

ARTICLE XX-M
INTERCOLLEGIATE ATHLETICS (NIL)

Section 2001-M. Scope of article.

This article relates to college student athlete compensation related to name, image or likeness and professional representation.

Section 2002-M. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Athlete agent." As defined in 5 Pa.C.S. § 3502 (relating to definitions).

"College student athlete." An individual enrolled at an institution of higher education who participates in intercollegiate athletics for the institution of higher education. The term does not include an individual whose participation is or was in a college intramural sport, club sport or in a professional sport outside of intercollegiate athletics.

"Institution of higher education." Any of the following:

- (1) A university within the State System of Higher Education.
 - (2) The Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University or any other institution designated as State-related by the Commonwealth.
 - (3) The Thaddeus Stevens College of Technology.
 - (4) A community college as defined in Article XIX-A.
 - (5) A college established under Article XIX-G.
 - (6) An institution of higher education located in and incorporated or chartered by the Commonwealth and entitled to confer degrees as specified in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and as provided for by the standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).
 - (7) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.
 - (8) A foreign corporation approved to operate an educational enterprise under 22 Pa. Code Ch. 36 (relating to foreign corporation standards).
- "NCAA." The National Collegiate Athletic Association.

Section 2003-M. Compensation regarding college student athlete's name, image or likeness rights.

(a) Compensation allowed.--A college student athlete may earn compensation for the use of the college student athlete's name, image or likeness under this article.

(b) Prohibition regarding institutions of higher education.--An institution of higher education may not uphold a rule, requirement, standard or other limitation that prevents a college student athlete of the institution of higher education from earning compensation through the use of the college student athlete's name, image or likeness rights.

(c) Prohibitions regarding intercollegiate athletic entities.--An athletic association, conference or other group or organization with authority over intercollegiate athletics, including the NCAA, may not:

(1) Prevent a college student athlete from earning compensation through the use or license of the college student athlete's name, image or likeness rights.

(2) Prevent an institution of higher education from fully participating in intercollegiate athletics as a result of a college student athlete's use of the college student athlete's name, image or likeness rights to seek compensation.

(3) Entertain a complaint, open an investigation or take any other adverse action against an institution of higher education, or an entity acting on its behalf, an employee of an institution of higher education or a college student athlete for activity permitted under this article or for directly compensating a college student athlete for use of the college student athlete's name, image or likeness.

(d) Royalty payment.--A person that produces a college team jersey, a college team video game or college team trading cards for the purpose of making a profit shall make a royalty payment to each college student athlete whose name, image, likeness or other individually identifiable feature is used.

Section 2004-M. Professional representation.

(a) Prohibitions.--

(1) An institution of higher education, athletic association, conference or other group or organization with authority over intercollegiate athletics, including the NCAA, may not interfere with or prevent a college student athlete from fully participating in intercollegiate athletics for obtaining professional representation in relation to contracts or legal matters, including representation provided by athlete agents or legal representation provided by attorneys, in relation to a college student athlete's use of the college student athlete's name, image or likeness rights.

(2) An athletic association, conference or other group or organization with authority over intercollegiate athletics, including the NCAA, may not prevent an institution of higher education from fully participating in intercollegiate athletics without penalty to the institution or individual student as a result of a college student athlete obtaining professional representation in relation to contracts or legal matters, including representation provided by athlete agents or legal representation provided by attorneys, in relation to a college student athlete's use of the college student athlete's name, image or likeness rights.

(b) Qualifications.--Professional representation obtained by a college student athlete shall be from a person:

(1) acting as an athlete agent in accordance with 5 Pa.C.S. Ch. 35 (relating to athlete agents); or

(2) admitted to practice law by a court of record of this Commonwealth.

(c) Contents.--A contract by which a college student athlete authorizes an athlete agent, acting in accordance with 5 Pa.C.S. Ch. 35, to negotiate or solicit compensation for the use of the college student athlete's name, image or likeness shall include a statement that the contract does not obligate the college student athlete to use the athlete agent for any service beyond professional representation in relation to the use of the name, image or likeness.

Section 2005-M. Scholarships.

(a) Eligibility.--Earning compensation from the use of a college student athlete's name, image or likeness rights may not affect the college student athlete's scholarship eligibility, duration or renewal.

