



**NEVADA LEGISLATURE
COMMITTEE TO CONDUCT AN INTERIM STUDY
CONCERNING THE USE OF THE NAME, IMAGE,
AND LIKENESS OF A STUDENT ATHLETE
(Assembly Bill 254 [2021])**

MINUTES

May 26, 2022

The third meeting of the Committee to Conduct an Interim Study Concerning the Use of the Name, Image, and Likeness (NIL) of a Student Athlete for the 2021–2022 Interim was held on Thursday, May 26, 2022, at 1 p.m. in Room 4100, Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401, Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Committee's [meeting page](#). The audio or video recording may also be found at <https://www.leg.state.nv.us/Video/>. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Assemblyman Cameron (C.H.) Miller, Chair
Katelyn Norris, Student, Freshman, Women's Soccer, Truckee Meadows Community College

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Roberta Lange, Vice Chair
Dexter Irvin, Director of Athletics and Recreation, College of Southern Nevada

COMMITTEE MEMBERS ATTENDING VIA REMOTELY:

Devonte Lee, Student, Senior, Football, University of Nevada, Reno (UNR)
Eric Nepomuceno, Deputy Athletics Director, Chief Operating Officer, University of Las Vegas, Nevada (UNLV)

COMMITTEE MEMBER ABSENT:

Linda Garza, Head Softball Coach, UNR (Excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Alex Drozdoff, Senior Policy Analyst, Research Division
Jennifer Ruedy, Deputy Research Director, Research Division
Jen Sturm, Principal Policy Analyst, Research Division
Maria Aguayo, Research Policy Assistant, Research Division
Asher Killian, Chief Deputy Legislative Counsel, Legal Division

*Items taken out of sequence during the meeting have been placed in agenda order.
[Indicate a summary of comments.]*

AGENDA ITEM I—OPENING REMARKS

Chair Miller:

Welcome to the third meeting of the Committee to Conduct an Interim Study Concerning the Use of the Name, Image, and Likeness (NIL) of a Student Athlete. Thanks to everyone who is attending here in Carson City, for those who are joining us in Las Vegas, and for those joining us online. We appreciate your continued participation.

Ms. Aguayo, will you please call the roll? [Roll call is reflected in Committee Members Present.]

[Chair Miller reviewed housekeeping reminders and meeting logistics.]

Meeting materials can be accessed on the [Committee's meeting page](#) located on the Nevada Legislature's website. Anyone who would like to receive electronic notification of and access to the Committee's agenda, minutes, and final report can do so by signing up on the [Legislature's website](#).

Please note that this Committee has a new designee of the chancellor of the Nevada System of Higher Education (NSHE) (Section 8, subsection 2[a] of AB 254), who is set to be appointed at the next meeting of the Joint Interim Standing Committee on Education. We would like to welcome Terina Caserto, Senior Analyst, Academic and Student Affairs, NSHE.

Terina Caserto, Senior Analyst, Department of Academic and Student Affairs, NSHE:

Thank you for the opportunity and for allowing me to be a guest today. I am hoping to be appointed to the Committee before the June meeting, which is the Committee's final meeting.

Chair Miller:

Thank you and welcome to the Committee. We will now move on to our next agenda item, public comment.

AGENDA ITEM II—PUBLIC COMMENT

Chair Miller:

[Chair Miller called for public comment; however, no testimony was presented.]

AGENDA ITEM III—APPROVAL OF THE MINUTES FOR THE MEETING ON APRIL 28, 2022

[This agenda item was not heard.]

AGENDA ITEM IV—PRESENTATION ON UNDERSTANDING NAME, IMAGE, AND LIKENESS LAWS AND REGULATIONS

Chair Miller:

We have Professor Michael H. LeRoy from the School of Labor and Employment Relations at the University of Illinois College of Law joining us on Zoom.

Michael H. LeRoy, J.D., Professor, School of Labor and Employment Relations, University of Illinois College of Law:

I think the context for NIL is important to keep in mind. The very first athletic competition between universities was between Harvard University and Yale University in 1852, and there was a sponsor. It was a boat race in New Hampshire, and the sponsor paid student athletes to compete with prize money and provided lavish surroundings for them. To boil down the history of the National Collegiate Athletic Association (NCAA) athletics, it has always been intertwined with paying athletes to compete.

Around 1948, the NCAA had enough of the pretense of having amateurs compete knowing that schools were hiring people to be players, so they put in place the sanity code. The sanity code simply allows schools to provide scholarships but it strictly—and I mean strictly—prohibits compensation for athletic performance. Be that as it may, school after school has gotten into trouble with the NCAA, and more publicly in exposés, for paying athletes to compete even though there are strict rules against it.

That takes us to approximately 2009, when Edward Charles O'Bannon Jr., an all-American forward on the University of California, Los Angeles (UCLA) Bruins, filed a lawsuit. He had seen his image on a video game that kids were playing, and he wondered why he was never asked for permission. It turns out that when he signed his acceptance of a scholarship, he had granted the university, the NCAA, and the Pac-12 (formerly Pac-10) Conference all his NIL rights. They were exploited in a video game, and he wanted compensation for that. He sued both the NCAA and the company that created the video game, EA Sports. The long story short is that he prevailed and that was a monumental win for college athletes because it was the first time that a court ruled that the NCAA's amateur rules amounted to an unlawful restraint of trade.

That brings us to the State of California in 2019. California decided it was going to legislate economic rights for players. Because the NCAA was not acting, it decided to act on behalf of student athletes. It enacted what I would call a "bare-bones law" that gave students the right to commercially exploit their own NIL and to prohibit schools, conferences, and the NCAA from impairing their right to do so.

At the time, there was a lot of concern about whether California would be the only state that would do that. If so, what happens to schools such as UCLA, the University of Southern California (USC), and the University of California, Berkeley? It turns out that more than 25 states have enacted NIL laws and things have gotten far out of control, as I am guessing your Committee knows.

Last year, I embarked on a study to read all of the laws up until July 1, to empirically—meaning quantitatively—record the restrictions on pay for student athletes. There were 25 laws and Nevada was one of the states that had legislated. My goal at the time was to see which states were more competitive from the standpoint of recruiting and retaining student athletes and which were less competitive.

This is the scorecard for the 25 states that have legislated ([Agenda Item IV](#)). Missouri legislated shortly after my study closed, so they are not in here. Nevada is on the low side of a regulatory structure or scheme, and it is very similar to California. California, to my way of thinking, still has the best NIL law given what was emerging last year at this time. The gist of what we have in Nevada and California is that their laws: (1) allow students to exploit their NIL; (2) require student athletes to give notice to their school of their NIL deal; and (3) direct agents who represent students to be registered with the state.

Nevada is in a better place than, for example, my home state of Illinois, which imposes a lot of restrictions on student athletes. I do not want to dwell on Illinois alone, but what has emerged is something that I could not foresee a year ago, and in some ways, my study is out of date. Most people who thought about this would not have anticipated the rapid explosion of what I would call “pay-for-play” deals that schools increasingly have.

Let us look briefly at the most common pay restrictions in state NIL laws as of last year. All 25 states have a definition of what is meant by NIL. Most states: (1) require reporting of a deal to the school; (2) require that the deal not conflict with institutional policies; and (3) have a prohibition against using NIL as a recruiting tool. I have highlighted “no recruiting tied to deal” in yellow because that is not what is happening today. In fact, schools are using NIL bills to recruit left and right. It is not confined to one area. For example, look at the dustup between the head football coaches of Texas A&M University and Alabama University. The claim was made that Texas A&M had bought their top-ranked football recruiting class. That is a claim; I do not know if it is true or not. The other thing I highlighted is “no pay for performance.” In the past two months, people have acted in disregard of even their own state laws that deal with that.

Here are some uncommon pay restrictions. I do not think we need to dwell on them at length; there is only one I want to pull out of here. I do not think we need to dwell on them because Nevada has not regulated in this way, and I commend Nevada for not doing it. Regarding the booster regulation, there are three states that specifically legislated a prohibition on having boosters provide compensation for NIL deals. The idea was to ensure that their state schools did not run afoul of NCAA regulations.

What I have neglected to mention so far is the NCAA was handed a monumental defeat in a case called *NCAA v. Alston, et al.* That is another antitrust case, but given the limited time, I will say it was a unanimous decision. It shredded the NCAA’s amateur athlete model and it seemed to—particularly Justice Brett M. Kavanaugh’s concurrence—all but call for another lawsuit to challenge the restrictions on pay-for-play, calling this an exploitation of athletic labor.

In any event, that sort of “blew the cap off” of the NCAA’s regulations. The NCAA has been unable to regulate itself and in this void of not having a national law or a national association to impose rules and consequences on its members, it has become a free market, like it was in the 1850s, going all the way through to the sanity code of 1948.

To get to my bottom line, what would I think about if I were a state lawmaker who wanted to legislate in this area? The first thing I would say is that you must understand what collectives are. Collectives are, in effect, glorified booster groups. They have money—lots of it, typically—and they act as market brokers to provide compensation to college athletes. Sometimes it is one organization and sometimes they are pooling money from different sources. In any event, these collectives are funneling millions of dollars to student athletes and if it has not happened in Nevada, it is only a matter of time. I do not have a problem with that, but it is ripe for abuse. I think it is important that a state consider requiring

collectives to incorporate in your state so that they can be sued in instances where there is fraud, misappropriation of money, and so forth. They have turned into the bankroll operation for college athletics, and they are unregulated by the NCAA, and states are not regulating in this area. I would strongly urge all states to consider regulation.

Nevada does require NIL agents to register in your state; do not change this. It is a great idea. You are looking at 18- to 22-year-olds doing these NIL deals. I am not sure I have the sophistication to do an NIL deal, but when I was 19 or 20 years old, I certainly would not have had the savvy to figure out the tax implications of a deal, et cetera. This is an essential element in any NIL law.

Points 3, 4, and 5 of slide 5 anticipate the advent of an employment relationship. It is going to happen, but the question is when. The National Labor Relations Board (NLRB) has an enforcement action against schools in California. It could lead to a ruling that creates an employee status for college athletes who are involved.

There is a lawsuit in the United States Court of Appeals for the Third Circuit out of Philadelphia. It is a very consequential case. It is called *Johnson v. the NCAA, et al.* It is a Fair Labor Standards Act lawsuit. These colleges all meet minimum wage and overtime. They are pretending that this is an amateur relationship. I actually meet the criteria for employment. The early signs show that this has promised to result in a ruling favorable to student athletes. Congress is also considering legislation. Hopefully, before any of these external agents or sources impose this, the NCAA would say it needs to do this on its own. That would make life simpler for everybody here, but it is not even a given that the NCAA will survive as an entity.

