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**How Name, Image, Likeness will impact college sports & athlete's career?**

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## **Introduction:**

The core of College Sports is that athletes should be classified as unpaid amateurs, barring those who compete in it from profiting off their fame.

Fast forward to 2021, college athletes were still not getting paid to play. But for the first time in history, they can make money off their Name, Image & Likeness.

With some top-athletes garnering million-dollar endorsement deals, will the new rules even the playing field or destroy college sports?

In this document, we will discuss some of today's results and the direct effect of this deal throughout athletes, agents, schools, lawmakers, and leaders in the tech industry to make it through the story of Name, Image & Likeness and how it started. Where is it now? And where it could be heading in the future.

It allows them to start building them away from the sport that they played at a younger age. This will go down as the most significant thing/change that's ever happened in the history of college sport. Today, some athletes at the high level are making seven figures through endorsements and NIL. They can also go after third parties who use their Name, Image, and Likeness without their permission. Intellectual property is now getting bigger for them.

Having a unanimous decision in favor of Alston in 2021 against the NCAA is vitally important for where we are today with Name, Image & Likeness. It basically called the NCAA a Cartel that it was in collusion to prevent athletes from a certain type of benefits. And ultimately, the NCAA, on June 30, 2021, finally changed its regulations and implemented what it's called an interim NIL Policy. So why would the NCAA forbid its athletes from earning money in the first place? For that answer, let's start from the beginning. On November 6, 1869, Rutgers and Princeton played what is known as the first college football game ever. But by the early 1900s, football had gotten so dangerous that there were public outcries to ban the sport completely. So, in 1905, US President Theodore Roosevelt called together colleges from across the country in a last-ditch effort to clean up the sport. And in 1910, this group became known as the NCAA. The mission was to regulate the rules, protect young athletes and establish amateurism as the foundation for all of college sports. But it wasn't until a quarter of a century later, in 1936 that athletes were allowed to receive academic scholarships to help offset the cost of attendance. "Athletic ability should receive consideration and determine student values and in the assignment of scholarships, loans, and opportunities for remunerative works. Thus, with the Southeastern Conference forthright action college football becomes openly subsidized.

Even though the NCAA is now very profitable and generates more than 14bn annually, a number that has more than tripled over the last 20 years, and despite all the marketing and TV deals, tickets sales or merchandising, college athletes still aren't getting paid a share of the revenue. This has been a source of much controversy over the years.

In fact, over 80 years ago in 1936, MIT Professor George Owens brought up this exact issue and said, "If it is necessary for a boy to undergo extreme risks of limb and, yes, life, why not reimburse him in a substantial and regular business manner?"

The monetization of name, image and likeness for college athletes is about to change college sports, with not only football and basketball being the most affected. One of the most controversial issues in sports today is whether to pay college athletes or not.

*"N.I.L. is the greatest wealth distribution in the history of the United States, next to Social Security and welfare," said Jason Belzer, whose company runs collectives at more than 40 schools. "The majority of it is going to young African American males and females from lower socioeconomic strata, and it's coming from white, wealthy donors."*

# **1. History of the Name, Image, and Likeness debate in Collegiate Sports**

## **1.1. NCAA structure and former policy**

### **1.1.1. Why was it forbidden?**

Are we “losing” the purpose of amateur sport?

What if we look at the big-time college sports, in particular football and basketball, just like we look at pro sports? There should be revenue sharing. A portion of money should be kept by the owners, who in this case are the colleges. And then a portion of the money should be guaranteed to go to the students.

The college sport industry got away with it by taking the excuse of “scholarships”. This was considered by college as their form of payment. Athletes were able to benefit and use facilities, classes, college awareness and status for free only by playing for the team. At some point it could be fair but nowadays, that scholarship is worth nothing compared to the money that colleges are making thanks to their name, image, and likeness.

Importance of scholarship:

Worth it? Should schools stop using scholarships because of NIL? Will NIL allow “walk-ons” to compensate for the costs of a scholarship?

The issue of scholarships is very important in the intercollegiate athletic system and in the NCAA. Athletes have the opportunity to be granted a scholarship that covers some or all of their tuition for the given year or all of their schooling (multi-year deal). These financial and non-monetary aid packages are not paid directly to the athlete but the costs of tuition are covered by the school itself. The use of these scholarships can be seen as a very important and as an influential argument in the recruitment of athletes. If an athlete is eligible under NCAA rules to receive a scholarship, the academic and athletic expenses will be completely or almost completely covered by the school. Minimum requirements are related to academic results such as GPAs scores and standardized test. Division I and II schools provide more than \$3.7 billion in athletic scholarships each year. Only 57% of Division I student-athletes receive athletic financial aid, and most don't receive full scholarships.

Through scholarships, universities secure the services of a promising and successful athlete. In exchange, the athlete receives an education and the opportunity to play a sport in the best possible conditions, a so-called "win-win" situation. The reason that schools provide scholarships and thus do not benefit from an input of money through the payment of tuition is because they know that the student-athlete will contribute to increasing their income or reputation through their athletic performance. It is important to consider that these scholarships are considered a contract between the school and the student-athlete.

One of the main risks of these scholarships for schools and student-athletes is the fulfillment of the contract. In the occurrence of an injury, a student-athlete is no longer able to fulfill his or her part of the contract. Not all athletic scholarships cover injuries. It is important for a student-athlete to be aware of the terms of the contract as it relates to medical coverage. Medical expenses may be covered by the school but this is not always the case. Most Division I and II athletic programs have a medical staff that assists the student-athlete with

rehabilitation as well as injury prevention. To date, there is no standardized medical coverage for student-athletes.

This contract between the student-athlete and the school implies a commitment between the two parties and its fulfillment is mandatory or it will no longer be valid. If a student-athlete decides to stop practicing or participating in the athletic practices to which he/she has committed, he/she will be forced to incur financial expenses to continue attending school and pursue his/her academic career, and vice versa. This contract also implies that a student cannot transfer to another university or his/her scholarship will be canceled. There are many cases of non-compliance with the contract and legal action can be taken.

<b>ATHLETIC DIVISION</b>	<b>NUMBER OF SCHOOLS</b>	<b>VALUE OF SCHOLARSHIPS</b>
NCAA Division I	357	\$2.76 billion
NCAA Division II	303	\$752 million
NCAA Division III	445	
NAIA	238	\$546 million
NJCAA	480	\$157 million
Other Divisions	254	\$14 million
<b>Total</b>	<b>2077</b>	<b>\$4.23 billion</b>

*During the Academic Year 2019-2020, colleges in the United States awarded more than \$4 billion in athletic scholarships (Data from: ScholarshipStats.com data, 2020).*

**1.2. Collegiate Athletics structure**

In the Collegiate Athletics structure, one question that comes up again and again is whether Division 1 (D1) is truly superior to Division 3 (D3). Debates rage on, but let's take a look at the facts to shed some light on this thorny question.

There's no denying that D1 offers a fiercer level of competition than D3, attracting the brightest talents in a variety of sporting disciplines. This translates into more competitive matches and high-flying performances. What's more, D1 generally offers tuition benefits, making it easier to access education while pursuing a sporting career.

Another major advantage of D1 is the professional opportunities it offers. Athletes in this division statistically have a better chance of turning professional after their university career. However, this doesn't mean that D3 is out of the picture.

Division 3 offers a different perspective. D3 athletes have more flexibility to balance their studies and extracurricular activities, which can be invaluable for those wishing to explore other horizons while pursuing their sporting passion. It's all about balancing sport and education.

Speaking of balance, Division 2 (D2) also deserves a mention. D2 schools are distinguished from D1 by their generally slightly smaller size. Although the number of D2 schools is smaller than that of D1 and D3, at around 300, they offer an impressive variety of sports and compete mainly against regional rivals, creating a very specific competitive atmosphere.

However, it's important to remember that university sport is a rare opportunity. Around 7% of all high school athletes have the chance to compete at this level. For D1, the chances are even slimmer, affecting only around 2% of these athletes.

It is therefore essential to understand the differences between these divisions and the rare opportunities they offer in terms of name recognition, image and reputation. Participating in university sport is a privilege, and exploiting its notoriety via Name, Image and Reputation is even rarer and more difficult. It's a crucial choice for young athletes, who must weigh the pros and cons of each division to find the best balance between their sporting dreams and their education.

### **1.2.1. Differences between D1, D2, D3**

According to official data from the NCAA, the university landscape is divided into three very distinct divisions. Indeed, Division 1 has no less than 363 establishments, while Division 2 has 313, and Division 3 is home to 442. To better understand the differences in terms of numbers and competitiveness between these divisions, it is essential to understand that some 187,000 student-athletes stand out in Division 1. More than 124,375 of these athletes play in Divisions 2 and 3, bringing together a total of slightly more than 186,000 athletes in their respective ranks. It should be noted, however, that this data relates specifically to the NCAA configuration for the year 2022.

Division 1, crowned with prestige, brings together the most prestigious academic institutions in the country, hosting the cream of sports programs. Schools in this division are required to sponsor a minimum of seven men's teams and seven women's teams, or a minimum of six men's teams and eight women's teams. In total, 350 institutions are located within D1, an impressive figure which encompasses around 6,000 teams. These cover a wide range of disciplines, from football to volleyball to golf.

