

TODAY'S PROCESS FOR PARTICIPATION



Use voice ...

- Judiciously
- Concisely
- In a Distributed Manner

Use chat for...

- Affirming What Someone Says
- Adding to What Others Say

REVISED LEGISLATIVE RECOMMENDATIONS





SEVEN RECOMMENDATIONS

1. *Apply SB206 to California Community Colleges Approved*
2. Recognition and Scope of Athlete's Right of Publicity
3. Limiting Direct Compensation Based on Athletic Ability or Performance
4. ~~Agreements with Boosters and Institutional Involvement with NIL Agreements~~
5. Limitations on Permitted NIL Activities
6. *Educational Programming to Support Athlete NIL Activities Approved*
7. New Implementation Timeline



APPLY SB206 TO CALIFORNIA COMMUNITY COLLEGES

Final Recommendation 1: Athletes in California Community Colleges should not be excluded from the protections afforded athletes attending 4-year degree granting institutions pursuant to SB206.

Based on Working Group Consensus on December 10 and January 7.



EDUCATIONAL PROGRAMMING TO SUPPORT ATHLETE NIL ACTIVITIES

Final Recommendation 6: SB206 should be amended to authorize and appropriate necessary funding for the Board of Governors to provide targeted educational programming to support California community college athletes in understanding the development and management of their NIL.

Based on Working Group Consensus on January 7.



RECOGNITION AND SCOPE OF ATHLETE'S RIGHT OF PUBLICITY

Background:

SB26 proposes the following amendments to (SB206) Section 67456 of the Education Code:

“(a) (1) A postsecondary educational institution shall not uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation as a result of the use of the student’s name, image, or ~~likeness~~. likeness, **or athletic reputation**. Earning compensation from the use of a student’s name, image, or ~~likeness~~ likeness, **or athletic reputation** shall not affect the student’s scholarship eligibility.”



RECOGNITION AND SCOPE OF ATHLETE'S RIGHT OF PUBLICITY

Original Recommendation 2: SB206 should be amended to expressly acknowledge the publicity rights of college athletes to include name, image, likeness, and athletic reputation.

Revised Recommendation 2:

The Working Group supports current language proposed in SB26 amending Section 67456(a)(1) to permit student athletes to earn compensation as a result of the use of their **athletic reputation**.

Based on January 7 discussion.

1 I'm okay with these revisions.

2 I can't support this today.



LIMITING DIRECT COMPENSATION BASED ON ATHLETIC ABILITY OR PERFORMANCE

Background:

SB206 added Section 67456(b) to the Education Code to provide:

“A postsecondary educational institution, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not provide a **prospective student athlete** with compensation in relation to the athlete’s name, image, or likeness.”

This section does not address whether an institution may provide compensation to a **current** student athlete.

California Community Colleges have specific and unique regulations restricting compensation for athletes and coaches' recruiting activities, thus, the Working Group proposes the following amendments to SB206.



LIMITING DIRECT COMPENSATION BASED ON ATHLETIC ABILITY OR PERFORMANCE

Original Recommendation 3: SB206 should be amended to prohibit direct compensation to be paid from IHE or amateur athletic associations to prospective and current college athletes based on their athletic ability or performance.

Revised Recommendation 3:

To maintain the separation between amateur and professional sports at the community college level, Section 67456(b) should be amended to add the following:

“A postsecondary educational institution, athletic association, or conference in the California Community Colleges shall not provide a **prospective or current student athlete** with compensation in relation to the athlete’s name, image, likeness, or athletic reputation”

Based on January 7 discussion.

1 I’m okay with these revisions.

2 I can’t support this today.



AGREEMENTS WITH BOOSTERS AND INSTITUTIONAL INVOLVEMENT WITH NIL AGREEMENTS

Draft Recommendation 4: ~~SB206 should authorize and direct the Board of Governors/CCCCAA to study the need for regulations regarding the involvement of boosters or others affiliated with IHE in the facilitating or arranging for NIL agreements. Any such regulations should be limited to those that are necessary to maintain the separation between professional and amateur sports and prohibit impermissible inducements during the recruiting process~~

1

I'm okay with removing this recommendation.

2

I do not support removal of this recommendation.



LIMITATIONS ON PERMITTED NIL ACTIVITIES

Background:

- Only limitation on athletes' NIL activities in SB206 relates to “conflicts” with an existing team contract
- Once SB206 takes effect, California law would prohibit an institution from implementing or enforcing further restraints on athlete NIL activities
- Other legislative examples do contain additional limitations on NIL activities (state legislation, proposed federal government legislation, and Uniform Law Commission)
- Recommend that California Community Colleges have the flexibility to implement and enforce limitations on certain types of NIL activities.