Let us talk briefly about points 4 and 5. These are counterintuitive points. Why is it good to have collective bargaining for student athletes? The answer is to look at professional athletics. Under the National Labor Relations Act, your public schools are exempt from coverage, so they are not exposed to a ruling that they will be unionized; however, your schools are affiliated with conferences, and those are private entities considered by the NLRB to be joint employers.

There is a workaround that is in progress now, but it has not been adjudicated. We do not know how it will turn out, but to get to my simple point—and it takes me weeks in a classroom to teach the point—when a sports league has a union to negotiate with, it can impose a hard salary cap on that labor union and the union can strike or they can agree to it. What is sorely missing from the NIL scene today is a lack of competitive balance because schools are outdoing each other and spending themselves using these collectives. It creates such uneven competition that it is not good for college athletics in the long run.

If and when we have employment for college athletes and if and when they are represented by a union, then we will see something along the lines of what we have in the National Football League, Major League Baseball, the National Basketball Association, and the National Hockey League, where there is bargaining and where player unions have actually tried to vanish or decertify so they can go to court and individually sue in antitrust. It is much more promising to get damages there. It is a counterintuitive point, but you are heading down this road.

Let me conclude by saying—get ready for employment. I skipped over a point that I do want to emphasize, which is to think about putting in a trigger law. That does not commit you. By a “trigger law,” I mean a law saying that if a state in a conference that has a Nevada school has an employment law, that external law becomes your law by default. That

is an oversimplification, but it would keep your schools in a competitive position relative to that school, which is legislating an employment relationship.

Who should you be consulting? Certainly, student athletes should be consulted, and I would urge you to consult with attorneys who represent professional sports leagues. Las Vegas now has sports franchises. You have the expertise in your state, and you should be talking to people on the professional side to ask more about collective bargaining, how it works, and what they think of it.

You should also be talking to academics, student athletes, as well as antitrust lawyers who are in this space because there is a lot of liability out there for schools that is hanging in the air. It is not reported extensively. There is a lawsuit called *House v. the NCAA*, and I also referenced *Johnson v. the NCAA*. If everybody does nothing and these court cases proceed apace, which they will do anyway, you could find that your NCAA institutions are facing massive damages, which are tripled under the Sherman Antitrust Act. That is out of your hands, at this point, to be perfectly honest. I would start talking to one or more antitrust lawyers to grasp the magnitude of exposure that your schools have under this.

Finally, it is important to talk to the athletic directors. They had the first pass at drafting these NIL laws. I do not want to disparage them. They did the best they could, but they also have a particular vantage point, which inhibits them from thinking strategically about the long run. I think they legislated for the past. They looked at the structure of NCAA rules that crumbled under their feet. My simple advice is to legislate for the future.

Chair Miller:

We are now going to open it up for questions.

Vice Chair Lange:

Thank you for the presentation; I found it very insightful. I am interested in the collective bargaining part. Are there other states that have some collective bargaining language in their NIL legislation in the event that athletes organize, that it would trigger that part of the law?

Professor LeRoy:

That is an insightful question. To the best of my knowledge, no, there are not, but there are what I would call "proxy laws" along these lines. On your western border, California has a very interesting bill that is more than just a dream. It has not yet been enacted, but it would require NCAA schools in the State of California to set aside 50 percent of their gross athletic revenues to be distributed as educational benefits to their student athletes. There would be a six-year post eligibility lockbox set up. That is not collective bargaining, but if you look at collective bargaining in the four major team sports, there is roughly a 48 to 52 percent division of gross revenues between owners and the players' association.

California has created a proxy feature for this. They are talking about a 50/50 split, and it is called the "doomsday bill" for athletic programs in California because they are spent out to their last dime; they cannot afford this. To me, that suggests collective bargaining is a better idea than just imposing a numerical limit on a set of institutions that cannot bargain away from it.

There is federal legislation that is actively pursuing collective bargaining for athletes. It is very interesting to see the legislation from U.S. Senator Marsha Blackburn (R-Tennessee) and U.S. Senator Cory Booker (D-New Jersey). In my opinion, they could not be more different ideologically, but they are working together on this legislation. If you can have those two senators working together on this, it shows promise. I am not pretending that they will enact it, but there is a robust debate and consensus that both parties should be considering this. As of yet, there is no state-level collective bargaining, but I would say we have these proxy bills and federal legislation.

Jim Cavale, Founder and Chief Executive Officer, INFLCR:

There was some great stuff in your presentation, and I will probably be referring to a lot of it in the rant I am about to give. It sounds to me like you believe student athletes should be employees. Knowing that most college athletics departments are running models that would pass a great deal of things that are currently considered perks—like free tuition, unlimited pairs of sneakers, or four strength trainers, but now there is only going to be one and you have to share the cost of the additional three strength trainers—I could keep going, but if they are truly treated like professional athletes, do you think it is really in the best interest of student athletes?

Chair Miller:

Thank you for that question and insight, but I am going to ask Professor LeRoy not to answer that question. I think it is a little more targeted than it needed to be for this conversation.

I have one quick question for you before we move on. You talked favorably about California and their laws and about challenges with the Illinois laws being restrictive. What are the most restrictive aspects Illinois has in its law?

Professor LeRoy:

There are two aspects that are anomalies and are deeply concerning to me. First is that they prohibit a student athlete and anyone else from suing a school over an NIL deal. That is a deep problem for me because I do not know why you would single out anyone and prevent them from suing in your state. Obviously, when there is a lawsuit against the state, a state can assert sovereign immunity, but to write that into the law puts your student athletes at a great competitive disadvantage as agents start to read and understand these laws and as these deals mushroom in value. Who wants to sign a \$2 or \$3 million deal with the understanding that neither the sponsor nor the student athlete can sue the school? The school is a focal point in my concern. Let us say a player gets into trouble with the law and the coach throws the player off the team. You have this NIL deal, but it is not fully paid out. What do you do then? That is for a court to figure out, not for the Legislature to figure out in advance.

The second strong area of concern I have is that our state has said that a university can condition its approval of an NIL deal on its ability to take a cut of the deal. I have no evidence that this is happening, but the fact that it is written into law is concerning. I put myself in the mode of being an agent for a student athlete and say, "Why would I want to send the student athlete to Illinois as opposed to Nevada?" Nevada does not have any restrictions like that. The only other states that have these restrictions are Mississippi and Arkansas. There are 47 other states where I can send my client. Those are my strongest concerns about Illinois' law.

Mr. Irvin:

All this information has trickle-down effects on smaller institutions around the country, and we deal with much smaller budgets and much smaller overall implications. For example, if community college athletes were to become employees, I can tell you right now our human resources department would be totally unprepared to deal with that. I am concerned that, if and when that actually happens, we may lose our whole athletic department because of our inability to process all the things that would go along with an athlete who then becomes an employee. What are your thoughts on that?

Professor LeRoy:

I am happy to raise the issue. I think those concerns are valid and must be addressed. You have Power Five schools that are the elite group, and there is some thought that there will be a super league that evolves from there, but to my knowledge, UNLV is not there. To the extent that states legislate employment, for example, it would make great sense to restrict employment to the Power Five schools. In some sense, Nevada is not in that picture at all at this point. Your concern is correct.

The way things are evolving, whether we have employment or not, it is going to be very hard for schools to maintain nonrevenue sports. Let us think beyond the community college; for a smaller university, football and basketball are getting to be so expensive that it is going to be very hard to support other sports. They provide the money for these nonrevenue sports, but to the extent that you have bills that, in effect, say, "We cannot do employment, but we can reach our hand into an athletic budget and start to distribute money directly to the college athletes and we will make it simple; we will make it an educational benefit. Who could be against that?" That is going to put pressure on athletic department budgets to maintain their nonrevenue sports.

The bottom line is that your concern is valid and should be addressed. I would add, for the Power Five schools and for the biggest programs, like The Ohio State University or the University of Michigan, an employment relationship would be just as hard for them to swallow even if it were for their football or basketball program. They are not ready for it culturally or financially. Michigan State University spent \$95 million on a football coach's contract. They are locked in there, but then you have 19-year-olds who are out on the field making the money for the coach. They have put themselves in this uncomfortable bind.

Vice Chair Lange:

You mentioned that U.S. Senators Blackburn and Booker are working on legislation together. As we look at NIL laws that have already been put into place, we find that some are too restrictive, and many states are starting to want to repeal some of those laws. As we try to make the right choices for Nevada, I would like to know a little bit more about what the federal government is doing and whether you feel that is going to move forward or stall.

Professor LeRoy:

I am doubtful that this Congress will enact legislation. Part of it is the dynamic of this Congress and the political dynamic of polarization in the country. It is hard to legislate much of anything and that is the reality. More specifically, the NCAA lobbyists are saying, "If it is employment, we will deal with it but give us antitrust exemption." I do not know of a single industry that has gone to Congress and has said, "We cannot regulate our own industry. You folks in Washington regulate it for us but give us a complete exemption from antitrust."

To me, that is so unrealistic. I can be proven wrong tomorrow, but that is my heartfelt belief.

Regarding other states that are repealing their laws, I thought about this from the Nevada standpoint, and you have a good law. You do not want to start loading up on regulations. I do not think you want to have a full-scale repeal. You have a lot that is good. You want to talk to student athletes and athletic directors and ask how it is working out.

I will highlight one point—gambling is coming into college athletics in a huge way and in ways that I cannot even keep up with. This was forbidden by the NCAA, but now athletic conferences are doing deals with gaming operations and sponsorships, and this is an important part of your state's economy. I do not know where that leads except to say, you might start thinking about how you feel about a student athlete having an NIL deal with a casino. I would think about that. I do not want to be presumptuous. I do not know what that means for you all, but I am saying that the gaming industry is moving heavily into college athletics and college athletics needs the money, to be perfectly honest with you. They are embracing gaming in a way that they have not done before—or gambling, I should say.

Vice Chair Lange:

I have thought about this as well. Is there any research that has been done around the topic of gambling and athletes?

Professor LeRoy:

If there is, I am unaware of it. There probably is research that has been done on it, but it is also such a new phenomenon in college athletics that there may be no research on it.

Chair Miller:

Thank you, Professor LeRoy, for the thorough information. It is greatly appreciated.

I have discussed with staff and the Vice Chair about inviting the Nevada Gaming Control Board to present to this Committee; however, the information and conversations are so new, they did not feel they had anything of value to present before us. We have asked the Board to investigate that, so hopefully the Legislature will have the information to move accordingly at a future date.

