



October 16, 2019

What are the Costs to Benefit of Name, Image & Likeness in the World of Collegiate Athletes and the Student-Athlete?

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Rarely do I agree with California Governor Gavin Newsome, but I will give him credit for opening the floodgates of a long-overdue conversation in college athletics, the usage of student-athletes name, image and likeness, or NIL in our vernacular.

There is a lot of wailing, weeping and gnashing of teeth, some justified and some not, from many of the leadership in college athletics, but today, let's focus on what could be a positive and watershed moment for the current and future of student-athletes, especially non-revenue sports and athletics at all Division I, III and III schools.

Let's start this conversation in the court of public opinion. The NCAA could do itself a lot of favors in the court of public opinion by embracing this issue instead of denying it. Most of the general public (and polling will reinforce this) agree, student-athletes should be able to monetize their NIL no differently than any other college student who does not play college athletics. For instance, my son, who attends UGA as a student, can monetize his content on platforms such as YouTube or Instagram, but a student-athlete cannot. In a world where the NCAA wants to level the playing field (pun intended) for all student-athletes, why not allow what I call, "what's good for the goose is good for the gander" rule. The NCAA is a billion-dollar per year organization, with 90% of their revenue being made during the three weeks of March Madness, it is run by very intelligent, diligent executives with relationships with major media companies, including CBS, Turner and ESPN. Surely these smart people can help figure out a solution that is a win-win for all!

There are serious First Amendment issues here and let's make a distinction between monetization and compensation. I'm not a lawyer or a legal expert, but if a student-athlete wants to monetize their NIL and they're not violating the usage of trademarks of the university, what is the harm in this?

I understand a scholarship is a contract between the student-athlete and the university, but it is not an indentured servant agreement. The First Amendment grants broad latitude in free speech, and so I suspect if and when this is ever challenged in court (although this could end up in the Supreme Court), I believe the student-athlete would prevail. But why let it even get that far, especially when you consider all of the time, legal fees and response from the court of public opinion who would weigh in on this? Why not use those resources for a better and more positive outcome? The NCAA could certainly receive a great and positive image boost by embracing this and not denying this issue. Why not evolve from an **enforcement** institution to an **enhancement** institution?



So, what's the solution?

This clarity and epiphany came to me as I was on the sideline pregame of the recent Auburn-Mississippi State football game. The contrast could have not been starker; the Auburn Men's Basketball team was being honored for their historic Final Four run (full disclosure, I am an Auburn graduate), and the Auburn Women's Equestrian team was being honored for their historic National Championship as well. But the contrast in crowd response could not have been clearer, and it didn't have anything to do with the **respect** level of each team, but the **exposure** level. So, let's use the Auburn Women's Equestrian team as an example of how a NIL rule could work. Let's also don't forget this generation of student-athletes is the most **sophisticated** because of the rise of technology and social media. Most of the ladies on the team aren't even full scholarship student-athletes, but I promise you they work as hard as the ones who are. So why not let them supplement their scholarship, student aid, income and support, especially since they have no time to pursue a part time job or internship to supplement their income. Additionally, NIL could be used by the athletic department to create new revenue for "non-revenue" sports, and in budget-constrained athletic departments, who could argue with that? Not to mention, NIL could be turned into an academic and athletic recruiting tools by all teams, schools and universities. So, here are several ideas:

- Allow the team to be featured in sponsored posts on Instagram, Twitter and Facebook. The sponsorship fees could be split as a percentage to the coach, the team, the student-athlete and the program. Don't forget football and basketball generate 95% of the revenue, so the biggest impact would be the new revenue to non-revenue sport.
- Allow school sponsors to feature the teams in television, radio, digital & social advertisements, say for instance, UNDERARMOR could underwrite, produce and distribute a spot where the performance fees would go directly to the women's program and a fee to each student-athlete. Right now, there is a five-year waiting period for an athlete to monetize their image and likeness, which makes no sense.
- Allow the ladies to get small "endemic" sponsorships, such as saddles, bits, reigns, feed or even the Auburn Veterinary School. Many times, these sponsors cannot afford a "big ticket" sponsorship, such as UNDERARMOR, so in effect money is being left on the table for programs that need it, as well as taking pressure off athletic department funds and resources.
- Allow the ladies to get local or hometown sponsorships which celebrate and highlight their success, supplements income and feeds funds back into the program. This could be a local bank, equestrian center, feed & seed or even a cause near and dear to their hearts. Let's not forget the \$1MM funds raised during the ESPN Game Day featuring a beer sign! Why not use the "non-revenue" athletes to raise funds and increase awareness for the common good?

These are just some of the ways that everyone involved could benefit. But why not include those who actually could benefit the most in this conversation, the student-athlete?



So, how about it NCAA? Let's embrace change for the common good, fairness and keep elevating the profile of so many deserving "student-athletes".

What do we have to lose?