Three options presented for discussion.



LIMITATIONS ON PERMITTED NIL ACTIVITIES

Original Recommendation 5: SB206 should not include any specific prohibited promotional activities, nor should any California IHE or amateur athletic association implement or enforce any rules or policies that would seek to restrict the nature or character of acceptable promotional activities (e.g., tobacco, alcohol, etc.) for college athletes.

Revised Recommendation 5 (three alternatives):

A California community college may prohibit NIL activity that...

1. (a) conflicts with an existing institutional sponsorship agreement; (b) conflicts with the institution's values; or (c) is determined by the institution to adversely affect the reputation of the institution. *OR*
2. would be prohibited under the general policies of the institution that apply to all students at the institution. *OR*
3. would be prohibited under the general policies of the institution that apply to all students at the institution and the institution is also prohibited from engaging in the activity.

Which of these options do you prefer? Why?

Taylor DeBenedictis

Susan Armenta

Stephen Kodur

Rob Dewar

Randy Totorp

Juliana Garcia Man

Joycie Kaliangara

Jennifer Cardone

Dr. LeBaron Woodyard

Hayley Hodson

Genaro Trejo

Dr. Erika Endrijonas

Brian Harper



LIMITATIONS ON PERMITTED NIL ACTIVITIES

A California community college may prohibit NIL activity that...

1

(a) conflicts with an existing institutional sponsorship agreement; (b) conflicts with the institution's values; or (c) is determined by the institution to adversely affect the reputation of the institution.

2

would be prohibited under the general policies of the institution that apply to all students at the institution.

3

would be prohibited under the general policies of the institution that apply to all students at the institution and the institution is also prohibited from engaging in the activity.



LIMITATIONS ON PERMITTED NIL ACTIVITIES

A California community college may prohibit NIL activity that...

1

(a) conflicts with an existing institutional sponsorship agreement; (b) conflicts with the institution's values; or (c) is determined by the institution to adversely affect the reputation of the institution.

2

would be prohibited under the general policies of the institution that apply to all students at the institution.

3

would be prohibited under the general policies of the institution that apply to all students at the institution and the institution is also prohibited from engaging in the activity.



NEW IMPLEMENTATION TIMELINE

Background:

SB206's current effective date is January 1, 2023.

SB26, if enacted, would accelerate that effective date to either:

- August 1, 2021 (if NCAA approves new NIL legislation) or;
- January 1, 2022 (if NCAA does not approve new NIL legislation)



NEW IMPLEMENTATION TIMELINE

Draft Recommendation 7:

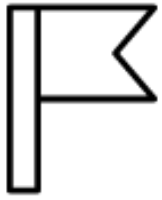
The Working Group recommends the delay of the SB206 implementation for California Community College athlete name, image and likeness for 2-4 years (2023-2025) until California Community Colleges are ready to enforce, regulate, administer, and monitor the effects of SB 206.

1 I'm okay
with this.

2 I can't support
this today.

REVISED CCCAA POLICY RECOMMENDATIONS

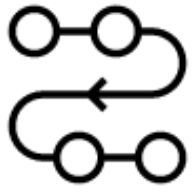




GENERAL INTENT AND PURPOSE

To acknowledge that SB206 should apply to California community college student-athletes and that community college student-athletes should be able to receive compensation for the use of their NIL to promote...

- Their own work product or service, or
- Third-party commercial products or services consistent with the other recommendations



NIL POLICY RECOMMENDATION PROCESS OVERVIEW

Reviewed enacted and proposed NIL policies for amateur athletic governing associations (all NCAA divisions and NAIA)

Identified *consensus viewpoints* on specific issues

To resolve discrepancies on specific issues, used the viewpoint of

- Creating the least restrictive environment for athlete NIL activity
- Creating the least administrative burden on the CCCAA and California Community Colleges institutions



NIL POLICY RECOMMENDATIONS

1. Notification/Reporting Requirements
2. Use of Institutional Marks/Intellectual Property
3. **Athletic Status, Sale of Gear, and Uniforms in NIL**
4. Use of Institutional Facilities
5. Crowdfunding
6. Professional Service Providers
7. Institutional Support for NIL
8. Institutional Staff Members as PSPs
9. Revisions to Current Bylaws



NOTIFICATION/REPORTING REQUIREMENTS

Revised Recommendation 1: Current athletes should be required to disclose NIL activities to their Athletic Director (or a designee of the Athletic Director's choosing) prior to receiving compensation or entering into a NIL arrangement or agreement; and prospective athletes should be required to disclose all NIL activities for which he/she received compensation prior to attending their current institution

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Reporting Requirements	Athlete must notify their Athletic Director in writing of any compensation received due to NIL activities	Currently, reporting requirements not included in proposal	Athlete must report NIL activities to athletics department on an annual basis (institution may require more frequent reporting)	Athlete must report all NIL activities to independent third-party administrator. Athlete shall disclose agreements to promote commercial products and services <i>in advance</i> .