AGENDA ITEM V—PRESENTATION ON CURRENT POLICIES, PROGRAMS, AND CHALLENGES RELATED TO NAME, IMAGE, AND LIKENESS USE AT THE UNIVERSITY OF NEVADA, RENO

Chair Miller:

Next, we have a presentation on current policies, programs, and challenges related to NIL use at UNR. We have Jim Cavale, Founder and Chief Executive Officer of INFLCR, on Zoom and Joseph Flores, Senior Associate Athletic Director of Compliance Services at UNR, in Carson City.

Mr. Cavale:

We appreciate our partnership with UNR. I want to: (1) take you through what INFLCR is; (2) share what lens we have of NIL because of the breadth of schools and athletes we work

with; and (3) share some common issues we continue to see related to state laws. Professor LeRoy did a great job talking through the timeline of NIL, so I am going to refer to his presentation instead of repeating a lot of it.

I am a former student athlete from New York, and I played college baseball in Alabama. Sports is a big part of my life. It moved me 1,000 miles from home, and I still live in Birmingham today; that is where INFLCR is based. I have always been an entrepreneur, and the O'Bannon case was the catalyst for me to sell a national fitness brand I had been building because I felt that case made NIL not a matter of "if" but "when." We started INFLCR in 2017, long before NIL started. I think that is important to say because there are thousands of new companies today because of NIL.

We did not start recently; we started five plus years ago by helping student athletes get access to content so they could share it to their social media. We saw a common problem across the country with student athletes who wanted to grow their social media and to build a brand before they were done playing so they can use it for whatever they wanted to do after sports. That is what college sports is all about—giving student athletes a platform to launch the rest of their lives. We did that for four years by getting schools to pay us an annual software fee. They provided the INFLCR app to their student athletes that lived on their phone, and through that app they gained access to content shot by the media and school with the right to share that content to their Instagram, Facebook, or Snapchat accounts and ultimately grow their audience on social media.

In 2021, when NIL began, we had more than 200 Division I schools and more than 4,000 Division I teams under contract to provide that service. Also, we began to launch new products, one of which is INFLCR Verified, which is used by schools and student athletes to report all the NIL transactions that take place. Across the country, you have more than 100,000 athletes using their INFLCR app, not just to share content, but to report their transactions to compliance. We see the transaction sizes, the median and average transaction sizes, how many transactions are happening with female athletes versus male athletes, and how many transactions are happening in football versus other sports.

I am going to get into some of those statistics so you can get a picture of what that looks like, but today the INFLCR app is on more than 100,000 student athletes' phones, and we have an average contract of about four years with more than 200 schools. They are trusting us to not only deliver content to the athlete, but also to disclose transactions. Student athletes can be contacted by a collective or a business to be contracted with and paid, and those payments automate disclosures for compliance and tax documentation for the student athlete. There is an array of reasons now that student athletes use their INFLCR app, not just to build a brand and grow their NIL value, but ultimately to be able to build and manage their NIL business.

The beauty is that we only make money from the school. We are a software as a service business. We do not take any transaction fees from or decrease any of what ends up in the student athlete's pocket. Schools contract with us to provide the pipes, ultimately, for NIL for the student athletes to use. We have an "athletes first" mindset in everything we do, including how we make money. I think that is important.

We have an NIL summit coming up in Atlanta, Georgia, at the College Football Hall of Fame where we have invited all our schools to send student athletes. We are going to have some student athletes on stage talking about NIL from their perspective, providing case studies, and talking about problems. We are going to have a lot of big brands and celebrities there doing the same thing. We will have more than 300 athletes from more than 100 of our

schools in one place. I think it is the first time in history we will have that many student athletes from different sports and different schools in one place.

That is a lens I do not think many of us have enough of—the perspective of the student athlete in all this. We know the business owners’ and the athletic directors’ perspectives, but what is the perspective of a student athlete? I want to share what I have experienced through conversations with student athletes, through interacting in person and building relationships with them.

Next, I will discuss some common themes. Name, image, and likeness happened abruptly on July 1, 2021. A lot of student athletes in states that did not have NIL laws did not think they would have NIL as a possibility right away, but it happened out of nowhere in late June when the NCAA passed a waiver to the NIL bylaw that, at that time, had student athletes signing away their NIL rights. Suddenly, that bylaw was waived if the student athlete was not paid for play or induced through recruiting. Otherwise, it was pretty much on the school to create their own policy. A lot of us thought we would have one regulatory, uniform law across the country from the NCAA, but instead, we have thousands of policies per school.

Student athletes went on social media the first day and posted a post that went viral. The post was a screenshot that had been passed around with tens of thousands of student athletes that said to the world, “NIL is now legal. Any business out there, local or national, I want you to know my direct messages on social media are open for business.” I think that viral post showed the misunderstanding that student athletes had about what NIL would be and showed that they thought it was going to instantly be a big payday for them. That is not the case. Student athletes have not made a bunch of money and become rich off NIL.

The articles that were written leading up to July 1 were about Trevor Lawrence, Zion Williamson, and other big star athletes who probably would have made millions of dollars with their NIL, if that was allowed in college. However, there are 500,000 student athletes and 499,000 of them have about 4 figures a year of earning potential, at best. Around 1,000 of them can make about 5 figures a year, while 100 of them can make about 6 figures a year, and 10 of them might make 7 figures a year. That is the skew that our data is already showing.

Student athletes are starting to learn that building an NIL business is just as hard as getting a 4.0 grade point average, a scholarship, or playing time. You get out what you put in. Quite frankly, 80 percent of student athletes on most of our campuses are not interested in putting in that work because they are busy going to class, studying the playbook, going to practice, and playing the games. That is the reality.

Student athletes need help. Who do student athletes usually go to get help when they have any problem on their campus? If they get hurt, struggle with classes, or need help on the field, they go to the school, to their coaches, trainers, academic advisors, and tutors. However, almost every state’s NIL laws limit the school from being involved. Not all states have this restriction, so I do not want to generalize. If you want to go down the rabbit hole about how that even happened, it started with the NCAA’s recommendations for rules in April of 2020, which were what they referred to as a draft of what would become the NCAA rules. They had a clause that said schools and their staff cannot be involved in facilitating NIL deals for student athletes.

The reality is that student athletes need help. It is a disservice for there not to be resources on campus when they have a question about an NIL contract, an amount that was offered to them for an NIL deal, or what shirt they should wear and where they should show up to

fulfill the deal after they signed a contract. We like to compare professional NIL to college NIL. It is not apples to apples. It is very different. Professional athletes have a player's association, an agent, and do not have to go to class, so they have more time. It is not the same. There are also many more options for college athletes to work with than there are professional athletes. Professional athletes have a place to go when they are working on or must fulfill a deal; college athletes do not.

A gap has been created, and it has been filled by boosters and donors with collectives. They make it easy to do NIL deals for things like appearances at a dinner. They put whatever dollar amount they want to where a contract looks like a value exchange for their NIL, and they are directly interfacing with student athletes. The schools feel like they cannot even be involved in that or be in the know beyond hopefully getting a disclosure with a contract on what is going on.

These collectives are filling a void. They are going directly to student athletes, and in some situations, they are gaining serious power over the athletic department. I do not know if you are familiar with what it is like to be an athletic director, but you have a lot of bosses. You have a president, a board of regents, and a lot of different folks to answer to, but the success and failure of your program fall on you. Now, all of a sudden, as an athletic director, you are not allowed to interface with the collective, but in some cases, collectives are raising \$5 million to \$20 million and interfacing directly with student athletes. Even if they are not inducing high school recruits or transfer portal prospects, by helping current student athletes, they are indirectly influencing what high school athletes and transfer portal prospects are going to do.

If you could do anything, let these universities hire some internal resources to be more involved in what they can do to support their student athletes with NIL transactions. I am not saying that every athletic department must have an internal agency that goes out and finds deals for their student athletes, and negotiate the deal from start to finish, but there should be some ability for a student athlete to be able to talk to somebody on campus when they have questions about NIL. In most cases, I must find a street agent to answer questions because the big agencies are not going to help most student athletes. They do not make enough money with NIL.

Right now, the average transaction in our system is about \$2,000. Just from March to April it has gone up 50 percent. It is going up fast. The median transactions are at about \$60; when NIL started, it was only \$25. Student athletes are starting to learn that they have been driving down their value by taking any deal that comes to them. The number of payments that came through our system to student athletes from March to April tripled. This is growing and collectives are becoming a big part of it, as well as more traditional NIL deals from businesses.

I had a call today with some folks from Congress, and I believe that more chaos must occur before Congress steps in. I do not think that some sort of federal uniform bill will happen in the next 12 months. I think the biggest way states can help is by allowing their schools to be more involved. Alabama, our home state and where we are based, had a law that limited the involvement of the institution; that law has been repealed. Other states have eliminated that clause, and I think it will help the schools in Nevada to have at least the option to hire some NIL resources on campus.

Chair Miller:

Thank you for that presentation.

Do we have any questions from members?

Mr. Cavale, we might have a question after we hear from Mr. Flores.

Joseph Flores, Senior Associate Athletic Director, Compliance Services, UNR:

For purposes of brevity, if I am going through information quickly, it is because it has been covered extensively at this point ([Agenda Item V](#)). Our world changed on July 1, 2021, with the interim policy that the NCAA put forth. The challenge from a compliance standpoint was that, up until that point, we were reassured various times that the NCAA was going to take on this responsibility of NIL, that there would be some sort of center for all deals to be presented and submitted, and that they would be handling this.

With the Alston and O'Bannon cases, I think there was some "cold feet" in terms of the NCAA taking on that responsibility knowing where this could potentially go, so it was thrown last minute at the feet of compliance offices throughout the country to monitor this piece to the best extent possible. We were in a tough spot as well, as we were watching and paying attention because it is part of our job. We were not looking at it from the lens of, "How are we going to implement this process on our campus? How are we going to monitor this? What are we going to do in this space?"

Also, in April we were given some of the guidelines that we should be considering, and we started drafting our policies and procedures based off those guidelines, one of which was that athletic staff members cannot be involved in this process. We do not want them to be involved in trying to broker deals for our student athletes. When July rolled out, we got basically two sentences of an interim policy that did not give a whole lot of guidance.

Currently, student athletes can make a profit off their NIL rights with two limitations: (1) they cannot do it in a pay-for-play scheme; and (2) it cannot be used as a recruiting inducement. We will circle back to the recruiting inducement piece, as that has obviously become a very hot ticket item in our industry over the last six months and has been regularly abused. The basic idea was that NIL was supposed to be for all students and be based on what your market value was at that time. You might have the million dollar deals for someone like Trevor Lawrence and you may have the \$8 cameo appearances for your men's tennis player. It was meant to give everybody equal access to opportunities to extend their ability to do their work.