Division 1 schools are characterized by huge budgets and top-notch athletic facilities. In addition, they provide full athletic scholarships, a major attraction for student-athletes. All well-known athletic conferences, such as the Southeastern Conference, Atlantic Coast Conference, Big 10 and Pac 12, are composed exclusively of Division 1 schools. This notoriety and popularity makes these schools the largest and the most popular, thus offering the largest number of athletic scholarships of the three divisions, making it a prime breeding ground for recruiting top-tier sporting talent.

In the complex landscape of college sports in the United States, the distinctions between the various divisions – Division 1 (D1), Division 2 (D2), and Division 3 (D3) – play a vital role. As the new Name, Image and Reputation (NIL) law continues to shape the future of college sports, it is crucial to understand how these divisions stand out.

To begin with, D2 schools are distinguished from D1 behemoths by their generally more modest size. With approximately 300 colleges spread across this division, D2 has the fewest schools among the three divisions. However, its importance should not be underestimated. D2 athletic programs always cover a wide variety of sports, and schools in this division prefer to challenge regional rivals rather than national competitors. One of the key aspects that differentiates D2 is the sports scholarship model. Unlike D1 athletes, who typically receive full athletic scholarships, most D2 student-athletes receive only partial scholarships. However, these scholarship recipients must strictly adhere to the NCAA eligibility criteria in order to receive these benefits.



In comparison, D3 turns out to be the largest division, housing no less than 440 schools. Approximately 195,000 student-athletes compete in various sports at D3 schools. However, it is important to note that unlike D1 and D2, sports scholarships are not accessible to D3 student-athletes. That said, most of these athletes are often eligible for college scholarships and need-based financial aid.

Another interesting dimension of divisions lies in the recruitment process. D1 coaches, who are often on the lookout for future elite athletic talent, begin their recruitment earlier, frequently evaluating high school students as early as their freshman or sophomore year. On the other hand, D2 coaches enter the recruiting race when athletes are juniors, although this may extend into senior year as many of these young athletes aspire to be D1 stars. Finally, D3 coaches tend to favor local talent and generally only start their recruiting program in their senior year. This shows how each division has its own schedule and priorities in recruiting student-athletes.

### **1.2.2. International Athletes in NCAA**

In the world of college sports in the United States, many international athletes are currently active, with more than 20,000 NCAA international students currently enrolled and competing within all three levels of NCAA divisions.

Although there are many sporting options available to aspiring athletes, it is important to note that some sports show a particular preference for recruiting international talent. These sports, including tennis, track and field, ice hockey, golf, field hockey, soccer, water polo, and basketball, consistently maintain the highest ratios of international athletes. This translates to college coaches' greater familiarity with recruiting international talent, as well as international students' chances of landing a coveted spot on teams.

Conversely, some sports have lower representation of international athletes, including football, baseball, softball and wrestling.

For international student-athletes aspiring to compete at NCAA or NAIA schools, following specific protocols is imperative. This involves registering with the NCAA or NAIA Eligibility Center and ensuring compliance with required academic and amateurism standards.

## **1.3. Monetization & Career issues due to NCAA Regulations**

### **1.3.1. The Thorny Question of Amateurism in the NCAA: Johnny Manziel and Reggie Bush**

The world of American college sports has been the scene of notable controversies involving two familiar names, Johnny Manziel and Reggie Bush, whose trajectories have highlighted the complexity of the question of amateurism within the NCAA. A careful examination of their history is necessary:

**Johnny Manziel:** Johnny Manziel's time as a standout quarterback at Texas A&M University was punctuated by allegations of compensation as a student-athlete. In 2013, accusations emerged suggesting that Manziel accepted financial compensation in exchange for his signing and autograph sessions. This situation led to an investigation by the NCAA, resulting in Manziel being suspended for half a game. However, it should be noted that the NCAA never

formally established that any payments were made. On the contrary, it concluded that violations of the rules of amateurism had taken place.

Reggie Bush: Another prominent figure, Reggie Bush, former University of Southern California (USC) running back, has also been at the center of significant controversy. In 2010, the NCAA initiated an investigation into benefits received by Reggie Bush and his family from unauthorized third parties during his time at USC. This investigation concluded that Bush had violated amateurism rules, leading to the revocation of his academic achievements, including his prestigious Heisman Trophy awarded in 2005. Additionally, Bush was ordered to return his Heisman Trophy. It should be noted that, similar to Manziel, Reggie Bush did not receive direct money, but received material benefits.

These cases highlighted the NCAA's rigid rules regarding amateurism, prohibiting any direct compensation to student-athletes for their athletic participation. However, they have also catalyzed a significant debate about the need for reforms in the area of compensating student-athletes for their contributions to college sports. Since then, the NCAA has taken significant steps in this direction, notably with the adoption of Name, Image and Reputation (NIL) legislation, allowing athletes to capitalize on their notoriety. The dialogue continues, but there is no denying that Manziel and Bush played a major role in changing the perception of amateurism in college sports.

*After NIL rules were changed in 2021, Bush released a statement asking for his trophy. Athletes were now able to sign with marketing agencies — so even if the NCAA allegations against him had been true, he would be eligible now.*

### **1.3.2. From high school to Major leagues**

Direct access to the major leagues from high school sparks ongoing discussions within the American sports landscape. The major leagues, namely the MLB, NBA, and NFL, have separate eligibility rules that determine whether a student-athlete can be drafted directly out of high school. MLB stands out for its openness to high school players, providing the opportunity for talents like Tim Lincecum to begin their professional careers straight out of high school. The NBA, meanwhile, has seen notable cases of players being drafted straight from high school, LeBron James being the most iconic example, although the "one-and-done" rule has reduced these occasions. The "one-and-done" rule was implemented in an attempt to push players to gain some additional experience or maturity before entering the professional NBA league. Before this rule, some talented high school players, such as Kobe Bryant and Kevin Garnett, chose to make the jump straight from high school to the NBA. However, this transition was not always without difficulties, as younger players faced challenges adapting to a considerably higher level of competition.

In contrast, the NFL has strict eligibility requirements, requiring players to wait three years after high school graduation to be eligible for the draft. These differences in eligibility policies fuel an ongoing debate about fairness and opportunities for young athletes.

With the "one-and-done" rule, players are generally required to play at least one year in college or overseas, or participate in another developmental league before declaring themselves eligible for the NBA draft. The introduction of the NIL (Name, Image, and Likeness) rule in university sports is likely to have an impact on athletes' choice between the NCAA and the possibility of going directly to the NBA, particularly in basketball. The NIL rule now allows college athletes to earn money from their name, image and notoriety,

meaning they can sign endorsement deals, participate in marketing activities and take advantage of various financial opportunities while remaining eligible to play in the NCAA.

For talented basketball players, this could make going to college more attractive because they can now leverage their status as college athletes to earn money, even if they aren't yet eligible for the NBA because of the "one-and-done" rule. This could influence their decision to stay in college for at least a year to further develop their skills and increase their exposure before declaring themselves eligible for the NBA draft.

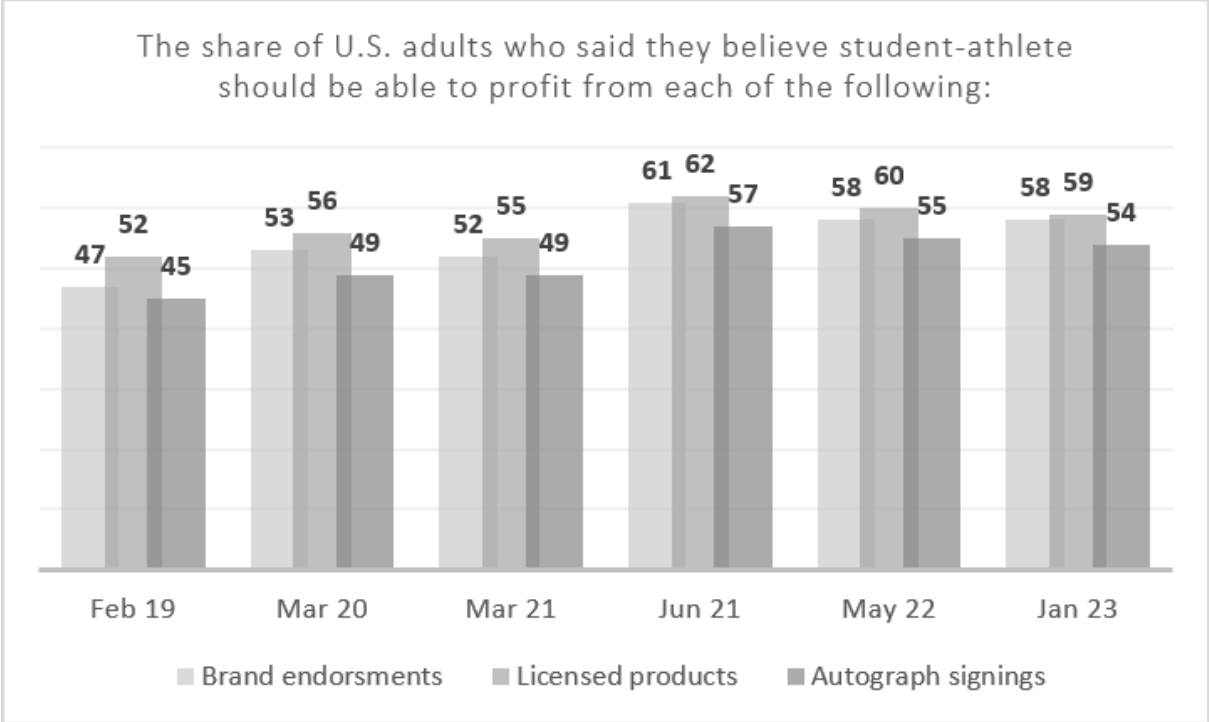
On the other hand, some extremely talented players could still opt for the NBA directly after high school if they feel they are ready for the professional level, as it would allow them to begin their careers and sign NBA contracts earlier.