USE OF INSTITUTIONAL MARKS/ INTELLECTUAL PROPERTY

Revised Recommendation 2: Athletes should be permitted to use institutional marks with institutional approval as allowed by the general student population at individual institutions in the California Community Colleges.

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Use of Institutional References/Marks in Promotional Activities?	Yes, with institutional approval as allowed for general student population	Yes, with institutional approval as allowed for general student population	Yes, for promotion of student-athlete business activities (with institutional approval as allowed for general public use). No for promotion of commercial product/service	No, student may not use IP; and institution may not permit IP use Yes, reference to institution permitted consistent with policies applicable to general student population



ATHLETIC STATUS, SALE OF GEAR, AND UNIFORMS IN NIL

Revised Recommendation 3:

3a: References to Athletic Status in NIL Activities

Current athletes should be permitted to reference both (a) their athletic involvement and (b) their institution, in NIL activities to the same extent non-athletes in the general student population are permitted to reference their student status and institutions.

3b: Selling Team Related Merchandise

Current athletes should be permitted to sell their personal team-related merchandise (e.g., equipment, apparel, shoes) provided to them by their institution if such merchandise is normally retained by the athlete and not to be reused by the institution.

3c: Wearing Team Uniforms in NIL Activities

Institutions should be permitted to prohibit athletes from wearing official team uniforms in the athlete's NIL promotional activities.



ATHLETIC STATUS, SALE OF GEAR, AND UNIFORMS IN NIL

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Athlete Allowed to Refer to their Athletic Status and Institution in NIL activities	Yes, with institutional approval as allowed for general student population	Yes, may reference athletic involvement and institution consistent with institutional policies applicable to any student	Yes, may reference athletic involvement and institution consistent with institutional policies applicable to any student	Yes, reference to institution permitted consistent with policies applicable to general student population
Athlete Allowed to Wear Office Team Uniform/Gear in Promotions?	Yes	Not specifically addressed in proposed policies, but likely covered under IP policy. FAQs say “No”.	Not specifically addressed, but FAQs say not permitted for promotion of commercial product or service. IP policy may permit for student promoting their own work product or service with institutional approval	Not specifically addressed in proposed policies, but likely prohibited under IP policy
Sales of Merchandise provided to Athlete by School Allowed?	Yes	Not currently addressed in proposed policies	Yes, athlete may sell at any time: awards, equipment, and apparel retained by athlete that institution will not reuse	Yes, athlete may sell after athlete exhausts athletic eligibility or becomes permanently ineligible

RESPONSE TO RECOMMENDATION 3A

References to Athletic Status in NIL Activities

Current athletes should be permitted to reference both (a) their athletic involvement and (b) their institution, in NIL activities to the same extent non-athletes in the general student population are permitted to reference their student status and institutions.

1 I'm okay
with this.

2 I can't support
this today.

RESPONSE TO RECOMMENDATION 3B

Selling Team Related Merchandise

Current athletes should be permitted to sell their personal team-related merchandise (e.g., equipment, apparel, shoes) provided to them by their institution if such merchandise is normally retained by the athlete and not to be reused by the institution.

1 I'm okay
with this.

2 I can't support
this today.

RESPONSE TO RECOMMENDATION 3C

Wearing Team Uniforms in NIL Activities

Institutions should be permitted to prohibit athletes from wearing official team uniforms in the athlete's NIL promotional activities.

1 I'm okay
with this.

2 I can't support
this today.



USE OF INSTITUTIONAL FACILITIES

Revised Recommendation 4: Current athletes should be permitted to use institutional facilities subject to **all applicable institutional processes for facility usage or rentals** in a manner consistent for members of the general student population and the general public.

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Athlete Can Use School Facilities to Conduct Lessons, Clinics, etc.?	Yes, with institutional approval	Yes, with institutional approval and on same terms applicable to general student population	Yes, with institutional approval and on same terms applicable to general student population	Yes, with institutional approval and on same terms applicable to general student population

RESPONSE TO RECOMMENDATION 4

Revised Recommendation 4: Current athletes should be permitted to use institutional facilities subject to all applicable institutional processes for facility usage or rentals in a manner consistent for members of the general student population and the general public.