Nevada's NIL statute, AB 254, was passed last year and went into effect January of this year. It is a great bill to the extent that we do not have to backtrack on anything that has happened in this space over the last nine months. What you are seeing nationally are states who are very proactive in this area and have put out some very eloquent bills. They saw that states who either did nothing or did minimal work in this space have maximum flexibility to be able to skirt the rules when it comes to things like pay-for-play and recruiting inducements.

The states that took this seriously, spent a ton of time on this, and made very detailed bills—that put their schools at a disadvantage. States that did nothing in this space, that only had these two sentences from the NCAA about their interim policy, have maximum flexibility to have boosters involved. It made for a disadvantage for some schools versus other schools, often schools within the same conference. It made for a disproportionate playing field for a lot of the schools in this space and, as a result, some states are now repealing some of the language or outright stripping the NIL bill in general to put their

schools back on an even playing field with the schools that have not had to deal with these types of restrictions.

Nevada's bill, to its credit, is nice, short, sweet, and gets the job done. The concerns that we have with it realistically only boil down to the disclosure requirement. There are no "teeth" to the extent of our ability to actually require students to disclose deals, and there are no consequences for any of our students who do not disclose deals. It comes down to us figuring out creative ways to get students to disclose deals, whether it is holding complimentary tickets for games or working with coaches to withhold from practice until these disclosures are submitted. It makes it more difficult on campus to get these disclosures submitted when there is nothing that requires them to do it other than the language in the law that says you should do this. Outside of that, the bill is great. I do not think we need to do a whole lot in terms of going through it. Because of its structure, it allows for maximum flexibility. We are not a state like Illinois that has to go back and try to reevaluate things because of how they set it up in the first place.

The other takeaway from AB 254 is that it allows us as institutions to implement reasonable restrictions in the NIL arena. Some of those NIL restrictions that we have implemented in our own policy are things like student athletic department employee members are not allowed to broker any deals. We emphasize that all NIL deals must be for work actually performed. You cannot just give money and it is up to you whether you want to actually fulfill the terms of those contracts. They are consistent with institutional policies and our student athlete handbook, local state laws, and any existing NCAA regulations. We have a process for student athletes who want to utilize our facilities to do an NIL deal to use any marks and logos to do NIL deals—things along those lines.

We do not have a core values list in terms of things like drug paraphernalia or anything along those lines that could be problematic from a morals clause standpoint. We have worked with our general counsel's office, but we did not feel it was appropriate to limit that space. Luckily, we have not had anything that has moved the needle in that department in this past year. That is not to say that it will not happen, but when it comes to those situations, we try to educate the student athletes that this is your brand, this is something that we want you to be aware of going forward. What might be a cool, funny thing to be associated with right now may not be when you are trying to get drafted in your respective sport in a few years, for example. We try to be as open and flexible as we can in the NIL space with our policy by giving our student athletes the ability to make decisions on their own as adults.

In terms of compliance department efforts, here in Nevada, we have focused on the educational piece of this. As it has been mentioned a few times, we are limited in the scope of what we can do in this area, more so than anything else, with the resources being asked to help with our student athletes and NIL deals and things along those lines. There is a major concern within our university about us working with student athletes entering into agreements and giving advice on agreements. There is a liability concern that if a student athlete, for whatever reason, does not think it is a great deal six months from now that the university would have some liability in helping in this space with good intentions, but ultimately having some legal problems down the road in this area.

We have been very clear with our student athletes, even when they submit their disclosures, that we are not telling them in any way, shape, or form that this is a good deal or something that we recommend. All we confirm—and we call it an acknowledgement—is that they have satisfied every NCAA requirement in this space, and we wish them the best of luck going forward in this area. We ask them to please note that there are potential

international issues for international students, tax implications, things along those lines. If they have any questions from an educational standpoint, they should feel free to come to their compliance office, and we are happy to talk with them. We have had to couch this as an educational-focused endeavor on our behalf.

We are educating our student athletes at various times throughout the year on what the rule is in terms of the interim policy, in terms of state law, the requirements from a disclosure standpoint, and what they are seeing nationally. One of our student athletes asked us about what is going on with the receiver at Pittsburgh going to USC (University of Southern California) and wondered how that is permissible with the recruiting inducement. We focus on education and national trends and keep them up to speed with where things sit.

We are currently in the process of putting up team-specific modules that we would like to roll out in the next year. The challenges in men's basketball are not the same as the challenges in men's golf. The challenges in skiing do not look like the challenges in baseball. We used this last year to monitor national efforts to make more specific team-oriented NIL discussions to cut out things not applicable to a certain sport, but rather emphasize other areas within a certain sport, to make them feel that we are seeing their respective sport and trying to help and educate them to the best of our abilities in that particular sport and how NIL interacts with them. We are excited about getting that off the ground this fall. Again, that is a moving target, but we are trying to tailor the education to make sure that our student athletes are in the best possible position as they navigate a hectic and chaotic space.

Outside of our student athletes and those efforts, we are partnered with INFLCR, who is great for our branding efforts for our student athletes to hone those efforts to build their brand from a social media standpoint. They are also fantastic from a compliance standpoint in terms of us being able to monitor disclosures if they are submitted. It shows who they are partnering with, how much they are getting, what work is being performed. That has been very helpful for us as well when student athletes submit those disclosures.

Also, we are working on an exchange where they are going to have opportunities with people in the community nationwide who have companies on a platform where our student athletes can apply for opportunities with them, and it puts platform companies together with student athletes so they can interact and enter deals that way. Again, using that platform to help our student athletes in this space is something that has been important for us.

Outside of our student athletes, we have made a concerted effort to educate our coaching and athletic department staff members in this area. Our staff generally knows the rules in this area, but what is important for us is that they understand the national trends, what collectives are, what we are seeing with pay-for-play, how recruiting inducements are being abused. We let our coaches know what we are seeing, how they are getting around it, and what we expect from an NCAA response in this area. We keep them up to speed in that space and reemphasize that student athletes cannot go through coaches to broker deals in this area. We must keep our staff separate from that process.

We also work with our donors in this space to make sure that they are educated based on NCAA rules, university policy, and Nevada state law. Again, we have been telling boosters for the better part of 60 years that you cannot do this. Now overnight, you can, and this is how you go about it. The education piece in this area has been important in trying to get boosters to correct some assumptions they have made that no longer apply.

Lastly, I want to discuss collectives, which—as you have heard over the last two presentations—are now the hot button item with the NCAA. Collectives are basically a group of people who put money together to work with student athletes to provide money in exchange for very minimal services, in most cases. This area has given the NCAA a lot of concern. It gives me a lot of concern, to be honest, but if you are a major Division I program right now, a collective is going to exist. You can either try to fight them or you can work with them by educating them on how they should handle these situations going forward to minimize risk, because it is a shared risk at this point. Student athletes are still going to be ineligible whether a donor we know or a collective that we have no control over gives them money inappropriately. It is in our best interest to try to work with everybody involved to make sure that they are educated so that we are not compromising the eligibility status of any of our current student athletes.

To give you a quick breakdown of where we are to date in terms of the number of NIL agreements, up until May 12, we had 109 submitted deals. I can guarantee you that many other deals were implemented but not disclosed and that we were not able to find out about. From a demographic standpoint, 44 of those athletes are female, while 65 are male; 38 of the 109 submitted deals involved cash; 71 were gifts in kind, such as equipment and things along those lines. The largest cash deal we received this past year was \$35,000; the smallest deal was a cameo appearance for \$7.50. This gives you an idea of what kind of deals we are seeing on campus.

There is not a general consensus on what type of deal we are getting. To break down the types of deals we have had so far, a good deal of them are social media influencer type deals where a company will reach out and say, “Hey, you have a huge following. We would like to pay you X amount of dollars to promote a certain type of product for us over a certain period of time.” We have seen a lot of trading card deals, memorabilia, autographs, personal appearance fees, and some television engagements. Those are the types of deals that you are seeing through this first year of NIL.

The subject of challenges has been raised a few times. The lack of leadership from the NCAA has been really frustrating for us. It is quite clear that they are not in the business of wanting to get sued, so they are sitting back and letting institutions kind of “wear the shrapnel” in the interim until a national policy or federal law is passed. I am also skeptical that there is going to be a federal policy implemented within the next 12 months. I know conversations are happening, but bipartisan support in this area is a challenge and I am not optimistic that we are going to see this. I think it is going to be on institutions going forward for a little while longer to try to navigate this space.

With state-to-state disparities regarding NIL agreements, Nevada has not been put at a disadvantage in this area. Other states, such as Illinois, have been put at a significant disadvantage. We see states like Ohio and Michigan change their state laws because of these disparities in policies and state laws that either require a ton or very little. That is putting some schools at a disadvantage.

Returning to the subject of unchecked collectives, generally, collectives are independent entities outside of collegiate control and they generally need to be that way. As a result, institutions have little control over what they actually do. When we are educating, I can ask a collective, “Please do not disperse money until work is performed,” but at the end of the day, it is the collective’s call on whether they want to follow that recommendation or do their own thing. We can request that they confirm the work has been performed before releasing money, but we cannot mandate that request because we do not have that type of control over a third party. The result is that you have several collectives nationally—and

I am sure you have seen the highlights on the news—that are running unchecked, doing as they please, providing funds that they should not be providing, and doing it in the recruiting space, which obviously is a “no-no” from the NCAA standpoint. It has been a challenge. From our perspective, we know that we must work with collectives. We have had a good start with the collectives that we are talking to right now from an education standpoint, but we also understand that relationship is only as good as today, and it could look very different tomorrow, a month from now, two months from now, or a year from now. It is important to understand that going forward, this is going to be a challenge in trying to keep those relationships in a good spot.

I want to put a couple things on your radar concerning national trends. A couple of examples: we had a student athlete in Miami who threatened to go on the transfer portal unless his collective at his current school offered him more money. This is a situation where you see student athletes leverage their NIL and the transfer portal opportunities to get more money or threaten to leave. That was not the intent of NIL when the idea was implemented.

Tampering with student athletes is also rampant right now. A couple of weeks back, the top wide receiver from the University of Pittsburgh was deciding whether he wanted to jump on the transfer portal right before the deadline. The idea was that he was going to jump on the portal and that he had a \$3.5 million NIL deal waiting for him at USC. For him to have a \$3.5 million dollar deal, it would mean that somebody would have to have permission to talk to him. Well, if the student was not on the transfer portal, nobody outside of Pittsburgh should have been able to talk to him about a deal. It indicates that there was tampering going on. Everything was said correctly. The kid said, “Hey, I do not know where I am going yet. I am wide open,” but two weeks later he ended up going to USC anyway. Tampering is happening. Our coaches are coming to us with horror stories about people who are not coaches who cannot talk to student athletes but are boosters or collective people who reach out to student athletes and promise them the sun to come and play at their school.