**1.4. Introducing a new policy into the NCAA landscape**

**1.4.1. Why must the NCAA compensate student athletes for the use of their NIL?**

College athletes possess many of the qualities that make them ideal brand ambassadors. They are dedicated, driven, and committed to achieving their goals both academically and athletically. Their persona exudes a sense of purity, as they pursue their passion for the sport, even with the newfound ability to profit from their name, image, and likeness. This perception is widely acknowledged by those involved in the expanding NIL market, as they work to establish lucrative partnerships and usher in a new era of sports marketing, just over a year and a half after the NCAA granted athletes the ability to capitalize on their personal brands.

Should athletes be able to profit from their Name, Image & Likeness?



*(Data from: Morning consult, 2023. Survey conducted feb-29 and Jan-23 among a representative sample of 2000 peoples in the U.S.).*

## **2. Game Changing Legislation: How the new legislation will affect amateurism in NCAA**

### **2.1. A. Amateurism VS Professionalism Eligibility**

A professional athlete can be defined as an athlete who “receives any kind of payment, directly or indirectly, for athletics participation except as permitted by the governing legislation of the Association. » NCAA Bylaw 12.02.5

#### **2.1.1. An amateur athlete**

The status of “student athlete” is defined by the NCAA Bylaw 12, article 12.01.2, “The student-athlete is considered an integral part of the student body, thus maintaining a clear line of demarcation between college athletics and professional sports. »

#### **2.1.2. How the amateur status can be lost**

There is a clear line of demarcation defined by NCAA Bylaw 12 to regulate the status of a student-athlete. According to the NCAA, amateur status can be lost if certain activities are undertaken prior to enrolling in college.

If an individual receives payment, which is defined in NCAA Bylaw 12.02.3 as "funds, awards, or benefits not allowed by the Association for participation in athletics," they lose their amateur status and are no longer considered an amateur. This payment could be in any form, and it makes them a professional athlete as defined in NCAA Bylaw 12.02.5, which states that a professional athlete is someone who "receives any payment, directly or indirectly, for participating in athletics, unless permitted by the Association's governing legislation."

According to the NCAA Bylaw, here are the activities that can jeopardize an individual's amateur status and eligibility for intercollegiate participation in a particular sport:

- Use of athletics skill for pay
- Acceptance of a promise of pay
- Receipt of a salary, gratuity, or compensation
- Receipt of any division or split of surplus
- Contract to play professional athletics
- Receipt of funds from a professional team
- Competition on a professional team
- Agreement with or benefits from an agent
- Educational expenses
- Receipt of cash award for participation
- Expenses or awards not permitted by amateurism rules governing events
- Expenses above actual and necessary expenses from outside amateur sports team or organization
- Expenses from nonpermissible entities
- Payment based on place finish
- Prize for participation in institutional promotional activity
- Pay for competition involving use of overall athletics skill
- Preferential treatment, benefits, or services

The NCAA Bylaw 12 draws a clear line of demarcation to regulate the status of athletes in college sports. To be eligible for any intercollegiate program, a student cannot be a professional athlete according to the definition proposed by the NCAA Bylaw 12.02.

For an individual to be considered an amateur and eligible for intercollegiate athletics, they must be a student and receive approval from "the Executive Committee to determine the validity of the information on which the amateur status of a student athlete is based," as outlined in the NCAA Bylaw 12.1.1.1, Amateurism Certification Process.

However, before an athlete can be deemed eligible by the NCAA Eligibility Center, one must be aware that "An individual loses amateur status and thus shall not be eligible for intercollegiate participation in a particular sport if the individual enters into an agreement with or receives benefits from an agent," according to Bylaws 12.02.1 and 12.3. This covers the case of a student-athlete who is not yet eligible or has yet to receive eligibility.

"If a recruited or non recruited student-athlete reports for athletics participation before the student-athlete's amateur status has been certified, the student-athlete may practice but not compete for a maximum of 45 days," as stated in NCAA Bylaw 12.1.1.1.3.1.

#### 2.1.2.1. US Olympic Athlete exception:

College-eligible U.S. Olympians are expected to benefit from the new Name, Image and Likeness (NIL) rules recently implemented by the NCAA. However, it is worth noting that U.S. athletes have been able to profit off their performance in the Olympics since 2001. This is due to the NCAA adopting a provision that allows U.S. Olympians to keep the medal-prize money awarded through the U.S. Olympic and Paralympic Committee without consequence. In 2015, the NCAA adopted a similar rule for international athletes. As a result, more than 40 U.S. Olympians who have remaining college eligibility could earn a windfall under the NCAA's new NIL policy. The amount U.S. Olympians earn for each medal is \$37,500 for gold, \$22,500 for silver, and \$15,000 for bronze, according to the USOPC website. While the NCAA primarily focuses on amateurism, Olympic-caliber athletes have a different set of rules. Athletes can be paid for their success at the Olympics, as seen in the Swimmers' exception and Snyder case.

#### 2.1.2.2. Swimmer's exception & Snyder Case

Over the years, the NCAA's Division I membership has been making an effort to clarify and simplify its rules surrounding what types of benefits college athletes can receive. In 2013, the NCAA added language to better define "actual and necessary expenses," with nine specific areas outlined along with an "other reasonable expenses" category.

This new approach has given athletes more flexibility when it comes to training stipends provided by national governing bodies like the USOC, or foreign equivalents. This is happening at a time when college-provided benefits have expanded, with NCAA schools voting to allow for unlimited food service and scholarships that cover the full cost of attendance.

For example, college swimmers who meet certain criteria established by USA Swimming can receive up to \$1,000 per month for training expenses from September through May. This amount can increase to as much as \$1,750 per month during June, July, and August.

At the Rio Olympics in 2016, over a thousand student-athletes, including current and incoming ones, competed and won medals for Team USA. One of the most successful was Katie Ledecky, who won four gold medals and one silver medal, earning a total of \$110,000 from the United States Olympic Committee's medal awards program, which pays \$25,000 for gold, \$15,000 for silver, and \$10,000 for bronze. Despite committing to swim for Stanford University, Ledecky did not violate the NCAA's strict amateurism rules, as the organization makes an exception for Olympic student-athletes. While the NCAA generally restricts prize money to actual and necessary expenses, among other requirements, its exemption for the Olympics allowed Ledecky and others to keep their winnings.

Article 12.1.2.1.4.1.2 Operation Gold Grant:

*“An individual (prospective student-athlete or student-athlete) may accept funds that are administered by the U.S. Olympic Committee pursuant to its Operation Gold program. (Adopted: 4/26/01 effective 8/1/01)[5].”*

In the context of the NCAA's strict guidelines on amateurism, Olympic student-athletes such as Ledecky and Schooling are allowed to retain their amateur status and keep their prize money. While Ledecky received \$110,000 for her outstanding performance in Rio, Schooling, the first Singaporean to win an Olympic gold, was awarded over \$700,000. Thanks to a rule change in 2015, international athletes can now receive Olympic medal prize money from their national Olympic committee without compromising their eligibility to compete for NCAA schools.

The Operation Gold Grant exemption currently has no limit on the amount of award money an athlete can receive from medaling at the Olympics, and it is up to the NCAA to decide whether this arrangement is fair to other student-athletes. However, following Schooling's significant earnings and a series of lawsuits over athlete compensation, it is likely that the NCAA will re-evaluate this rule before the next Olympic games to ensure equity among all student-athletes.

During his sophomore year at Ohio State, Kyle Snyder won an NCAA wrestling championship for the Buckeyes and was awarded an athletic scholarship. However, he also received payments from another source for his wrestling performances. USA Wrestling granted Snyder \$50,000 for winning a world championship in September, and \$1,000 monthly to cover training expenses without violating NCAA regulations. Allowed by the NCAA Bylaw 12.1.3, actual and necessary expenses permits training, coaching, equipment, and other expenses necessary for training and competition, without putting the athlete's eligibility for intercollegiate athletics at risk, if approved and directly provided by the USOC or the national governing body of the sport. These expenses do not include prize money, which is not permitted under the bylaw.

### **2.1.3. International athlete exception**

College-bound student-athletes enrolling for the first time at a Division I or II school must receive a final amateurism certification before being eligible to compete. This includes transfers from junior colleges, NAIA, international or Division III schools.

The United States has long been a breeding ground for sporting excellence, attracting talent from around the world in disciplines ranging from soccer to basketball to tennis. A path increasingly taken by foreign athletes to realize their sporting dreams while pursuing a quality education is that of becoming an NCAA student-athlete.

One of the first steps for a foreign athlete wanting to join the NCAA is understanding the organization's eligibility and amateurism rules. The NCAA requires that student-athletes maintain amateur status, meaning that they have not received significant remuneration related to their sport. This includes professional contracts, bonuses, sponsorships and other forms of compensation.

The NCAA's individual evaluation helps determine whether an athlete meets these amateurism criteria. This assessment takes into account various factors, including past sporting experience, earnings, and other relevant elements. Athletes must submit documents and proof to establish their amateur status.

