. This letter responds to those disparities by encouraging Nevada’s Congressional Delegation to create and support a federal policy that outlines specific parameters for NIL deals and policies across all states, including the role those individual institutions should play in monitoring and supporting NIL policies. Further, this national policy should develop a plan for international students to participate in NIL by addressing their visa complications, such as the work restrictions in place for F-1 visa status.

B. Study Concerning NIL Policies and Challenges Specific to Junior Colleges

Recommendation 2

During the Committee’s first meeting on [March 24, 2022](#), and the second meeting on [April 28, 2022](#), presenters, including representatives of the NCSL and NJCAA, discussed the NIL challenges specific to junior colleges. Discussion indicated a lack of money and attention

² Michelle Brutlag Hosick, “NCAA adopts interim name, image and likeness policy,” *NCAA*, June 30, 2021, [NCAA adopts interim name, image and likeness policy - NCAA.org](#)

devoted to junior colleges in the NIL conversation. The NJCAA also mentioned difficulties with transfer policies for athletes moving between two- and four-year colleges and universities.

At its final meeting and work session on June 23, 2022, the Committee unanimously voted to:

Include in the Committee's final report the recommendation to the COE to send a letter to an entity, deemed appropriate by the COE, urging that entity to conduct a study concerning NIL policies and challenges specific to junior colleges. Specifically, this study should investigate NIL issues relating, but not limited to, resources and personnel at junior colleges and funding and opportunities for NIL deals for junior college student athletes. As testimony indicated that student athlete transfer policies, especially concerning NIL, can be contradictory and difficult between junior colleges and other institutions, the study should also investigate concerns and challenges with student athlete transfers between two- and four-year colleges and universities. If such a study is conducted, the entity conducting the study may submit a report of the results of the study, including any recommendations for legislation, to the COE on or before June 30, 2024.

C. NIL Best Practices

Recommendation 3

During its April 28, 2022, and May 26, 2022, meetings, the Committee heard testimony from UNR and UNLV representatives about the current policies and challenges these institutions encounter when navigating the relatively new college athlete NIL space. This testimony included practices and guidelines that the institutions have developed as they continue to explore this space.

At its final meeting and work session on June 23, 2022, the Committee unanimously voted to:

Include a list of best NIL practices in the Committee's final report. This list may include, but is not limited to the following:

- Awareness and communication of state and federal NIL parameters for on-campus NIL practitioners, including student athletes, coaches, and institutional personnel, should be increased;
- Student athletes may not attend NIL engagements in lieu of academic or athletic activities;
- Student athletes must wear and use institutionally issued gear and equipment during athletic activities;
- Use of an institution's logos, marks, or facilities for NIL engagements must be approved in writing by an institution;
- NIL activities must be consistent with institutional and NSHE policies; the student-athlete handbook; local, state, or federal law; and existing national collegiate athletic association regulations; and

- NIL educational supports for student athletes in areas including, but not limited to, financial implications, tax education, and scholarship impacts should be further developed.

D. Study Concerning NIL Deals and Policies Specific to Nevada's Gaming Industry

Recommendation 4

Nevada is uniquely positioned due to its gaming industry to provide a potentially different avenue of NIL deals for student athletes. Because NIL of student athletes is a relatively new area, the possible connections between gaming and NIL deals have not yet been explored.

At its final meeting and work session on June 23, 2022, the Committee unanimously voted to:

Include in the Committee's final report the recommendation to the COE to send a letter to the Nevada Gaming Control Board and the Nevada Gaming Commission on behalf of the COE urging the Board or Commission to conduct a study concerning NIL implications for the gaming industry in Nevada. Specifically, this study may investigate what, if any, possibilities exist for NIL deals between student athletes and the gaming industry. The study may also investigate the possibility of deals with student athletes as brand agents, among other deals, and the implications of such deals. If such a study is conducted, the Board or Commission may submit a report of the results of the study, including any recommendations for legislation, to the COE on or before June 30, 2024.

E. NIL Contract Disclosure Requirements

Recommendation 5

During its May 26, 2022, meeting, the Committee heard testimony from Michael H. LeRoy, J.D., Professor, School of Labor and Employment Relations, University of Illinois College of Law, regarding registration of entities, such as collectives and boosters, with the state in order to aid in their regulation. Additionally, discussion in various meetings covered student disclosure of deals, as required by NRS 398.330.

At its final meeting and work session on June 23, 2022, the Committee unanimously voted to:

Propose legislation to amend NRS 398.330 regarding student athlete disclosures to instead require any entity which engages in NIL deals that provide compensation in any form to one or more student athletes with an aggregate value equal to or greater than \$10,000, or a different amount as determined by the COE, to be responsible for disclosing those deals to the student athlete's institutions. The COE should determine the appropriate method to gather information related to NIL deals into one centralized place. Additionally, clarify that NRS 398.330 does not require NSHE to approve these deals. Further, require any entity who facilitates certain NIL deals, including, but not limited to, third-party agents such as collectives, boosters, and certain vendors, to register with the state through the Office of the Secretary of State. Collectives, in particular, are required to disclose all participating parties

as well as sources and recipients of the collective's funds. Testimony indicated that the new reporting obligations are unenforceable, and there are no consequences for failure to report disclosures.

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