The last example concerns NIL deals that are contingent on continued enrollment at the institution. You saw this early on at Brigham Young University (BYU) where they said they would pay the tuition fees for all walk-ons providing that they stayed at BYU and continued to play there. The NCAA is going to have to address some of these issues going forward because these are symptoms of a policy that is not suited to deal with all the problems that are currently popping up left and right.

The NCAA provided an update on May 10, 2022, which provided clarity that collectives effectively are going to be treated as boosters. Boosters have never been able to talk to recruits. Now they are saying collectives—because they are boosters—cannot talk to recruits to combat the recruiting inducement abuse that is happening right now. The takeaway from this NCAA update is that they are putting everybody on notice and clarifying these rules going forward. Schools are now on notice that this is the expectation because the NCAA is very interested in making an example of somebody right now. They understand that they look relatively silly allowing all this stuff to happen on their watch. I am telling you, within the next six months, you are going to see a school get made an example of in this space.

From our standpoint in compliance, and I am sure Eric would agree, this gives us heartburn. We want to make sure that we are buttoned up, that we are doing everything right, that we are trying to do things the right way here, even if it does not make us popular with some of our coaches because we do not want to be that school that gets made an example of. It is coming because the NCAA would not have sent this out if they were not trying to clarify some things, so the schools could not say, “I did not know you could not do this.”

As for the future of NIL, there is no going back; NIL is here to stay, and you cannot put it back into the bottle. The NCAA has been clear that they are not going to lead in this space. From a compliance standpoint, we are going to have to thread the needle between protecting our institutional interests while also allowing our coaching staff to be competitive. It is a fine line to walk, but that is our challenge going forward.

Chair Miller:

Thank you, Mr. Flores, for your presentation. I am going to open it up to the Committee for questions.

Mr. Irvin:

Thank you for the presentation, Mr. Flores. If services are not being provided, are any of these payments considered donations? If they are, are your foundations involved in those? As you know, we have policies that deal with donations. Has that been crossed over?

Mr. Flores:

No, it has not, and they are not considering them donations. On their face, with the contract and the disclosure, it is a work performed contract. The contract says they are supposed to do X, Y, and Z for payment, but whether X, Y, and Z is being done or whether any oversight is being done is the question. On paper, these are work services being performed in order to receive a benefit. These are not considered donations, and donations from a booster to a student athlete is still a "no-no." From an NCAA standpoint, that is still a violation. You cannot give an extra benefit to a student athlete, so it has to be dressed up as work performed for the benefit being received, if that answers your question.

Mr. Irvin:

It does, but nobody is monitoring the work.

Mr. Flores:

No, the way collectives are set up, you can only hope that the collective is doing it the right way. You can hope that they are working with you and your compliance office to let you know that work is being done and that they are doing steps to do this. I have had a couple of conversations asking specifically what collectives are doing to monitor the work. Are they taking pictures at events? Are they having the athletes sign in? I cannot mandate this because we have little to no control with collectives, but we do educate and ask them to think about these things. The hope is that they are doing these requests, but at the end of the day we cannot require it.

Mr. Irvin:

If the student athletes are making the money, why are we not charging the student athletes a fee? Why is the institution being charged for your service and not the student athletes?

Mr. Cavale:

We built technology for the schools. That is and always has been our client. That is who we contract with. The schools provide that technology as an added value to the student athlete the same way they provide a great weight room for them to build their strength or any other facilities or values. That is how it works.

Mr. Irvin:

Interesting. Thank you.

Mr. Nepomuceno:

Joe, thank you for that comprehensive synopsis. I think you did a good job of breaking down the landscape as it pertains to administration of these NIL deals. It is evident that we can all identify what the issues are and where there are problems. What I would like to hear from you, based on the experiences you have had, are there any guardrails you have seen that have been impactful or effective, whether they are being administered or recommended by states? Are there other compliance institutions that are implementing a different style or approach to NIL that could be effective in terms of ultimately protecting our student athletes?

Mr. Flores:

In terms of state law, I have not delved into that yet, to be perfectly honest with you. In speaking with colleagues throughout the country in this area, we are seeing a national trend where additional NIL specific hires are being brought in to focus on education, work with student athletes regularly, meet with them weekly regarding current trends, and remind them to complete educational modules and submit disclosures. We are seeing additional staffing from an athletics department standpoint to get with these students and remind them of their obligations.

Our goal is not necessarily to change the fact that we are education-focused, but to stay with them and remind them of what their obligations are in this space while also serving as a sounding board in terms of deals that may or may not make sense for them. There is still an education focus in this area, but you know as well as I do that most compliance officers and institutions are a little timid to make big, sweeping changes in this area, not knowing what the implications are going to be, either from an NCAA standpoint in changing the rules or a federal law that could potentially change how NIL is used going forward.

Mr. Nepomuceno:

Jim, thanks for providing us a snapshot of your service. I am curious about the landscape. Obviously, when you and your team jumped into the NIL landscape, I am sure you thought it was one thing—we all thought it was one thing and I do not even know if we all know what it actually is right now—but I would be interested in two points of perspective from you: (1) how up to date are you with state law and legislation in terms of responding and reacting to that because you are dealing with student athletes in particular states that may have more restrictive laws; and (2) what is around the corner in terms of trying to forecast what is going to happen next. I know Joe mentioned maybe creating a marketplace and bringing some vendors to student athletes. What else do you see could be around the corner as it pertains to NIL?

Mr. Cavale:

I can talk about your second question, but I will keep it brief. As far as the first one goes, I think for us as a business, our main goal is to stay focused on the school; that is our client, that is who we contract with, that is who pays us for our technology. We build technology where they have the options on their end to turn it on or off and based on their state laws and their school's policy, they can customize the technology and what is on and what is off, so to speak, for the student athletes to use. That is important to us.

Some schools are going to use our system a bit differently than others. Some schools are going to make decisions on which products of ours to buy, like that localized exchange, based on state laws, which we understand. Our job is to be the pipes, build the technology, let the schools make the choices on what technology they want for their strategy based on their policy, and then provide that to student athletes who we are building everything for to help them run their NIL business responsibly from there.

As for the second question, I do believe that every school needs to have their own unified NIL system where all payments take place. I think that is vital. Student athletes and young people in general have adopted apps like Cash App, Venmo, and PayPal to be their bank. That is the modern way. Some of them do not even have bank accounts. That is all they use. There needs to be an app like that for all things NIL that does not discourage them or whoever is paying them from using it with a bunch of transaction fees. There are a lot of other folks out there helping with payments who are taking between 10 and 30 percent of a payment to process it before it ends up in the student athlete's pocket. We are strongly against that and so are our schools because it is a recruiting advantage to be able to say, "We have a system you can use to manage your NIL business that is not going to take money out of your wallet," especially when most student athletes, as I said earlier, are not going to make a ton of money.

I think it is important to have an exchange branded for your school that is online as a storefront where you encourage everyone who wants to work with your student athletes to go to and register before they communicate with your student athletes, contract with them, and pay them because that gives the school a little bit more control. Mr. Flores may say this is too much control for Nevada, but a lot of schools like the control of seeing all the businesses and collectives who have registered and being able to say "yes" or "no" to whether they can be in that system. Some schools do not want that responsibility. Those are options that our technology provides the school.

The last thing I will say about where this is going is we are not even a year into this, and like any new market, there will be a lot of data that starts to influence and impact the size of deals. If you stay with me for a second on an analogy, let us compare real estate and NIL. If I want to sell my house, I can go to Zillow and see what the Zillow estimate is for my house. That does not cap what I can sell my house for. I can sell my house for more. I might have a buyer who really needs a house. They are moving or their kids are going to school. Whatever reason it is, I can sell it for more, but there is an estimate that we work off to create a listing for what I think I can sell the house for.

Student athletes, coaches, collectives, agencies, and brands must start to understand a student athlete's value, which is going to take time. Their value is not based on how many followers they have on social media and how often they post; that plays into it, but it is also what star recruit were they? Where are they from? What have their stats on the court revealed since they played at that school? How good of an athlete are they? What NIL deals have they done? We have real estate comps on our street that determine what our house is worth; what are the comps of athletes that play your sport, in your conference, or at your school?

All these things are going to create a rating system evaluation that is not capping the student athlete or giving them a ceiling but starting a conversation with anyone who wants to work with them so that, like Michael talked about earlier, these payments do not keep getting bigger and bigger and more and more out of control where everybody is trying to outdo everybody. I think the market is going to settle down and you are going to see a good way to evaluate student athletes for their NIL.

Your athletic performance plays into that. It is not just how good you are on social media. I said that earlier, but I wanted to say it again because that is not pay-for-play, that is the reality. Bryce Young is not a big social media influencer, but he won the Heisman, and he is the quarterback at Alabama. Because of that, he had a lot of great NIL deals last year, more than seven figures worth, and that plays into it.

Ms. Norris:

I have a question for Mr. Flores. As you expand on the time commitments that are provided with the education of students in NIL, have you seen any issues with the athletes maintaining academic eligibility, considering they must now keep up with all these extra educational responsibilities in following modules, having to attend weekly and monthly meetings on keeping up with NIL, and all the new and developing regulations for them.

Mr. Flores:

It is a fair point. There is a finite number of hours in a day for a student athlete to do what they do. I do believe that the student athletes who want to interact in NIL must prioritize this type of education. They want to know this type of stuff. It would not be mandatory in any way, shape, or form. If a student athlete wants to be in this space and can make the commitment, then we absolutely want to be able to do that. We cannot and should not mandate it; you are right. Whether it is academics, or they are in season and have competition travel requirements, in addition to anything else they might have from a private life standpoint, this is something that we must make available. I do not feel that we are doing justice to them, that we are doing the best that we can for our student athletes, if this is not made available.

Now, whether they utilize that resource is going to ultimately end up being their decision. They are going to have to make the cost benefit analysis of whether giving up a Friday night to go to the modules is worth not going out that evening. That is entirely up to the student, but we are not doing the best we can if we are not providing those avenues for them. We do not want a situation where a student athlete enters a bad deal because of not being educated. If they enter into a bad deal and they had opportunities to do this and they chose not to, well, that is being an adult. That is life. We learn from those types of mistakes. If we do not offer them the opportunity to access this education, it is not just on the kid for making a bad deal, but I feel like we have failed them in that regard.

Chair Miller:

I have a couple of questions for both of you gentlemen. I will start with Mr. Cavale. You work with a lot of different entities, schools, and students. Have you seen a deal where the student's status changed—either as an athlete or they transferred schools—and they had an outstanding NIL contract? If you have seen that happen, how has that interrupted or changed the status of the contract?