Registering with the NCAA Eligibility Center is a crucial step. This eligibility center manages student-athlete records and ensures that they meet all academic and amateur requirements to participate in NCAA competition.

It is often very difficult for a foreigner to comply with the amateurism rules imposed by the NCAA. Indeed, in Europe and in many other places, university sport does not exist or hardly exists and takes up a very minimal place in an athlete's career. Often, it is within clubs (independent of universities) that athletes make their careers. You must therefore quickly become professional in order to raise funds and meet your needs (training, food, equipment and daily needs). It is often very difficult for a young athlete to combine a professional sports career and a job. So remuneration or financial or in-kind benefits are very quickly received. These advantages are provided by clubs or national training organizations which structure the careers of young people. Thus, they are no longer eligible for the NCAA amateurism criteria.

On the other hand, it is still possible to enter the NCAA despite starting a professional career in Europe or elsewhere. Although the NCAA's strict rules require that student-athletes be amateurs, meaning they have not received significant compensation related to their talent or passion (this includes professional contracts, sponsorships, bonuses, and other forms of compensation), it is still possible for all student-athletes, including former professionals, to register with the NCAA Eligibility Center. The transition may result in a waiver of certain years of athletic eligibility. This is a very common process in sports like swimming, tennis and track & field.

Ultimately, the transition from a professional to an academic career is a unique opportunity that requires preparation, understanding of the rules, and commitment to academic and personal goals. This allows one to pursue an education while continuing to excel in an area of passion or talent.

#### 2.1.3.1. Olympics athletes exception

Under NCAA rules, participation in international competitions like the Olympics generally does not constitute a violation of the NCAA amateurism rules. Student-athletes who represent their country in the Olympic Games should not be automatically disqualified from college competitions or lose their eligibility due to their participation in the Olympic Games.

*“an international prospective student-athlete or international student-athlete may accept funds from a country’s national Olympic and/or Paralympic governing body (equivalent to the U.S. Olympic and Paralympic Committee)[...]”.*

*“[...]receive actual and necessary expenses [including grants, but not prize money, whereby the recipient has qualified for the grant based on performance in a specific event(s)] to cover developmental training, coaching, facility usage, equipment, apparel, supplies, comprehensive health insurance, travel, housing and food without jeopardizing the individual's eligibility for intercollegiate athletics...”*

However, there are specific rules to follow to ensure that compensation related to participation in the Olympic Games does not violate NCAA rules. Student-athletes must be transparent about any compensation received and ensure that it does not exceed the limits established by the NCAA to maintain their amateur status.

## **2.2. State-by-state Name, Image & Likeness is introducing confusion**

### **2.2.1. How are colleges & athletes violating the rules?**

On July 8, 2022, 29 states had enacted laws regulating or addressing how student-athletes may profit from their name, image, and likeness. The laws in these states have similar characteristics, including restrictions on student-athletes. One common restriction is the duration of contracts, which is limited by many laws to the end of the athlete's participation in college athletics at a particular institution.

Student-athletes are not allowed to enter into contracts that are based on their athletic performance or achievements, which is commonly referred to as pay-for-play. This restriction is included in many state NIL laws and is also part of the NCAA's interim policy. In essence, it prohibits NIL activity from being tied to on-field performance.

In addition, some NIL laws provide academic institutions with the power to set their own limitations on the agreements made by their student-athletes. This can include limiting the use of team logos by athletes for their own NIL activities. Additionally, certain laws prohibit student-athletes from entering into deals with specific industries, such as those related to adult entertainment, alcohol, tobacco, and firearms. It is worth noting, however, that many educational institutions have their own policies in place that restrict any association with these industries.

The legislation on NIL is a recent development and has received criticism and concerns. Since there are various laws in different states, some are less restrictive and may favor student-athletes more than others. This raises a concern that a student-athlete may decide to attend a school in a particular state because of its less restrictive NIL laws.

The state of Alabama provides a clear example of the impact of NIL legislation on the college athletics landscape. Alabama passed an NIL law before the NCAA's interim policy was introduced, with the intent to make its state law less restrictive than anticipated NCAA rules. However, the NCAA's rules proved to be more flexible than Alabama's law, prompting the state to repeal its own legislation and align with the NCAA's interim policy. Similar actions have been taken by lawmakers in Louisiana, Mississippi, Missouri, Tennessee, and South Carolina, who have amended or suspended their initial NIL laws. These amendments often remove prohibitions on institutional involvement, allowing college coaches and officials to work with third parties to facilitate deals for their college athletes, and making them part of the NIL process. It is important to note that legislation stricter than the NCAA's interim policy



could potentially disadvantage these states in the recruiting process, according to Representative Kyle South, who sponsored the bill to repeal Alabama's law.

### 2.2.2. NIL Legislation examples

In order to gain a deeper understanding of the variations of the NIL concept across different states, I will examine the legislation passed in Texas, a state renowned for its strong presence in college football and as a breeding ground for many aspiring college and professional athletes. As we progress through the article, I will reference various excerpts from the text and provide a commentary.

“SECTION (1) (3) The United States Congress has failed to act to provide uniform guidance to the states on the matter of intercollegiate athletes receiving compensation in exchange for the use of the athlete’s name, image or likeness.”

Texas state legislators are taking note of the inability of the U.S. Congress to come up with a uniform law for the entire country. As a result, NIL laws have sprung up in more than 15 states in recent months, a trend that is far from over. This failure at the federal level is likely to have devastating consequences: there is nothing to say that there will not be divergences between the texts of the different states. We are therefore entering a situation where the state that regulates the most has lost out because it will give less leeway to its athletic programs than the states that regulate the least. For example, if Oklahoma decides to cap student-athlete compensation at \$10,000 per year and neighboring Texas does not implement a cap, a prospect who is wavering between Norman and Austin colleges will be more likely to choose the Longhorns, to guarantee the most revenue. States, especially those with a competitive soccer deficit (Mississippi in the SEC?) will therefore be tempted to deregulate.

*“(c) (1) (A) An institution to which this section applies may not adopt or enforce a policy, requirement, standard, or limitation that prohibits or otherwise prevents a student athlete participating in an intercollegiate athletic program at the institution from earning compensation for the use of the student athlete’s name, image, or likeness when the student athlete is not engaged in official team activities.”*

*“(e) (1) A student athlete participating in an intercollegiate athletic program at an institution to which this section applies may not be disqualified from eligibility for a scholarship, grant, or similar financial assistance awarded by the institution because the student athlete earns compensation from the use of the student athlete’s name, image, or likeness when the student is not engaged in official team activities.”*

According to these two paragraphs, we understand that not only are student athletes' salaries now legal, but that institutions cannot punish them if they sign contracts, notably by taking away their scholarship.

On the other hand, one can wonder about the future of scholarships. These are limited: a team cannot offer scholarships to all its players. Is there a risk of finding ourselves in a two-speed recruiting dynamic? On the one hand, the big prospects join the team as walk-ons (non-scholarship students), because the hype surrounding them will allow them to earn salaries that will far exceed the amount of the scholarships. On the other hand, lesser players could be given scholarships without the program exceeding its quotas. Thus, current walk-ons and third-string players who usually leave big programs to get more playing time and

scholarships elsewhere might be tempted to stay in big programs. Therefore, this measure may indirectly allow the top programs to further densify their rosters.

*“(g) (2) (B) (iv) A student athlete participating in an intercollegiate athletic program at an institution to which this section applies may not enter into contract for the use of the student athlete’s name, image, or likeness if the compensation for the use of the student athlete’s name, image, or likeness is provided in exchange for an endorsement of alcohol, tobacco, products, e-cigarettes or any other type of nicotine delivery device, anabolic steroids, sports betting, casino gambling, a firearm the student athlete cannot legally purchase, or a sexually oriented business”*

The statement above details the different businesses that a player cannot deal with. For example, they cannot sign sponsorship contracts with sports betting companies.

*“(g) (2) (C) A student athlete participating in an intercollegiate athletic program at an institution to which this section applies may not enter into contract for the use of the student athlete’s name, image, or likeness if the duration of the contract extends beyond the student athlete’s participation in the intercollegiate athletic program.”*

Contracts signed by athletes must not extend beyond the time they play for their university. If Tate Martell signed a contract during his season at UNLV but decided to transfer for the umpteenth time at the end of it, his contract would theoretically end. On the other hand, Nike cannot sign the next Trevor Lawrence during his freshman season to a 10-year deal that would span his entire college years and then the beginning of his pro career.

*“(g) (4) A student athlete participating in an intercollegiate athletic program at an institution to which this section applies may earn compensation from selling the student athlete’s autograph in a manner that does not otherwise conflict with a provision of this section.”*

\*Johnny Football like this\* Players are finally allowed to sell autographs to fans. No more Johnny Manziel under investigation because he would have received a few thousand euros for a scribble on a sheet of paper.

*“(j) (1) No individual, corporate entity, or other organization may enter any arrangement with a prospective student athlete relating to the prospective student athlete’s name, image, or likeness prior to their enrollment in an institution of higher education.”*

The scope of the NIL Act is therefore limited to college athletes. High school students theoretically cannot sign contracts related to their image. This last paragraph was probably also thought of as a safeguard against boosters who might reach into their pockets to recruit prospects. Phil Knight, Nike boss and Oregon booster, is not allowed to sign a partnership with a high school student to have him play with the Ducks.