(b) Compensation.--

(1) For purposes of this article, an athletics grant-in-aid or stipend scholarship from an institution of higher education in which a college student athlete is enrolled may not be considered to limit a college student athlete's right to use the college student athlete's name, image or likeness rights, except as expressly provided in this section.

(2) An athletics grant-in-aid or stipend scholarship may not be revoked or reduced as a result of a college student athlete earning compensation under this article, except if otherwise mandated by Federal or State student aid guidelines.

Section 2006-M. Contracts.

(a) Opportunities.--An institution of higher education, athletic association, conference or other group or organization with authority over intercollegiate athletics may not be required to identify, create, facilitate, negotiate or enable opportunities for a college student athlete to earn compensation for the college student athlete's use of the college student athlete's name, image or likeness rights.

(b) Use of trademarks.--This article shall not establish or grant a right to a college student athlete to use the name, trademarks, services marks, logos, symbols or any other intellectual property, registered or unregistered, of an institution of higher education, athletic association, conference or other group or organization with authority over intercollegiate athletics, in furtherance of the college student athlete's opportunities to earn compensation for the college student athlete's use of the college student athlete's name, image or likeness rights.

(c) Enforcement.--This article shall not limit the right of an institution of higher education to establish and enforce any of the following:

(1) Academic standards, requirements, regulations or obligations for the institution of higher education's college student athletes.

(2) Team rules of conduct or other rules of conduct.

(3) Standards or policies regarding the governance or operation of or participation in intercollegiate athletics.

(4) Disciplinary rules and standards generally applicable to all students of the institution of higher education.

(d) Prohibition.--A college student athlete may not earn compensation as a result of the use of the college student athlete's name, image or likeness in connection with a person, company or organization related to or associated with the development, production, distribution, wholesaling or retailing of any of the following:

(1) Adult entertainment products and services.

(2) Alcohol products.

(3) Casinos and gambling, including sports betting, the lottery and betting in connection with video games, online games and mobile devices.

(4) Tobacco and electronic smoking products and devices.

(5) Prescription pharmaceuticals.

(6) A controlled dangerous substance.

(e) Prohibition.--

(1) An institution of higher education may prohibit a college student athlete's involvement in name, image or likeness activities that conflict with existing institutional sponsorship arrangements at the time the college student athlete executes a contract or discloses a contract to the institution of higher education as described under subsection (f).

(2) An institution of higher education, at the institution of higher education's discretion, may prohibit a college student athlete's involvement in name, image or likeness activities based on other considerations, such as conflict with institutional values, as defined by the institution of higher education.

(3) An institution of higher education shall have policies that specify the name, image or likeness activities in which college student athletes may or may not engage.

(f) Disclosure.--The following apply:

(1) A college student athlete who proposes to enter into a contract providing compensation to the college student athlete for use of the college student athlete's name, image or likeness rights may disclose the contents of the contract prior to execution of the contract to an official of the institution of higher education, who is designated by the institution of higher education.

(2) An institution of higher education may have policies that specify when the contract should be disclosed and the contents of the contract to be disclosed in accordance with paragraph (1).

(3) If an institution of higher education receives direct financial compensation from a third party arising from the third party's contract with a college student athlete relating to the use of a college student athlete's name, image or likeness, the institution shall be required to disclose in a timely manner the financial relationship between the institution and the third party to the college student athlete. This section shall not apply to compensation received by the institution of higher education for the use of the institution's intellectual property.

Section 2007-M. Violations and claims.

(a) Protections and right to adjudicate.--A college student athlete, institution of higher education or conference shall not be deprived of a protection provided under State law with respect to a controversy that arises in this Commonwealth and shall have the right to adjudication in this Commonwealth of a claim that arises in this Commonwealth.

(b) Private civil action.--A college student athlete shall have the right to pursue a private civil action against a person that violates this article. The court shall award costs and reasonable attorney fees to a prevailing plaintiff in an action brought against a person violating this article.

Section 2008-M. Settlements.

Legal settlements made on or after June 30, 2021, may not permit noncompliance with this article.

Section 2009-M. Severability.

The provisions of this article are severable. If any provision of this article or the application of any provision of this article is held to be invalid, that invalidity shall not affect any other provision or application of any other provision that can be given effect without the invalid provision or application.