

NCAA Division I Name, Image and Likeness Legislative Solutions Group Update

NACDA – May 7, 2020

Categories of Name, Image and Likeness

NIL Activities
without
Institutional
Involvement

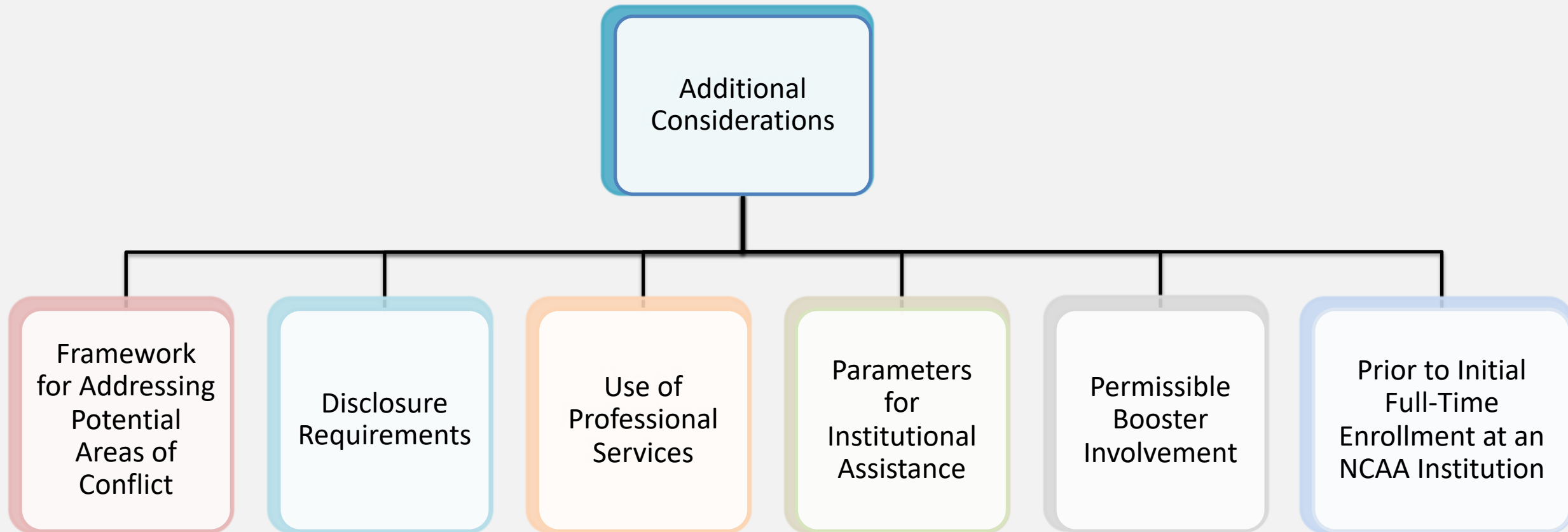
Student-Athlete Athletically and Nonathletically Related Business Activities

- Fee for lessons and camps and clinics.
- Promotion of a student-athlete's athletically or nonathletically related business activities.
- Sale of memorabilia owned by the student-athlete.
- Autographs.

Third Party Promotional Activities (includes both commercial and *charitable endorsements)

- Includes compensation for endorsement of a commercial and/or charitable, educational or nonprofit entity.
- Institutions may not be involved in securing the arrangement for a student-athlete.
- No institutional marks may be used.
- Modeling noninstitutional athletics and nonathletics apparel.
- Endorsement of a commercial product or service.
- Personal appearances.

Concepts - Additional Considerations



Student-Athlete Athletically and Nonathletically Related Business Activities

Athletically and Nonathletically Related Business Activities

- Institutions may not be involved in activities.
- No institutional marks may be used.
- Institutions would not be permitted to purchase a student-athlete's product or service.

Athletically and Nonathletically Related Business Activities

- Fee for lessons and camps and clinics.
- Promotion of a student-athlete's athletically or nonathletically related business activities.
- Sale of memorabilia owned by the student-athlete.
- Autographs.

Third Party Advertisements and Promotions

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- Includes compensation for endorsement of a commercial and/or charitable, educational or nonprofit entity.
- Institutions may not be involved in securing the arrangement for a student-athlete.
- No institutional marks may be used.
- Modeling noninstitutional athletics and nonathletics apparel.
- Endorsement of a commercial product or service.
- Personal appearances.

Additional Parameters

Potential Areas of Conflict.

Possible Change

Adopt legislation that would specify that name, image and likeness activities within certain categories are not appropriate within the collegiate model. Specifically, legislation would prohibit a student-athlete from engaging in name, image and likeness activities involving a commercial product or service that conflicts with NCAA legislation (e.g., sports wagering, banned substances). In addition, an institution would have discretion to prohibit a student-athlete's involvement in particular name, image and likeness activities, as defined by the institution (e.g., areas that conflict with institutional values, conflicts with institutional arrangements).

Disclosure Requirements.

Possible Change

Adopt legislation that would require a student-athlete to disclose information to the institution's athletics department related to the use of his or her name, image or likeness, including compensation arrangements and details of relationships with an involved individual, commercial entity and third parties (e.g., contact information for commercial entities, professional service providers, other involved parties). The student-athlete would provide such information soon after arrangements are made for the use of his or her name, image or likeness and would provide updates to the information if arrangements with a commercial entity or third parties change. Violations discovered based on information disclosed could render a student-athlete ineligible. Additional discussion will occur related to parameters for disclosure, including whether a third party should collect and review disclosure information and otherwise be involved in overseeing and facilitating the disclosure requirement.

Use of Professional Services.

Possible Change

Amend the definition of an agent to permit a student-athlete to receive advice, assistance in contract negotiations and marketing of his or her athletics ability for purposes of name, image and likeness activities, provided the professional service provider does not market the student-athlete's athletics reputation for professional sports opportunities.

Parameters for Institutional Assistance.

Possible Change

Permit an institution to engage in the following without triggering “institutional involvement” in a student-athlete’s name, image and likeness activity:

1. Providing educational programming for students on name, image and likeness and associated regulations.
2. Assisting a student in evaluating opportunities, including compliance elements (e.g., booster engagement).
3. Assistance with disclosure expectations.
4. Assistance with evaluation of professional services.

Permissible Involvement of Boosters.

Possible Change

Current legislation would continue to apply with the Legislative Solutions Group's NIL concept. Boosters would be permitted to engage in name, image and likeness activities with student-athletes, provided no improper inducements or extra benefits are provided. Continued discussion may occur related to whether potential narrowing of the definition of a booster is appropriate given the broad definition of booster and the fact that there will be no prohibition of a booster being a consumer of a student's services or products.

Prior to Enrollment at an NCAA Institution.

Possible Change

Legislation could align pre-enrollment name, image and likeness legislation with the name, image and likeness legislation that will apply after a student-athlete has enrolled at an NCAA institution. Alternatively, legislation could establish a more flexible standard that would apply prior to enrollment at an NCAA institution or simply defer to state high school regulations. In either scenario, current NCAA legislation related to offers and inducements would continue to apply

Topics Still Requiring Review and Discussion

- Pre-enrollment.
- Professional Service Providers.
- Disclosure and Institutional Expectations.
- Booster – Engagement, Guardrails, Disclosure.
- Conflicts.
- Institutional Assistance vs Institutional Involvement.
- Areas of Phase 1 Business Activities and Promotional Activities Requiring Additional Examination.
- Gender Equity.

Feedback

Timeline and Next Steps

- May: Refinement of concepts.
- May, June and July: Membership feedback.
- June: Division I Council meeting.

Thank You