This groundbreaking legislation sets the stage for a new era in college sports. With these payments, student-athletes will be able to "secure the bag" sooner with several consequences. They will no longer need to turn pro at any cost and sacrifice their long-term health and education to keep their families safe.

This law also rebalances the balance of power between institutions and athletes and its impact will be felt far beyond soccer. The NIL Act has been a hot topic in the run-up to the Olympics.

In the United States, many athletes such as swimmers (Caeleb Dressel - Florida) or gymnasts (Sunni Lee - UCLA) only can shine once every four years with very short international careers. This act therefore offers great prospects for student-athletes but is not without risk and limitations either.

### **3. How Name, Image & Likeness is transforming the Collegiate Athletics landscape**

#### **3.1. Introducing new stakeholders in college landscape**

##### **3.1.1. Boosters**

In college sports, the term "booster" is used to refer to a specific type of athletics supporter. The NCAA has established many regulations about what boosters are and are not allowed to do. However, the term is often used more broadly to describe a range of individuals who may not meet the NCAA's definition of a booster. According to the NCAA, a booster is a "representative of athletic interest" and can include those who have donated to obtain season tickets, participated in promoting a school's athletics programs, contributed to student-athlete recruitment, or provided assistance to a prospect or student-athlete. Once an individual has taken any of these actions, they are permanently designated as a booster and must adhere to strict guidelines regarding financial contributions to and contact with prospects and student-athletes.

The NCAA has defined "collective and college booster" as a group of alumni boosters who come together to collect funds. To comply with NCAA eligibility regulations, these funds cannot be used as an inducement to recruit a player or tied to their performance on the field. The athlete must provide something in exchange for the payment that justifies it.

##### **3.1.2. Collectives & directives**

Across the US, fans and alumni of different universities have established "NIL Collectives" to help college athletes secure Name, Image, and Likeness opportunities. These entities, which are formed to benefit specific schools, generate funds and NIL activities for players by collecting money from donors and businesses. These activities include players participating in brand promotion, VIP events, autographed photos, personalized video messages, and radio appearances. Currently, there are over +50 NIL Collectives nationwide, and more are being announced almost every week. However, critics of NIL deals are concerned that these deals secured through Collectives might fall under the category of the prohibited pay-for-play model.

Recently, a new movement has emerged towards "NIL Directives," which are similar to Collectives in that they are donor-driven and school-specific. However, the difference lies in the fact that "they are one-to-one financial transactions, typically between a wealthy booster or businessman and a specific college athlete from the school they support." This method of facilitating NIL deals for players has also come under strict review by critics of NIL deals.

Trying to regulate the activities of school-specific NIL Collectives and Directives, the NCAA revised its guidelines in May 2022, with a focus on booster participation. According to the guidelines, many of these third-party entities have a mission to promote and support a particular NCAA institution by providing NIL opportunities to prospective student-athletes

and current student-athletes of that institution, which makes them fall under the definition of boosters. The guidelines provide instructions on how to handle sponsor-supported agreements for both prospective and current student-athletes. It should be noted that for prospective players, all recruiting conversations with individuals or entities that are classified as boosters are strictly forbidden. The guidelines for current players are less strict and state that agreements between boosters and players cannot be guaranteed or promised based on their initial or continued enrollment in a particular school. While the effective enforcement of these guidelines remains unclear, the potential consequences of non-compliance could be enough to motivate student-athletes to follow them.

Despite their visibility, enormous disparities exist between the collectives. From their goals to their fundraising capacity, from their operating models to their interpretation of governance policies, they all navigate the landscape in their own unique, sometimes innovative, ways.

*501(c)(3): About 30% of all collectives have obtained 501(c)(3) non-profit status, although the IRS recently issued a memo threatening to exclude this tax exemption for donations to non-profit groups, considering that the benefits offered to student-athletes are not sufficiently linked to a non-profit purpose.*

*AGENCY - SINGLE SCHOOL: The most common collective model involves supporting a single school or sports program. Groups like the Volunteer Club and Division Street operate as agencies, raising NIL funds from donors and facilitating partnerships between athletes and brands.*

*AGENCY - MULTIPLE SCHOOLS: Groups such as Oncoor Marketing act as managers for collectives in several schools across the country. These agencies represent athletes from different institutions, negotiate partnerships with brands, and coordinate the distribution of donor-funded deals to specific groups of athletes.*

*CONSULTANT – MULTIPLE SCHOOLS: Many collectives, although locally managed, use consultants with expertise in NIL compliance, policy and law to help them identify and activate compliant opportunities for athletes. These consultants provide support for many collective operations.*

*INTERNAL FUNDRAISING ARMS: Inspired by the 501(c)(3) model, some collectives seek to guarantee their sustainability and allow schools to control donor funds. Although this model is in place at only a few institutions, half of the SEC states have passed legislation aimed at circumventing the NCAA's opposition to this approach. However, doubts about its viability emerge following recent memos from the IRS and the NCAA*

Following the Alston decision just over two years ago, academic institutions, players, corporations, and individuals involved in college sports have been navigating new territory in the evolving world of NIL. While the potential for profit in the NIL space is significant, those operating in this space must be careful to adhere to academic rules, NCAA guidelines, and state laws while remaining vigilant as the landscape of college sports continues to transform.

### **3.2. How Companies and Private Individuals Are Entering the Mix**

This new marketing space has become a booming industry, with experts estimating its value at \$100 million, and some athletes earning up to \$1 million in 2021 alone. As the NCAA raised in July 2021 with its rules prohibiting student-athletes from financially compensating for

endorsement and sponsorship deals, businesses and individuals have entered the fray. One-way companies joined the NIL market through consulting firms, while others created NIL collectives and guidelines. Several of the most lucrative NIL deals include a football rookie reportedly signing an \$8 million contract, another football rookie earning \$1.4 million for autograph signings, and a football player receiving \$800,000 for brand promotion content. It's worth noting that NIL opportunities aren't limited to football, with one gymnast signing an endorsement deal with a brand for over \$1 million.

The revolution brought about by the NCAA's Name, Image, and Likeness (NIL) legislation has profoundly changed the role of sports agents in the representation of college athletes. Since college athletes in the United States obtained the legal green light in 2021 to monetize their name, image and notoriety, the crucial question arises of the necessary adaptation in the function of the agencies that represent these athletes. Traditional agents, like those portrayed in the famous film "Jerry Maguire," have traditionally worked to find spots for athletes on college or professional teams. However, the agent of today and the future must master skills that were not necessary for traditional agents, including building a social media presence and monetizing influencer status.

To envision the role of the sports agent of the future, it is instructive to examine emerging agencies that support college athletes as they seek and negotiate endorsement deals, partnerships, public appearances and brand deals. The example of PowerHaus Agency is enlightening. Founded in 2022 by former UCLA football player and Pepperdine Graziadio Business School graduate Trae Smith, this agency has already represented more than 40 athletes in just one year of operation. Most of them are college football players, but the agency has also signed a few high school athletes and a tennis player. During NFL Draft weekend on April 29, PowerHaus entered the NFL by signing Oklahoma State football player Lamont Bishop with the Seattle Seahawks and Jay Shaw from the University of Wisconsin , with the New York Giants.

We can now identify four emerging services and agency characteristics critical to successful athlete representation in the NIL era. These services include an increased social media presence, customization of services based on each athlete's needs, financial education for managing NIL contracts, and representation decisions based on evidence and data. The sports agent of the future is not limited to athletic growth, but also focuses on personal branding and NIL potential, which is expressed through social media. These agents play a more holistic role in helping to develop the athlete as a person and public figure.

The sports representation, media and entertainment landscape continues to evolve, with major agencies already offering professional and NIL representation services. The future seems to indicate that most agencies will eventually offer these two services as a one-stop shop for athletes. The sports agent of the future will need to be more social media savvy and more engaged in the personal growth of athletes than ever before.

### **3.2.1. Endorsement agency & platforms**

Marketing connection applications like Opendorse appeared very suddenly on the scene of the sports marketing market and took advantage of the NIL and a target very inclined to use digital tools to establish themselves . The "mass market" and the great volatility of stakeholders in this sector have enabled the appearance of this type of tool which has replaced the traditional methods of "agents". This type of sports digital platform specializes in helping athletes and sports organizations with their social media marketing and sponsorship

opportunities. Opendorse offers a platform that connects athletes with marketing and sponsorship opportunities, making it easier for them to monetize their social media presence.

This type of platform allows athletes to streamline the process of sharing branded content on their social media profiles, ensuring compliance with NCAA and professional sports regulations. It also provides tools to track and measure the impact of their social media posts. Opendorse has been instrumental in helping athletes take advantage of the changing landscape of name, image and likeness (NIL) opportunities, particularly in college sports. The company has partnerships with various professional sports leagues, teams and organizations to help athletes maximize their online presence and sponsorship revenue. With evolving rules and regulations surrounding athlete support and social media, Opendorse has played an important role in providing athletes and sports organizations with the tools they need to effectively navigate this space. But then how did this type of platform revolutionize the sports marketing market by relying on the NIL and a very volatile target that are student-athletes? In fact, most will only be student-athletes for 2 or 3 years. Some only have one year of eligibility left, etc. The large number of targets for brands wanting to benefit from the NIL can be a barrier to sponsorship. In addition, it is sometimes difficult for a brand to offer the services of an athlete without being able to study their profile, their engagement rate or even without really knowing them. This type of platform has somehow solved this problem and will allow all types of student-athletes to benefit from the advantages linked to the NIL. Whether on a local or national scale, with a very limited profile in terms of visibility or a public figure, brands can connect with student-athletes very easily. These student-athletes also benefit from a turnkey solution to fulfill the contracts offered to them.