Mr. Cavale:

I do not have a case where an athlete did not fulfill their agreement before they transferred to another school. The only close example I have is a high-profile Power Five quarterback who signed a high-profile deal with a used car dealership in his school's hometown. He lost his job to a backup quarterback in the big rivalry game—I am giving you all the clues without saying the names and schools—and he ended up transferring to another school in another conference. I thought it was interesting that the car dealership came out and said that even though this gentleman did not play as well as was probably thought and

predicted, the car dealership owner came out and said we got all the value we were promised from the student athlete, and we wish him the best in whatever he does next.

The reason I use that example is that if student athletes are going to fulfill a certain number of posts or appearances—to your point, they must do it before they leave—but at the same time, businesses are taking a risk, too. If the businesses are doing it because the student athletes are supposed to start and play maximum minutes or whatever, that is not guaranteed. Businesses should not be doing deals solely for that reason. In this case, this person had a lot of followers on social media, and the business owner felt like he still got the value out of the partnership even though the student athlete lost his job as quarterback. I do not have any real examples that correlate exactly, but that one at least gives you an idea of what we have seen with some of the transfer stuff.

Chair Miller:

Thank you. I know we are trying to figure out what that piece would look like if someone had an outstanding deal or maybe a longer-term contract.

Mr. Flores:

That has been the boogeyman story with our boosters who have had conversations about that very thing. We are seeing smaller contracts being executed—monthly contracts, weekly contracts, or three-month contracts—which offset the risks involved in entering long-term deals, particularly in the transfer portal space right now. Nobody wants to be the collective that is paying a kid to go to the rival school from an old executed NIL deal. Nationally, right now, we are seeing smaller executed contracts to minimize the risk, and you have more of those deals going forward.

Chair Miller:

With the disclosure requirements, I understand and appreciate the data that those disclosures provide. However—and this came up in an earlier meeting—I question how much information we should be requiring, considering these athletes do not have to provide any information if they do other work or have other businesses. For example, if an athlete is a real estate agent on the side and gets \$350,000 on a closing, the school has no idea that it has ever happened. Like I said, I appreciate the data greatly, but I am curious to know why we would need as much information from student athletes when we do not ask, for example, if they work at Taco Bell.

Mr. Flores:

I agree with you. If we had our druthers on this matter, we would not require any disclosures at all. It is a state law requirement, so we are following through on it. I think we were all in the dark when NIL first came through, and as we have had some time to see how this plays out, I personally do not like the idea of us having to track down students when we see something posted on social media that they are doing business with a company. I do not want to know, generally, what kind of businesses they are doing, I do not want to know the dollar amount, but it is a requirement right now.

If we could reevaluate removing that requirement, you would have support from our university. In talking with our general counsel's office, we had some strong conversations about what information we wanted to collect. Does it make sense to collect this? We have a stripped-down version of a disclosure form that is only one page. What is the work performed? Just to make sure that there are actually services being rendered. We do have a

dollar amount right now, which we are likely going to remove this fall so we can move in the direction of trying to learn less. Going forward, if there was an effort made to remove the disclosure requirement from AB 254, I would support that.

Chair Miller:

You said you do not have any core values or limits. When it comes to a student athlete using school paraphernalia and things like that, is there an approval process for that? If you do not have a core value, how are you determining whether they should or should not be doing that? I realize it has not come up yet, but I am sure there must be some thought on how you will address it.

Mr. Flores:

Our general counsel's office raised concerns about the enforceability of certain types of businesses and our student athletes entering into those agreements. We relied on our general counsel's office advice to keep our hands off that area. At the time, the idea was that we did not expect this to necessarily be an issue for us going forward, and if it was, we would approach it initially through education while reserving the right to amend our policy to implement core values in that area if needed. I do not want to punt the question, but we relied on our general counsel's advice, and in their opinion, it did not make sense from a liability standpoint to implement those types of restrictions on our student athletes.

Chair Miller:

Thank you for the questions, the presentations, and being available to us this afternoon, gentlemen.

AGENDA ITEM VI—PRESENTATION ON NAME, IMAGE, AND LIKENESS USE FROM THE PERSPECTIVE OF COACHES AND STUDENT ATHLETES IN NEVADA

Chair Miller:

We are moving forward with a presentation on NIL use from the perspective of coaches and student athletes in Nevada. We have several presenters. I will let everyone speak and then we will take questions from the Committee at the end of all of the presentations. I would like our presenters for this item to please remain on Zoom until the conclusion of this item.

First, we will hear from Yvonne Wade, a former college athlete and coach, and current Assistant Athletic Director of Internal Operations and Compliance at the College of Southern Nevada (CSN).

Yvonne Wade, Assistant Athletic Director of Internal Operations and Compliance, CSN:

Thank you for allowing me to speak today. I want to start with a little background of my athletic career. I started as a Division I track and field athlete many years ago at the University of Colorado, then I transitioned into post collegiate competition as an elite track and field athlete for several years, and then I got my first opportunity to coach Division I athletics and coached for 20 years at the Division I level. I recently retired from coaching and currently I am at CSN as an athletic administrator. I am working with the great Dexter Irvin.

First, I want to start by saying that I support NIL and the student athlete's ability to make money outside of athletics for their NIL. Student athletes give a lot of their time and energy to what they do in sport. I remember being a student athlete myself and even though I was on a full ride scholarship, I struggled at times to make ends meet. I think this platform gives them an opportunity to make some money and do good for themselves and their family. The vast majority need that extra money. Even though there are a few big programs out there that provide lots of money, like the previous gentleman said, most of it is not that big in dollar amount.

There is a flipside to allowing these platforms to take place. As I look at all the news stories and what is going on in the media about the NIL, it reminds me of back in the 1980s and 1990s when it was a free-for-all and permissible benefits were running rampant amongst college athletics. It is similar to when boosters were helping programs privately fund their programs and outbidding each other for the best athletes and recruits, and it makes the playing field a little bit uneven for some of us.

I spent the entirety of my collegiate career at mid-major programs where resources were scarce, facilities were scarce, and money was scarce. I had to recruit based on the competency of my coaching ability, my staff, and the athletic and academic prowess of the university, and that was enough, but if I am competing against schools that can throw out these NIL deals, it makes it hard for some of us to survive.

Now that I am in this community college space, it is even harder. Competing with Power Five schools who can throw out all these perks for student athletes makes it hard for the little people to survive. Fundraising is a big part of the system at the community college level, and if we are competing for those donors to survive as a department based on them giving money to student athletes, it is going to make the little people invisible and maybe nonexistent eventually. That makes it difficult.

At a previous meeting that I attended, I overheard one of the speakers comparing music students to student athletes, and that if we do not monitor the music student's income, why should we monitor the student athletes? I think the gentleman before me made the same comment. I do not necessarily agree with that. College athletics is a different beast. Donors and businesses are convincing student athletes to come to universities based on a promise that they are giving, and they are not making them live up to their work requirements, and that is becoming more and more evident.

I do think we have some obligation to regulate and monitor those things from a compliance level and institutional level. Does it make it hard for compliance officers? Yes, absolutely. I am putting more work on the table for us, but like I said, athletics is a different beast. It is getting more competitive and harder for the mid-majors and the junior colleges and the small programs to live and exist while competing with these Power Five schools. I do believe that a greater level of monitoring, regulation, reform, and support—as some of the other speakers have stated earlier—is important for us to even the playing fields so that it does not completely flip upside down.

Name, image, and likeness is a good thing, I think, but as you make rules and regulations and decide what you are going to do with this, I think it is important for us to monitor what is going on with these collectives and boosters, because that is essentially what they are, so that our student athletes have a true experience that is not just money-based. Student athletes have the right to go to school to be a part of a program with a coach who cares about them and with an education that is going to be important to them; they should not have to worry about the dollar amount or make that the priority in deciding where to go

to school. I hope when my kids get old enough to make that decision, that NIL is not going to be their first decision-making reason to go to a university or college.

It is sad to me how things are going. I know that is the evolving and changing way of college athletics, but I think it is important for us as a state to make the playing field level to a point where we might not need to regulate and have all the little details that we need to follow but having some is important. We need to stay competitive, but we also need to regulate and support what we are trying to do as a state.

Chair Miller:

Thank you for your comments, Ms. Wade. Our next speaker is Marcus Arroyo, Head Football Coach at UNLV.

Marcus Arroyo, Head Football Coach, UNLV:

I am going to share a similar sentiment regarding my background and my overall experience as a coach in this landscape, which is probably the thing that is most beneficial. I do not pretend to know the minutia behind the scenes, but I think it is imperative and I think that candidly, this has probably been one of the best things I have been a part of in what we are dealing with right now, because we, as coaches, have not had this opportunity to sit behind the shades and navigate it, let alone have a conversation about it before it gets put in front of us. I am thankful for the opportunity to do this. I want to give a big shout out to Eric Nepomuceno at UNLV because he has been forward-thinking and progressive in providing this information to us as coaches and staff in our landscape and I am appreciative of that.

A quick background to give you an idea of how I have transcended through and have a view of college athletics, I did play college athletics. I was a four-year quarterback at San Jose State University in this conference on the west coast in California. I transitioned out of my playing experience directly into coaching as a graduate assistant (GA). Since 2002, that is what I have been doing, so I have 20 years of experience in this industry as a coach, GA, coordinator, and assistant head coach from Historically Black Colleges and Universities (HBCUs) all the way through to Group of Five to Power Five, and I have also been in the National Football League (NFL). I have seen NFL drafts and have seen many layers that our sport has at every level, from coast to coast—from California to Mississippi, Oklahoma, Texas, Wyoming, Nevada, Florida, and the list goes on.

I try to use as much of that environmental experience as I can to make the best judgments and views of what goes on in our world, especially with our student athletes, but it also has a direct impact on our families and the cities we live in. That is what I have tried to illuminate a little more as I have entered this second year of head coaching. I think that piece is a lot to swallow, since I do not pretend to know how these things are made, let alone how I spent 20 years studying that space. There are a few things that I wrote down after speaking with as many people as I could regarding what they think “we think of NIL as a coaching staff and as a coaching profession.” I cannot speak for everybody, but I think there are a few things that stick out.

First off is the reality of what NIL does to a university. That has been talked about by everyone, who has done a fantastic job of helping me learn a little bit more, but the profile of a university is directly affected by this right now. As a college coach, all our recruits, all our parents, all the conferences, all the conversations around where this will put your school is an effective and real conversation. Are you there with the big boys? Are you a minor

league or a major league player? I use those terms loosely to define, are you guys in an NIL space? What is this, what is that? We do not have those answers, but as I think through how NIL can be advantageous in recruiting and developing and having the resources to compete with whomever that is, NIL is a player in defining and profiling your school, whether it be a conference, your school, or one versus one or one versus many.

