

## Elmhurst University, Image and Likeness Policy for Student-Athletes

11/1/2021

**Purpose:** On July 1, 2021, the Student-Athlete Endorsement Rights Act (“Act”) went into effect in the State of Illinois. The full Act can be reviewed [here](#). The Act permits student-athletes to use their name, image, likeness or voice (“NIL”) to earn compensation, commensurate with market value, beginning on July 1, 2021. A student-athlete is not permitted to earn compensation based on the student-athlete’s agreement to attend Elmhurst University, athletic participation, or athletic performance. Elmhurst University implements the following policy to provide student-athletes with guidance and the Elmhurst University requirements related to NIL. The NCAA adopted an interim policy that permits student-athletes to earn compensation for the use of a student-athlete’s NIL without violating NCAA rules related to NIL. All other NCAA rules remain in effect. Student-athletes are prohibited from receiving an improper recruiting inducement, extra benefit or compensation based on athletics participation or performance, “pay for play.”

**Student-athlete status:** A student-athlete is not considered an employee of Elmhurst University based on the student-athlete’s participation in intercollegiate athletics or receipt of athletics aid or other institutional aid. The following policy related to the use of a student-athlete’s name, image and likeness for compensation, adopted consistent with state law, shall not be construed to create an employer-employee relationship between a student-athlete and Elmhurst University.

**Definitions:** This policy incorporates by reference all definitions set forth in the Act and highlights the following definitions set forth in this policy:

“**Booster**” means an individual who has made a financial contribution to the institution, assisted in the recruitment of a prospective student-athlete, provided benefits of any kind to a current student-athlete or otherwise has been involved in promoting the institution’s athletics program.

“**Compensation**” means anything of value provided to a student-athlete but does not include:

- (1) Tuition, room, board, books, fees, and personal expenses provided by Elmhurst University in accordance with the rules of the athletic association or conference of which Elmhurst University is a member;
- (2) Federal Pell Grants and other State and federal grants or scholarships unrelated to, and not awarded because of a student-athlete’s participation in intercollegiate athletics or sports competition;
- (3) Any other financial aid, benefits, or awards that Elmhurst University provides to a student-athlete in accordance with the rules of the athletic association or conference of which Elmhurst University is a member;
- (4) The payment of wages and benefits to a student-athlete for work actually performed (but not athletic ability or participation in intercollegiate athletics) at a rate

commensurate with the prevailing rate for similar work in the locality of Elmhurst University.

“NIL agreement” or “publicity rights agreement” means a contract or other written or oral arrangement between a student-athlete and a third-party licensee regarding the use of the name, image, likeness, or voice of the student-athlete.

“Student-athlete” means a student currently enrolled at Elmhurst University who engages in, is eligible to engage in, or may be eligible in the future to engage in, an intercollegiate athletics program at Elmhurst University.

### **Requirements.**

#### **1. Disclosure and use of professional service provider.**

- a. NIL and/or publicity rights agreements. A student-athlete must disclose an NIL and/or publicity rights agreement in excess of \$500 to the Director of Athletics prior to execution of the agreement and before any compensation is paid.
- b. Use of agents or other professional service provider. Student-athletes are permitted to use an athlete agent or other professional service provider, e.g. attorney, for the purpose of exploring or securing compensation for the use of a student-athlete’s NIL or publicity rights only.
- c. Professional service provider agreement. A student-athlete must disclose to the Director of Athletics any representation agreement between the student-athlete and agent, attorney or other individual for the purposes of that individual exploring or securing compensation for the use of the student-athlete’s NIL with a third-party **within 7 days** of the execution of the representation agreement. An agent, attorney or other professional service provider shall, to the extent required, comply with the Sports Agent Responsibility and Trust Act established in 15 U.S.C. Section 7801, et. seq. and any other applicable laws, rules, or regulations.

#### **2. Limitations and conflicts.**

- a. Mandatory athletics activities. A student-athlete may not engage in NIL compensation opportunities during mandatory athletic activities. The expectation is that NIL compensation opportunities will not conflict with academic or mandatory team activities.
- b. A student-athlete may only wear apparel, gear, or other wearables approved by Elmhurst University during an intercollegiate athletics competition or institution-sponsored event.<sup>i</sup>
- c. Elmhurst University may not

- i. Enter into an NIL agreement or publicity rights agreement with a prospective or current student-athlete.
  - ii. Provide a prospective or current student-athlete or the student-athlete's family compensation in relation to the student-athlete's NIL.
- d. Booster involvement. A booster may not enter into or arrange for a third-party to enter into an NIL agreement or publicity rights agreement as an inducement to attend Elmhurst University.
- e. Conflict with institutional contract or rules. A student-athlete may not enter into a NIL agreement or publicity rights agreement if performance of the agreement would conflict with an institutional contract or any other rule, regulation, standard or other requirement of the institution.
- f. Term of student-athlete contract. A contract for use of a student-athlete's NIL or publicity rights may not extend beyond the student-athlete's participation in the sport at the institution.

### 3. Prohibitions.

- a. Statutory Prohibitions. Pursuant to the Act, a student-athlete may not endorse or promote a brand, product or service in the following categories:
  - i. Gambling;
  - ii. Sports betting;
  - iii. Controlled substances;
  - iv. Cannabis;
  - v. A tobacco or alcohol company;
  - vi. Alternative or electronic nicotine product or delivery system;
  - vii. Performance enhancing supplements; or
  - viii. Adult entertainment.
- b. Usage of the official Elmhurst University logos and/or branding components requires approval by the Elmhurst University Office of Marketing and Communications. As the Elmhurst University brand stewards, the office is responsible for coordinating the look, feel and messaging of all print and digital communications from the University in order to present it in the most impactful way. If you'd like to use a logo and/or branding component, please contact [marketing@elmhurst.edu](mailto:marketing@elmhurst.edu) for more information.
- c. Student-athletes may, subject to availability and the terms of a facility use agreement, use Elmhurst University's athletics facilities to conduct camps, clinics, or lessons if the student-athlete pays the standard facility rental fee.

#### 4. Other considerations.

- a. International student-athletes. International student-athletes should not enter into any compensation agreement without first checking with the Elmhurst University's International Students Office to ensure it complies with visa and immigration standards.
- b. Financial aid. Pell grants and other need-based aid could be affected by name, image, and likeness compensation. Questions related to a student-athlete's receipt of financial aid should be directed to the Elmhurst University's Financial Aid Office.

## POLICY ENDNOTES

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<sup>i</sup> The statute provides that the institution in its sole discretion may determine what apparel, gear or wearables that at student-athlete may wear during competition and institutionally sponsored events.