These tools have transformed the way athletes, sports teams and brands interact, creating new monetization and promotion opportunities. First of all, it makes it easier to connect. Previously, connecting athletes and brands could be complicated. Negotiations for sponsorship contracts and partnerships took time. Opendorse and similar platforms have simplified this process by allowing athletes to find partnership opportunities directly on the platform. This means brands can more easily find athletes who best fit their target audience. The monetization of social media, which is a recent but omnipresent practice today, plays a preponderant role. Social media has become a powerful tool for athletes to interact with their fans. This type of platform has allowed athletes to monetize their presence on social networks. Brands now pay athletes to promote their products or services on social media. This is a valuable source of revenue, particularly in the context of evolving rules on the use of athletes' names, images and likenesses.

One of the obstacles encountered by student-athletes and brands is compliance with sports regulations and respect for “amateur” status. No student-athlete wants to have their education removed or be banned from competing for a marketing action or a paid service that goes against the regulations, which are still very vague and opaque. It is therefore essential for university athletes to respect strict sports regulations regarding monetization opportunities. Platforms like Opendorse integrate features to ensure compliance with these rules, helping athletes avoid potential violations of NCAA and other regulations. This allows college athletes to take full advantage of their marketing opportunities while remaining compliant. For brands that wish to benefit from the visibility of student-athletes and offer their services, it is important to be able to analyze their performance on the networks upstream with indicators such as the engagement rate, the number of subscribers or the localisation. Not all companies necessarily have the tools or manpower to analyze this. Digital networking platforms also offer analytics tools to measure the impact of social media marketing

campaigns. Athletes, teams and brands can track the performance of their posts, including fan engagement, view counts and more. This helps optimize campaigns and demonstrate the value of partnerships.

Finally, one of the great advantages of this is the great diversity of prospects and student-athletes present on these apps. Not everyone could have an agent to enter sports marketing? Today it has become very accessible and everyone wants to capitalize on their years of eligibility for student-athlete status. By simplifying the sports marketing process, Opendorse for example has opened up new opportunities for athletes, teams and brands. This has energized the industry by creating new avenues for athletes to capitalize on their fame. Brands can now leverage the power of athlete awareness to reach a wider audience. Overall, these innovations have created an environment where athletes, teams and brands can thrive by leveraging the passion and excitement for sport. The sports marketing revolution is only just beginning, and Opendorse is leading this transformation.

### **3.2.2. NIL consulting firms & specialized NIL agents**

Following the Supreme Court's Alston decision, the NIL consulting industry has grown rapidly and is expected to continue to expand as more companies seek to recruit college athletes for NIL agreements. These consulting firms offer a range of services including brand assessments, live consultations, streamlined compliance disclosure processes, and social media optimization strategies. Many of these companies work closely with educational institutions and act as a central resource for student-athletes. Consultants primarily earn revenue by matching athletes with suitable deals and receiving a percentage of the total deal value. This trend is likely to continue as the market for NIL transactions becomes increasingly competitive.

In the increasingly competitive world of college sports marketing, agencies like Learfield are cementing their position as a key player by entering into multimedia rights deals with universities. A notable example is the recent 15-year extension and expansion of the agreement between Alabama and Learfield, which now includes provisions relating to name, image and likeness (NIL), new content and improved access to data and analytics. Although financial details of the deal have not been disclosed, it is considered one of the most valuable in the country, with similar deals for Ohio State and Texas, which are also both Learfield customers. Alabama's previous deal with Learfield, signed in 2014, lasted 10 years and guaranteed the Crimson Tide more than \$160 million.

Marketing agencies specializing in NIL have developed all kinds of groundbreaking initiatives that allow brands to collaborate with universities and student-athletes to exploit opportunities related to their name, image and awareness (NIL). This NIL offering paves the way for local and national brands for the first time ever, allowing them to create deeper connections with fans by combining university intellectual property (IP) with brand commitment – to student-athletes. The advantage of working with an agency and purchasing group licenses and access to brands such as logos, the players themselves and their image.

Now, for the first time ever, brand partners can leverage the combination of student-athlete engagement and NIL with school branding/intellectual property, significantly enhancing their appeal to fans and audiences. consumers. It is important to note that agencies do not represent student-athletes per se, but rather leverage the company's national presence to provide the largest business framework to assist university partners. and their student-athletes to increase their visibility and income, in compliance with university laws and policies.

For jersey sales, for example, an agency charges 30% for its role in facilitating transactions. Each school negotiates its own royalty, while the athletes' royalty is 4% of sales. All royalty rates are the same for college athletes, similar to their professional counterparts.

According to Learfield, the number of licensed operators producing NIL products has more than doubled, while retail sales of NIL-branded products have increased by more than \$10 million in 2022. Jersey sales and licensed deals past include trading cards and personalized merchandise.

“Since the beginning of NIL, our mission has been simple: listen, learn and help schools, brand partners and student-athletes maximize opportunities,” noted Cole Gahagan, President and CEO of LEARFIELD. “By establishing a consistent national framework, we ensure that the valuable intellectual property of our educational partners remains under the highest level of commercial protection. At the same time, we are significantly expanding opportunities for student-athletes, universities and corporate brands. LEARFIELD Allied truly represents a beneficial solution for all parties involved at NIL.

Thus, LEARFIELD, like a large number of other agencies, offers so-called “turnkey” solutions to universities and sports students. They act as matchmakers, providing consultants, accountants, and state law specialists as well as tax professionals.

Several entities like Learfield then took the initiative to establish themselves directly in universities aimed at supporting student-athletes in their name, image and likeness (NIL) efforts. They then establish hubs and offer educational resources, content creation facilities and branding opportunities, providing a physical space to support student-athletes and showcase successful NIL brand partnerships. These dedicated NIL hubs aim to empower student-athletes through sports programs by offering educational modules, individual strategy sessions, and individual profile development. These hubs should set the standard in helping student-athletes maximize their NIL opportunities.

#### **4. How brands & collectives are paving their way for athlete to benefits from their Name, Image & Likeness**

##### **4.1. Who is spending money on NIL Deals**

When the NIL laws were initially changed, many predictions indicated that the industry would quickly stabilize. However, at present, the market shows no signs of slowing down. This observation suggests that changes to name, image and likeness (NIL) regulations in college athletics continue to have a significant and lasting impact on the industry, contrary to initial expectations of rapid stabilization.

The emergence of name, image and likeness (NIL) rights has paved the way for imaginative deals between athletes and brands. The first year of the NIL era saw the advent of hyperlocal partnerships and cause-based opportunities, indicating that marketers are thinking innovatively about capitalizing on student-athletes to achieve their business goals.

A significant change occurred on July 1, marking a turning point for student-athletes, brands and fans. That date saw a flurry of deals signed across the country, such as the Cavinder Twins signing with Boost Mobile and Nebraska volleyball star Lexi Sun launching her own



products. In the weeks since, several creative deals have hit the market, with Gopuff offering its first deal to student-athletes of all levels and MaximBet becoming the first sports betting company to get active by extending a deal to all students -Colorado State athletes. .

In addition to offering deals for social media posts, some student-athletes have exploited their NIL rights to monetize their hobbies and interests. For example, Danielle Hart and Sydney McKinney began selling their works, while Noah Berghammer, Ben Wiegman, and Margzetta Frazier began promoting and profiting from their musical activities. Others, like Armando Bacot, have used their acting skills to make appearances on popular streaming services such as Netflix. Additionally, brands like Degree and Clearcover have used the NIL space to showcase inspiring stories and humanize student-athletes. Additionally, Atlantic Records has collaborated with student-athletes like Jimmy Sotos, Rayquan Smith and Jon Seaton to promote new music from artists such as NBA YoungBoy. Notably, professional sports teams and leagues have seized the opportunity to leverage student-athlete voices to increase entertainment value.

The Florida Panthers and Atlanta Braves have worked with college athletes to name them ambassadors, while leagues like the NHRA have partnered with local Indiana student-athletes to promote events in the region. Duke men's basketball player Paolo Banchero has ventured into the world of video gaming by making appearances in NBA2K games. Even before July 1, student-athletes were able to instantly gain popularity by making meaningful actions on the field. Now, with NIL, they can monetize their fame. For example, merchandise company BreakingT helped student-athletes like Bo Nix and Cassidy Cerny turn their standout moments into t-shirts that fans could wear within hours. Velveeta approached Cade York after delivering several notable performances, while Doug Edert earned a deal with Buffalo Wild Wings and fan screams via Cameo after his standout March Madness performance. For some student-athletes, it's all about the team. They have negotiated deals that benefit those who support them on and off the field. Kenny Pickett teamed up with the Oaklander Hotel to treat his linemen to a pre-game day dinner, while Graham Mertz had a similar opportunity with Mission BBQ. Paige Bueckers signed a deal with StockX and went the extra mile by gifting shoes to all of her teammates this holiday season.