The second piece is communication and being able to connect our players with certain people in our community and certain landscapes, charities, and sponsorships. There are some guardrails missing that we can put our arms around, but I think there is a huge piece that can have a positive impact. Our players can have conversations with people who, when we recruit them, promise them that they are available to them. I am going to come to the school because I have the ability in this landscape or this environment to meet alumni who can affect my academic or my social career after football. Since I was a player, moving forward and now, building those experiences and relationships was guarded—and for the right reasons—but I think the NIL provides a piece that can be advantageous to our guys—meeting certain businesspeople or providing themselves to certain charities or sponsorships that illuminate your city, state, town, school, and your brand. I think there is a positive, if you can put in the guardrails, that can protect us from all the educational pieces that so many people before me have talked about, which I do believe are tough.

Team building is probably the third piece. As a coach, you are always trying to find avenues where you can get your guys together. It is inherent that it is hard to find time for that, but there are also resources that reduce those options for us to put players together. I have seen across the country where some NIL packages or deals have allowed the quarterback to take out the entire O-line, so one individual is not the only person to take advantage of this package. It becomes a group deal, which allows for some team building between your players that you must do as a coach. I must take an incidental meal and go take them to my house, get out of the office, or go to a local restaurant, which allows guys to be together in a way that is not so task-oriented. Since the nature of our world is so task-oriented, having an NIL deal that involves multiple players and not just one is a cool set up. I think there is something to that having been in the locker room and around a team.

Recruiting would be the fourth piece. The recruiting element is the lifeblood of our program—academically, socially, and athletically. It is inherent in what we do, recruiting the right people we want in our program with the character and core values for each university. The recruitment of those student athletes is now directly affected; NIL and anything we can talk about helps us with that recruitment, but it can also hurt you regarding the other people; that goes without saying. We have hit that one over the head a bunch today.

The last piece is now a fact of the world we live in and that is retention. That piece of it is new. During the 20 years that I have been part of the college and professional football spaces, recruiting is at the forefront of everything we think about every day—getting the right roster, people, and locker room lineup. Now, keeping those people is in jeopardy since NIL has come up. I cannot speak on individual cases, but I know that is part of it. We kind of hit on that already today.

Those are the five things that I wanted to speak as candidly and authentically about from my experience as a coach that I am seeing affect this landscape. Those are the things where, as a coach, I am seeing the most effects. I think that, if done the right way and the if challenges can be met head on, there can be some advantageous things for a university, brand, city, and state depending on how you do it.

Chair Miller:

Thank you, Mr. Arroyo.

Next, we are going to hear from Julia Nixon, a student athlete at UNLV in women's track and field. Ms. Julia is joining us by Zoom.

Julia Nixon, Student Athlete, UNLV:

I am a track and field athlete at UNLV. I am going into my third year. I am an economics and real estate major, and I also plan on going to law school. That is a bit about me.

I am going to give a bit of an overview of my experience with NIL as a student athlete ([Agenda Item VI](#)). When it came out in July that this was happening, we got an overview of the most obvious rules such as no pay-for-play, the deal must represent the values of the university, things like that. As a university, we use NOCAP Sports as our third party to disclose our deals, so when we agree to work with the company, we go into the NOCAP website, we enter our contract, what we are providing for the company, and anything we are getting in return for that.

Regarding team-issued gear, UNLV is a Nike school, so any gear we wear during competition still must be Nike regardless of any deals we sign. In my experience, typically student athletes reach out to companies, or the companies have initiatives for student athletes. I know a popular one among athletes at UNLV is Liquid I.V. They have an initiative for student athletes where you go into their website, you enter your information, they review your social media profiles, and they get back to you on whether they want to work with you. Companies typically offer product, money, discounts, things like that. In my experience, product is the most common among people I have talked to on my team.

As student athletes, we try to pursue deals that we are interested in promoting or that align with our goals and values. Some of the benefits I have seen from it are that we get access to products that we might not buy because they are out of our budget. It has been helpful to have things like Liquid I.V. that are a little more expensive than other things we would typically buy. In working with them, I received a larger package that I get to share with my team, so not only does it benefit me, but it also benefits my teammates as well.

Like I said earlier, most deals are done through social media. I would say Instagram and TikTok are probably the two most popular platforms that people promote things on. I think it has also been a good résumé booster since most of us as student athletes do not have the opportunity to work part-time or full-time due to the number of hours we are putting into our sports, classes, and homework. It has been a good résumé booster for me personally. I am in the application process for a job in social media for a big company and being able to say that I worked or had experience in making NIL deals and looking over contracts myself has really boosted my résumé. I am getting experience that I probably would not have gotten if I did not have NIL because it is harder to work and play sports.

Some takeaways I have had: the contracts we must look through are not extremely complicated, but it has been nice to have exposure to that space. I want to go to law school, so it has been nice to get a preview of what looking over contracts is like, and it has given us exposure to things we would not normally experience.

In my experience and for other athletes I have talked to, navigating the process was a bit challenging early on because we were under the impression that there were going to be

consequences if we did not do it correctly. We were worried about making sure everyone was following the rules “to a T,” but as we continued to make deals, things got easier. The NOCAP platform we use is fairly simple to disclose deals.

It is important that we continue to educate athletes on the rules and things like taxes. I think our compliance department has done a good job in presenting the rules to us and giving us all the information that they currently have. Going forward as a state, it would be nice to have more specific guidelines for what is and is not allowed because there are a lot of judgment calls, and in my experience—at least among my teammates—people are being on the safe side, which is good, but it would be nice to have stricter guidelines to provide us with more information.

It has also been good for networking opportunities, which is another thing we miss out on a lot with not working due to sports. I know that I and my teammates, as well as athletes in other sports, have networked and gotten deals and said to each other, “Oh, you might be good for this deal as well.” It has given us a lot of experience that we would not normally get being athletes.

Chair Miller:

Thank you, Ms. Nixon. Next, we are going to go to Austin Ortega, also on Zoom.

Austin Ortega, Student Athlete, UNR:

I am a long snapper at UNR, and I am originally from San Antonio, Texas. I recently graduated with a bachelor's degree in journalism with a minor in sports management, and I am now looking to pursue my master's degree in journalism this upcoming fall.

With the new sports management program that has been introduced at our university, I have learned a ton about NIL in classes because it has been a hot topic for the last year. I am in favor of NIL for student athletes. From my perspective, I am a current walk-on at the football team and received no money from the university to play the sport I have loved ever since I could walk. Name, image, and likeness can give walk-on players like me a chance to make money playing their respective sport when they receive no money from the university.

I have been timid to enter the NIL space due to the fact I still do not know a whole bunch about how to capitalize on opportunities that the NIL entails. For me, NIL is about building a brand for yourself. Without a brand, there is no way to market yourself for potential NIL opportunities. I have partnered with Barstool Sports and Liquid I.V. and that requires minimal action on my part. For Barstool Sports, I received free merchandise for putting the phrase “Barstool Athlete” in my social media bio, and Liquid I.V. sends me their product for posting their product twice a month on my social media pages.

When NIL first came out last July, I thought companies would be coming after us student athletes for deals, but I soon realized that it was the other way around—we are trying to target companies to market for them. I think student athletes should be able to benefit from school profits from sponsorships like Adidas, Gatorade, Powerade, Nike, and Under Armour. I know Adidas is going to be rolling out a partnership opportunity with schools that are sponsored by Adidas for the student athletes. Likewise, UNR has a contract with Adidas worth over \$900,000 per year, but we athletes do not see any of that money even though we can only wear Adidas products during athletic competitions.

Athletes at UNR seem to be undervalued in NIL deals because we do not have as big of a reach as larger schools like Texas A&M and Alabama. We see no local companies or alumni stepping up and reaching out to help the student athletes benefit from NIL endorsements. I do not know how it is at UNLV, but for UNR, I think local companies could do better by reaching out to student athletes and helping them capitalize on NIL opportunities.

Chair Miller:

Thank you, Mr. Ortega. Next, we will hear from Hanah Smrt, student athlete in women's track and field, UNR.

Hanah Smrt, Student Athlete, Women's Track and Field, UNR:

I do not have many brand deals or anything, I have smaller ones such as Barstool Sports activewear and Notorious Vintage. Once this NIL law passed, I knew there was going to be a big overreaction and a lot of athletes were going to be bombarded with offers, but I think what is happening is that athletes are almost being used by brands for free advertising. For example, with Barstool, you put them in your bio, you post about them for free clothes, and that is all you get out of it.

I would say that athletes are having to add the title of "influencer" to their student athlete title, but the issue is that neither us nor the brands know exactly what to do, so we are the ones having to take the lead and hope that we are not breaking any rules or anything. I think educating us would be helpful.

I know that NIL is heavily based upon how many followers we have. For example, for one of my deals, the company said, "Okay, you have between 5,000 and 10,000 followers, so you get this public relation (PR) package," whereas people with more followers would get a bigger package or maybe even get paid.

However, coming from a smaller school, I think that NIL as a whole is good because even though we do not have Cade McNamara from Michigan or any huge names, we get to make an impact on our community. I think that is important, especially for Nevada, because we have a lot of potential to become more of a college town and get more donations and money through our community and getting to know them.

Chair Miller:

Thank you. Next, we are going to go to Madison Marr who is a student athlete in women's soccer.

Madison Marr, Student Athlete, Women's Soccer, UNR:

I am on the women's soccer team at UNR. I honestly have never had a job other than babysitting here and there growing up. Then I got to college and obviously, because we student athletes are so busy, we do not have a lot of time to have a job. It is very rare to hear of someone who does. I think the new NIL deals have made it a little easier to make some money and receive some products.

However, those big athletes or big schools have an advantage because some of these companies are not reaching out to us directly. We must reach out to them and when we do that, they most likely want to take a person who goes to a bigger school over someone who is going to UNR, and I do think that is a disadvantage of not going to as big of a school.

I work with Lifestyle Bands, IWON Organics, and Barstool Sports. I primarily promote them through social media. What I think is good about me doing this is that a lot of people on my team or friends who go to the school have reached out to these companies and have jumped on the bandwagon from what I have done to help promote these brands and then they get their own NIL deals.

I think there are a lot of good points to the NIL deals. It is a way for us to make money, it gets a company's products out there, and it gets the name of our school out there to encourage people. Like I said earlier, with us not being a big school, it makes it harder to get the big brands like Adidas or a big brand in general to want to sponsor us or give us a deal. That is my personal experience.

Chair Miller:

Thank you, Miss Marr. That rounds out our presenters for this section. It was important to us that we hear from our student athletes and our coaches who are actually in the midst of navigating all of this. I want to commend and congratulate all of our student athletes for the work that you are doing. It sounds like you are all thriving academically and with your athletics.