1 I'm okay with these revisions.

2 I can't support this today.



CROWDFUNDING

Revised Recommendation 5: Current and prospective athletes should be permitted to participate in crowdfunding and/or fundraising activities for the purpose of financing their own business; raising money for a nonprofit or charitable entity; or under extenuating circumstances for necessary educational and personal expenses, or family emergencies.

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Crowdfunding/ Fundraising Allowed?	Currently not addressed in policy	Yes, as a means of financing a business	Only for extreme circumstances beyond athlete's control, as defined by an institution	Allowed for: educational expenses not included in cost of attendance; specific charitable purpose; actual and necessary expenses

RESPONSE TO RECOMMENDATION 5

Revised Recommendation 5: Current and prospective athletes should be permitted to participate in crowdfunding and/or fundraising activities for the purpose of financing their own business; raising money for a nonprofit or charitable entity; or under extenuating circumstances for necessary educational and personal expenses, or family emergencies.

1 I'm okay with these revisions.

2 I can't support this today.



PROFESSIONAL SERVICE PROVIDERS

Revised Recommendation 6:

6a: PSP and NIL opportunities

Current and prospective athletes should be permitted to hire PSPs to advise and represent athletes in developing and managing NIL opportunities.

6b: Agents/PSPs and professional sport opportunities

Current and prospective athletes should continue to be prohibited from hiring agents or other PSPs for the purpose of securing a professional sport contract or opportunity.

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Athlete Allowed to Hire PSPs (agents)?	Yes, except agent may not help athlete secure a pro sports contract	Yes, except PSP may not assist with marketing athletic ability or reputation to secure a professional sport opportunity	Yes, except PSP may not assist with marketing athletic ability or reputation to secure a professional sport opportunity	Yes, except PSP may not assist with marketing athletic ability or reputation to secure a professional sport opportunity



INSTITUTIONAL SUPPORT RELATED TO NIL ACTIVITIES

Revised Recommendation 7:

7a: Institutional Involvement with NIL

Direct institutional involvement in the development, operation, promotion, or facilitation of current or prospective athlete NIL promotional arrangements, agreements, or activities should be prohibited.

7b: Institutional Provision of Educational Programming

Institutions should be permitted to provide educational programming to help current athletes with compliance, reporting, and vetting of PSPs.



INSTITUTIONAL SUPPORT RELATED TO NIL ACTIVITIES

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Institutional Involvement in Development, Operation, Promotion, or Facilitation of Athlete Work Product/Service Allowed?	Probably, not clearly addressed in policy.	No	No	No
Institutional Involvement Allowed for Educational Programming related to NIL	Probably, not currently addressed in policy	Yes; Assistance with evaluating opportunities (including compliance); Assistance with reporting; Assistance with evaluation of PSPs	Yes; Assistance with evaluating opportunities (including compliance); Assistance with reporting; Assistance with evaluation of PSPs	Yes; Assistance with evaluating opportunities (including compliance); Assistance with reporting; Assistance with evaluation of PSPs



INSTITUTIONAL STAFF MEMBERS AS PSP

Revised Recommendation 8: Institutional employees should be prohibited from arranging for or serving as a PSP for a current or prospective athlete; and institutions and institutional employees should only be permitted to assist in the vetting of PSPs.



INSTITUTIONAL STAFF MEMBERS AS PSP

	NAIA	NCAA D-III	NCAA D-II	NCAA D-I
Institutional Involvement in Identifying, Selecting, or Arranging PSP for Athlete Allowed?	Currently not addressed in policy	No. However, institution can help athlete vet PSPs	No. However, institution can help athlete vet PSPs	No. However, institution can help athlete vet PSPs
Institutional Staff Member Allowed to Serve as PSP for Prospective Athlete?	Currently not addressed in policy	No	No	No employee or independent contractor of university may be PSP
Institutional Staff Member Allowed to Serve as PSP for Current Athlete?	Currently not addressed in policy	Unclear, rule appears to only limit as to prospective athletes	Unclear, but appears to be permitted so long as the services are not provided by Athletics Dept. or an individual athletics staff member	No employee or independent contractor of university may be PSP

RESPONSE TO RECOMMENDATION 8

Revised Recommendation 8: Institutional employees should be prohibited from arranging for or serving as a PSP for a current or prospective athlete; and institutions and institutional employees should only be permitted to assist in the vetting of PSPs.

1 I'm okay with these revisions.

2 I can't support this today.