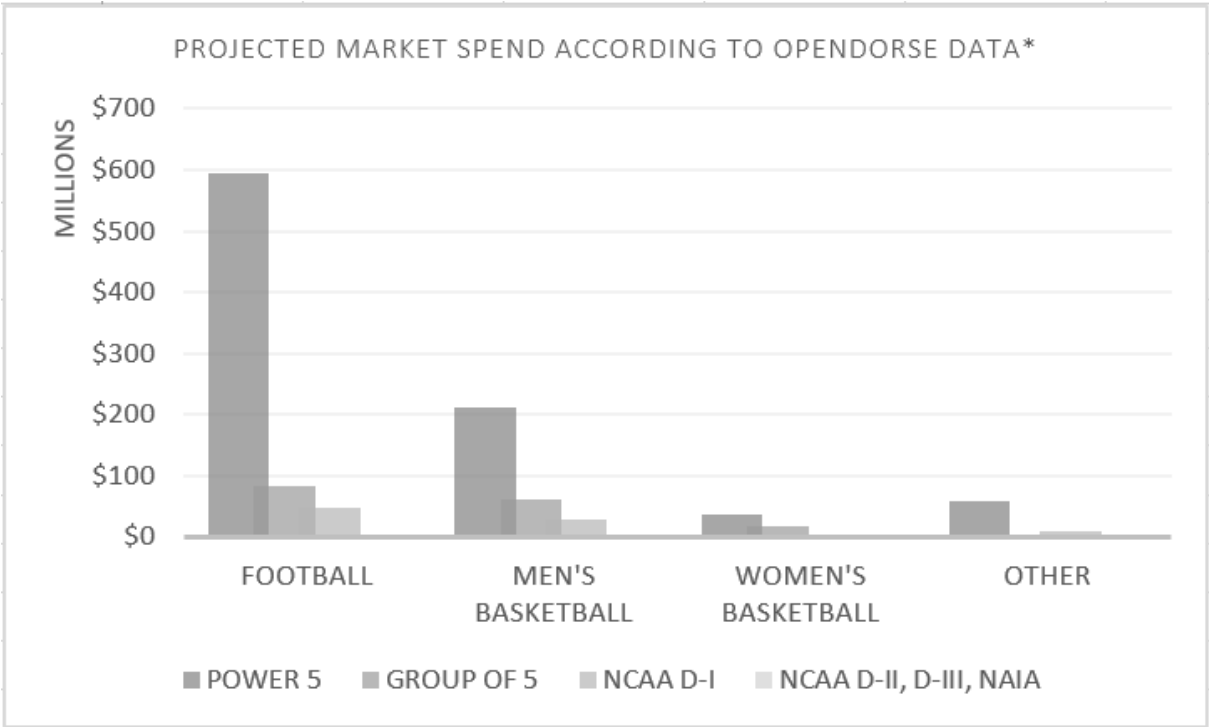
Some student-athletes have truly embodied the “name” through their name, image and likeness. Donovan “Puff” Johnson cleverly teamed up with Gopuff to post on social media just hours before the national championship game. Ga'Quincy "KoolAid" McKinstry and Kool-Aid went all out with a social media rebrand and series of posts. Jahvon Quinerly, known as “Jelly,” collaborated with SLAM to create a custom jelly jar for fans to purchase.

<b>NIL COMPENSATION PER ACTIVITY</b>		
<b>CATEGORY</b>	<b>% COMPENSATION</b>	<b>AVERAGE COMPENSATION</b>
Licensing Rights	36	\$9,877/agreement
Posting Contents	34	\$156/social post
Other activities	9	Various
Autographs	7	\$2,121/autograph session
Creating Content	6	\$1,475/video or photo
Appearances	5	\$1,513/hour
Interviews	1	\$1,387/hour

*(Data from: Opendorse, 2021 NIL Report)*

To illustrate, according to Opendorse's report, the second year's data was marked by projected market spending exceeding \$1 billion. The third year predicts even higher numbers. With the expected stability, notable growth is still expected for the Power 5 and Group of 5 collectives.

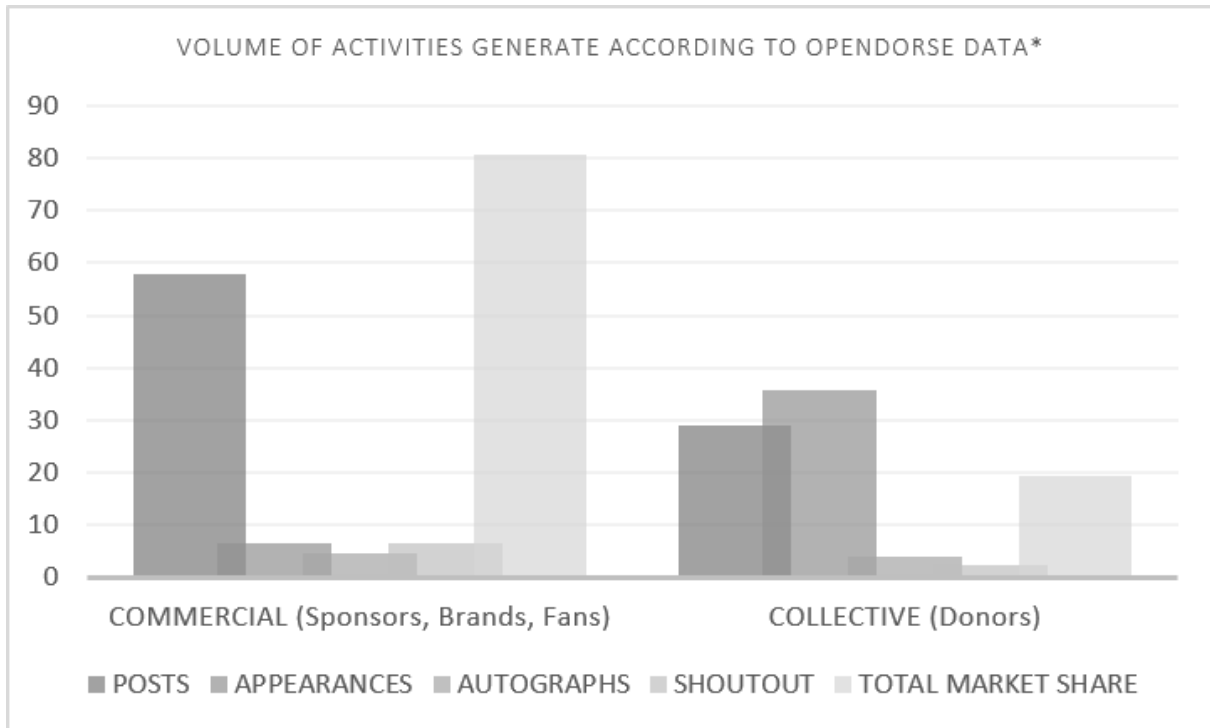
If the first year of the NIL era in college sports was focused on educating athletes and schools, the second year was focused on educating the market. Brands big and small have swapped flashy, one-off NIL deals for strategic, creative partnerships. As the entire market adapts to the era of student-athlete influencers, the number of deals is growing rapidly. After two years of working with student-athletes, brands continue to raise the bar for creativity, intentionality and authenticity in their NIL campaigns. As a result, the return on investment is undeniable, and it's never been easier or smarter for major brands to include student-athletes in their marketing plans.



\*Student-athletes in the corresponding subsections are projected to earn the cumulative amount indicated, based on anonymized transactions facilitated or disclosed through Opendorse between July, 2021, and June, 2023.

While collectives continue to establish themselves as key players in the market, the main players in the industry are campaigning for their regulation. On the other hand, during congressional hearings last spring, the term "real NIL" was used to refer to money from other sources, including sponsors, brands and fans, as opposed to collectives. Data from the second year confirmed that the majority of funds came from collectives, while the volume of activities was generated by sponsors, brands and fans.

Collectives play a fundamental role in the NIL industry. Their strong connection to NIL opportunities has a significant impact on the retention and recruitment of athletic talent, which is the backbone of college athletic programs. It's clear that these donor-powered groups are critical to team success in today's landscape.



#### 4.1.1. A spectrum of strategies

In one year, thousands of national and global brands, local businesses and school athletics sponsors have joined the movement, collectively supporting hundreds of thousands of college athletes and driving results for their organizations.

Some brands have adopted a grand strategy, seeking to get their product in front of as many potential customers as possible while providing profit opportunities to as many student-athletes as possible. For example, Rhoback Inc.'s "Rhoback U" program invites student-athletes to apply online and, if accepted, they can earn direct sales revenue by sharing an affiliate link. The program offers participants discounts on clothing and encourages them to post content on social media wearing the gear.

In contrast, other brands are more selective, seeking partnerships with athletes who align with their values and may even be hyper-niche. Shinesty Inc. took this approach by selecting University of Colorado offensive lineman Tommy Brown as "college football's first professional model" and featuring him in a campaign wearing Shinesty designs in cheeky poses. The campaign was relayed by more than 300 media outlets.

##### 4.1.1.1. Local or national? Or both?

Some local businesses prefer to partner with student-athletes under name, image and likeness (NIL) laws for a variety of reasons. First, student-athletes, especially at local colleges and universities, are often well-known figures within their communities. Their athletic performances and presence on campus create local awareness, which can be valuable for local brands looking to reach a specific audience in their area. Additionally, student-athletes are generally very involved in their community. Their on-campus activities, participation in charity events, and interaction with local fans strengthen their ties to the community. By partnering with these athletes, local brands are strengthening their own community involvement. Another advantage is the affordable cost of these agreements for local

businesses. They are often more affordable than partnerships with big-name professional athletes, allowing small businesses and local entrepreneurs to leverage the power of sports marketing without spending exorbitant amounts of money.