I have a question and any one of you can answer it. I am curious about the types of deals you all are seeing. I have heard a couple of the same companies mentioned multiple times, but between you and your friends, are you primarily seeing deals where there is a product offer or are you seeing deals where you are able to earn some actual cash? What is the difference in the time commitment between the possible deals that offer you cash versus the deals that are offering you products?

Ms. Smrt:

In terms of the time commitment for the different deals, I would not say there is a ton of difference. A lot of the deals I am doing are product-based, but then I also can make a commission. For my Vintage deal, I have a code and whenever someone uses my code, I get 15 percent commission of whatever they bought. If you compare that to my product deals, I personally do not have a different time commitment. It is a lot of work on social media sometimes. You must be consistent with your postings, make sure you have enough followers, and stuff like that, but also, I do not have any crazy big deals, so I am sure those would be more time-consuming. For me, it is a 15 percent commission or a product.

Vice Chair Lange:

I have a couple of questions. I appreciate you coming here and sharing your stories with us. What I have heard from the student athletes is that you would like to have more education on how NIL works and what the opportunities are for you out there, that you felt like in many cases you had to find those opportunities. Is that true or not true? Raise your hand if it is true. [No hands are raised]. So, it is not true?

Chair Miller:

It looks like it is a yes from Carson City. It looks like they are saying, yes, they would like more education on NIL deals and contracts.

Vice Chair Lange:

Mr. Arroyo, I appreciated the points you brought up about recruiting. I have been consistent at every meeting with bringing up recruiting because I think it is huge in NIL. I would like to know from you if NIL has affected your recruiting thus far, even though we are still in the baby stages.

Mr. Arroyo:

It has affected us because it has been a conversation topic every single time. I should not say every single time, but most of the time it is going to be there, whether it be the parent, coach, or player. Specifically—and I do not want to cross this bridge now—but especially in this transfer portal world, there is a whole other category of issues we are dealing with because of this immediate eligibility process now—and it has some guardrails behind it coming up—and has itself created a conversation regarding media eligibility. They are basing where they go on all these factors, one of them being an NIL deal.

It probably will be hard to tell at this point because I think it is too green to know how it is going to affect all our rosters longitudinally, whether it be in conference or across state, because I do not know that yet, but I think looking back, we will know a little bit more whether NIL affected us or not.

Currently, speaking for us and because we do not know what these deals are, the most common way it is affecting us is that we are having to say we are progressive in our communication, that we are diligent in finding out more about our athletes, that we communicate with our athletic department and third parties that they have included in their deals, and staying ahead of and communicating effectively our NIL deals that are available in our town and in our city.

I think we have positioned ourselves in a positive light to these athletes by saying, “We are a believer and a supporter of this,” and I think that has helped us as much as anything. I think that is probably the dialogue that has affected our recruiting class thus far. We have told them we are in support; we have people who are very progressive and aggressive in thinking about these things the right way, and our town is one that we believe at a market value, let alone our state, we can battle it out with anybody if we do things the right way.

Vice Chair Lange:

Ms. Wade, have you experienced any of the same kinds of challenges or obstacles?

Ms. Wade:

Let me speak on my coaching experience first. Collegiately, on the track and field side of things, track and field is “the low fruit on the tree” when it comes to NIL. However, I pride myself on recruiting the nation's top athletes, and we go against the best of the best. In this NIL space, it is difficult when other schools, such as the Power Five schools, have more to offer and, truth be told, they are throwing out the NILs and the opportunities that they are not supposed to use during recruiting to win these athletes over. That makes it challenging.

Now that I am in the community college space and we rely a lot on our donor participation to keep the lights on, I think it is even more challenging. I am new to the program, obviously, and I do not know how many of our student athletes have NIL deals at the moment, but I would imagine that in competing for student athletes in any space with organizations that give that as an opportunity, it is going to be challenging.

Mr. Irvin:

Coach Arroyo, thank you for being here, and Ms. Wade as well. How much influence does this third-party provider have in the formation of these deals? Some schools have a Nike deal, so student athletes can look at that maybe as better than a Champion school—if there is such a thing. Are there “elite” third-party providers out there that are leading the way for some student athletes to develop these deals? Or is everything still so new that we do not know?

Mr. Arroyo:

We publicly know our Nike deal. We signed into that. As a coach, I can share that information. I know how many jerseys we get, and we know how a deal compares to everybody else. That is a dialogue I can put into a PowerPoint or a sales pitch or whatever it may be. In recruiting, I cannot do that. We are disconnected from that, and I say that because I could not tell you the third-party organization or structure. I can tell you who they are, and I know what to say, and I know who to report to, but that is a piece that I think is missing.

When we had the first conversations early on—and INFLCR, NOCAP, and all these third-party entities were part of it—because we were not privy to getting into the meat and potatoes of it and because it was so new, I would be lying to say that we were able to have a good pulse on it other than the fact that we try to get as much information we can to educate our staff, get educated by our own staff, and our athletic department to tell our recruits and student athletes, “Here is the formula we are going to use, and we believe in it for this reason,” and move forward with that. I would be lying to say I know that.

Mr. Irvin:

Ms. Wade, did we go through this with track and field during the early 1980s, late 1990s. We started paying track and field athletes. First, the payments went to the organizations and then they eventually started paying track and field athletes.

Ms. Wade:

Yes, I remember those discussions of payments for athletes in all sports. I have been a witness to a lot of those situations, but the things that boosters did privately that sometimes were not so private are now legal in some ways. As Coach Arroyo said, we need to set boundaries to some degree, not so much that it is a headache for compliance officers and institutions, but to give our student athletes, the collectives, and the companies funding these initiatives some guidance on what they can and cannot do so we know how to maneuver and how to stay competitive. I would love Nevada to be as competitive as Florida and Arkansas and all these other states. We are not quite there yet, but doing it the right way, I think, is important for these student athletes.

Mr. Nepomuceno:

Coach Arroyo and Coach Wade, thank you for joining us. I think you have seen that as a Committee, we have been able to get a great cross section of student athlete voices as well as administrator voices. I feel like the coach’s voice is one we have been lacking. We have heard the lack of involvement and certainly sometimes being in the dark—that is obviously by design. Coach Arroyo and Coach Wade, I would be interested to hear your thoughts regarding how involved coaches should be in the NIL landscape.

Mr. Arroyo:

Probably the best thing about this right now is conversations like this that would allow for measures and things to be put forth because it is hard to be in the position that we find ourselves in with student athletes, their parents, the people who support programs, and the businesses not having enough information.

I think of myself in 20 years and the things I will not be able to talk about in respect to my profession and the ability to recruit, develop, and support student athletes or young men—in the NFL or whatever it may be. The separating factor right now is my ability to articulate, understand, and be educated in NIL.

I think you are going to go down a slippery slope. I do not know if that is a negative, but the difference between college and professional sports right now in this avenue we are going down is the agents, antitrust, and things that help these measures that you can articulate in an NFL draft room or the NFL boardroom or through the National Football League Players Association (NFLPA). They all know there is a handbook for it. What we are talking about is, where is that with this? We do not have that yet.

The ability to develop that is the most critical conversation I have been a part of, and for that, I am thankful. Our involvement is an important piece. We are the ones having the conversations, the ones the athletes are coming to, and the ones they spend a lot of time with. We are the ones who sit in their living room. Being able to have those conversations to the best of our ability without having to close the door is advantageous in developing young athletes and shaping the athlete experience.

Ms. Wade:

If I was still a coach, I would not want to be in that space other than to direct my student athletes to the resources that our university and our department provide. My job would be to coach and develop student athletes in the classroom and on the field. Every institution should have the resources to help their student athletes navigate that the best way possible. My stance is that it should be clear across the board, and regardless of what institution or what level you are at, fair is fair. One institution should not be able to do something that another cannot, which I think is the challenge.

Mr. Irvin:

I would like to ask the student athletes a question. We talked earlier about students possibly becoming employees of the institutions. Have you thought about that at all? I am not sure where all of you are, but if you are early in your career, have you ever thought about what it would be like to be classified as an employee, to have employee benefits, employee responsibilities, but also can be hired and fired basically as an employee? Does that occur to you? Does that scare you? Is that even part of the thought process right now of students who are in the system moving ahead?

Mr. Ortega:

In one of my sports management classes, we had to write an essay on the pros and cons of whether student athletes should become employees. I would rather us not become employees even though we work employee hours, sometimes more than 40 hours a week depending on what part of the season we are in. Receiving tuition is far greater than receiving employee benefits, in my opinion.

Chair Miller:

I want to thank our coaches and students for participating in the meeting. Your perspective is extremely valuable and important to us and will help us as we make some recommendations moving forward. Are there any thoughts or recommendations that you all, from your experience, would like the Committee to consider as we make recommendations to the larger Education Committee?

Vice Chair Lange:

There are no recommendations from the floor here, Chair.

Chair Miller:

Thank you everyone for your participation. I want to thank all of our presenters who have participated today. It was great to hear each unique perspective on NIL of student athletes.

AGENDA ITEM VII—PUBLIC COMMENT

Chair Miller:

We are next going to move on to our next agenda item, which is public comment. I will start with public comment here in Carson City. Is there anyone in Carson City who wishes to give public comment? [There was none.]

Seeing no one in Carson City, we will move on to Las Vegas.

Vice Chair Lange:

There is no one in Las Vegas.

Chair Miller:

Are there any callers on the line who would like to make public comment?

BPS:

Thank you, Chair. Your line is open and working but you have no callers at this time.

Chair Miller:

Thank you to all the members, staff, and everyone who presented, testified, and participated today. An archived video of today's meeting will be available online. Our next and currently last meeting will be on Thursday, June 23, 2022, at 1 p.m. This will be our work session meeting. Members, if you have any additional recommendations based on what you have heard and have been thinking about over the last few meetings, please email those to us, and we will consider them at our next meeting on June 23. My staff will be reaching out to everyone as the date approaches.

AGENDA ITEM VIII—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 3:57 p.m.

Respectfully submitted,

Maria Aguayo
Research Policy Assistant

Sarah Baker
Research Policy Assistant

Alex Drozdoff
Senior Policy Analyst

Jennifer Ruedy
Deputy Research Director

Jen Sturm
Principal Policy Analyst

APPROVED BY:

Assemblyman Cameron (C.H.) Miller, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item IV	Michael H. LeRoy, J.D., Professor, School of Labor and Employment Relations, University of Illinois College of Law	PowerPoint Presentation
Agenda Item V	Joseph Flores, Senior Associate Athletic Director, Compliance Services, University of Nevada, Reno	PowerPoint Presentation
Agenda Item VI	Julia Nixon, Student Athlete, University of Nevada, Las Vegas	PowerPoint Presentation

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