Additionally, student-athletes can help local brands reach a specific target audience. For example, a college football player might help a local pizza restaurant reach football fans, while a student-athlete on the tennis team might be associated with sports equipment brands. Additionally, local brands are often seen as businesses that support the community. By partnering with student-athletes, these brands reinforce their image of supporting local teams and educational institutions, which can be beneficial from a reputational perspective. Student-athletes provide local brands with the flexibility to enter into short-term or seasonal deals, allowing businesses to respond quickly to sporting events and create responsive marketing campaigns. Local brands, from car dealerships to neighborhood restaurants, have quickly seized the opportunity to engage college student-athletes as spokespeople in the wake of the new era of name, image and likeness (NIL). With the NIL era opening up new opportunities for student-athletes, local businesses are wasting no time capitalizing on their popularity. According to a Morning Consult survey, many NCAA sports fans express a preference for a balanced approach in partnerships, encompassing both national and local brands, with 57% of fans preferring this balance.

Although collaborations with large corporations seem to be the most coveted partnerships, only a few student-athletes possess the influence and reach to secure national NIL deals. The vast majority of college student-athletes find themselves limited to entering into local partnerships, and this limitation does not necessarily constitute a disadvantage. These local brands provide a meaningful way for student-athletes to give back to their communities and strengthen their connections with their fan base. Additionally, they generate a sense of loyalty and pride among student-athletes who proudly represent these local brands. As the NIL ecosystem continues to mature, localized deals are expected to remain a major component of the landscape. Student Athlete NIL, responsible for overseeing more than 20 NIL collectives like "Success With Honor" at Pennsylvania State University and "Irish United" at the University of Notre Dame, estimates that between 40 and 50 students- athletes have the annual ability to enter into a national NIL agreement. For the majority of college student-athletes, local partnerships represent a viable and essential option.

Jason Belzer, co-founder and CEO of Student Athlete NIL, noted that only 40 to 50 student-athletes per year have the potential to secure a national NIL deal. As he noted, local partnerships are the primary option for the majority of college student-athletes, a situation that does not necessarily carry negative connotations. Overall, local brands use student-athletes in the NIL to leverage their local awareness, community engagement, affordability, and ability to reach specific audiences. These partnerships not only benefit brands, but also student-athletes who now have the opportunity to capitalize on their status.

#### 4.1.1.2. National & Global

This dissertation explores how major brands have capitalized on the opportunity to partner with student-athletes to reach their diverse and geographically dispersed audiences while tapping into the unique fervor surrounding college sports. Through NIL partnerships, these brands have achieved a range of marketing objectives, including creating compelling narratives, increasing awareness, driving innovation and capitalizing on pivotal moments. In addition to traditional marketing benefits, the first year of NIL marketing also allowed these forward-thinking brands to achieve notable PR victories.

Ex #1: Champs Sports and H&R Block are among the brands that have successfully used student-athlete partnerships as part of their marketing strategies. For example, Champs Sports collaborated with Duke's Emily Sloane for its "Run with Us" campaign, which coincided with National Running Day. Meanwhile, H&R Block's "A Fair Shot" initiative, launched during March Madness, aimed to provide \$1 million in sponsorships and support for student-athletes. The program included partnerships with 16 influential female college sports athletes, including ambassadors Zia Cooke of South Carolina basketball and Caitlin Clark of Iowa Basketball. Such campaigns demonstrate the potential of NIL agreements to boost marketing initiatives and create positive PR for brands.

Ex #2: Degree was an early adopter of NIL marketing, with its "Breaking Limits" campaign featuring 14 college athletes chosen for their inspiring stories of overcoming adversity. As part of the campaign, Degree pledged \$5 million over five years to fund activities encouraging the movement and partnered with several non-governmental organizations to mentor athletes. Participants participate in various activities such as social media campaigns, community projects and content partnerships. Additionally, they have access to a mentoring program with Unilever. The campaign's first year was a sticky success, prompting Degree to expand the program in its second year.

Most deals in the US Name, Image and Likeness (NIL) market are primarily focused on the domestic market. This means that the majority of contracts and partnerships between student-athletes and brands are with companies and organizations located in the United States. However, there may be exceptions, particularly for student-athletes who are world-renowned or who participate in international sports. In such cases, international brands may be interested in partnerships. However, the NIL market is still relatively new, and most agreements are still limited to the United States. It is possible that the market will evolve in the future to include more international agreements, but this will depend on various factors, including regulation, athlete awareness and interest from international brands.

#### **4.2. Seeking high profile endorsement**

Entering the 2021 college football season, there was one college football player with a national NIL endorsement campaign – Clemson quarterback DJ Uiagalelei with Dr. Pepper.

Enlisting the services of these very high-level university athletes is a very interesting strategy for brands. These personalities, who have become public in particular thanks to the power of social networks but also with the great visibility they have with the incredible TV rights from the NCAA, are the spearhead of a new generation of star athletes. Young people identify much more easily with them than with an NFL star. Several large companies, including H&R Block Inc. and Popeyes Louisiana Kitchen Inc., are entering the world of Name, Image, Likeness (NIL), sometimes integrating it regularly into their marketing strategies. However, many are moving forward cautiously, even as the upcoming March 2023 basketball tournaments potentially offer the biggest showcase of the year in college sports. These young people also represent access to sport for all, inclusiveness and it is an opportunity for brands to ride on this popularity. The preponderant commitment to very important causes of these young athletes is also a huge asset for brands who do not hesitate to take advantage of it, whether on a local but also national scale. This is why profiles with high career potential and influencer-type profiles with a gigantic community on social networks are the main targets of big brands.

It's a bet for the future for both parties. It's a very risky choice for brands but one that can be very profitable. Securing a long-term partnership with a potential future NFL quarterback right out of college may be the marketing coup of the decade in the sports industry. This can still prove to be very risky, in the event of a flop by the player or even in trouble with the law, it can prove fatal for the brand image. But it's also a very difficult choice for the student-athlete. The pressure at this age is enormous and these young people are perhaps not prepared for such a level of exposure and contractual and financial pressure.

#### **4.2.1. Gatorade dropping NHL for focusing on NIL**

Gatorade has announced in 2021 that the company is ending its sponsorship with the National Hockey League (NHL) to prioritize women's sports and college athlete deals. The move is in line with Gatorade's commitment to invest in diverse and young athlete communities, innovative leagues, and all types of athletic journeys. Kearney highlighted the brand's endorsement partnerships with college athletes Paige Bueckers and Shedeur Sanders, as well as its collaboration with Overtime Elite, as examples of its efforts to promote its new focus. The decision comes after Gatorade signed a five-year agreement with the NHL in 2018 and ending the contract in 2022.

Since the National Collegiate Athletic Association (NCAA) lifted most of its rules that previously barred college students from earning financial compensation through sponsorship and endorsement deals, there has been growing interest from brands in name, image, and likeness (NIL) deals for these athletes. PepsiCo is leading the way with this move, avoiding contracts and deals with one of the biggest major leagues in the American sports industry.

Why targeting Collegiate athletics ? It could be interesting for brands to use NIL Deals to leverage their positioning and strengths on certain markets such as some of those Midwest and West regions who don't necessarily have franchise and major leagues teams.

Gatorade made a strategic decision to enter the NIL (Name, Image, Likeness) market with the announcement of its first partnership. The athlete selected for this high-profile collaboration is University of Connecticut (UCONN) women's basketball star Paige Bueckers. Paige Bueckers is a former winner of the prestigious Gatorade Player of the Year award, and she has signed a multi-year contract with the brand.

Paige Bueckers expresses her gratitude, saying, "It was an honor to win Gatorade Player of the Year in high school, and now it's just unreal to become an official member of the Gatorade family. I have no doubt that This is the start of a successful partnership, and I look forward to working alongside Gatorade to impact the community and promote the women's game."

Gatorade clearly displays its objective of highlighting women's sport through this collaboration. Paige Bueckers joins a group of renowned Gatorade athletes, alongside pioneering women in the world of sport, including Serena Williams, Sydney McLaughlin and Elena Delle Donne.

So it made sense for Gatorade to work on it. Indeed, with the creation of what is called an "ambassador roster", an increasingly common practice among major brands, Paige Bueckers, former winner of the Gatorade Player of the Year award and one of the best active college athletes, it's the perfect addition to the Gatorade family. From her impressive performances on the field to her commitment to change, Paige embodies the spirit of Gatorade athletes. This

global partnership with her illustrates their continued commitment to women in the world of sport, a commitment they are proudly passing on to the next generation.

#### **4.2.2. “Memes” marketing**

Fast food chain Popeyes Louisiana Kitchen recently agreed to a one-year contract with Dieunerst Collin, a young offensive lineman who is entering his freshman year at Lake Erie University, the Division II college athletics affiliate. Collin is best recognized for his role in a meme dating back almost ten years, where he sports a funny facial expression at a Popeyes restaurant.

Since this partnership, Popeyes has deployed various promotional campaigns highlighting Mr. Collin. These include social media posts, a billboard erected in his hometown of East Orange, New Jersey, and a video released in conjunction with the Super Bowl.

This type of collaboration, which is made possible thanks to social networks in particular, is called “meme marketing”. This new concept can prove to be very lucrative and very powerful in the short term. In fact, this allows you to ride a trend and connect with a very specific target audience. This type of collaboration can be seen as a form of "return of the favor" in recognition of the natural promotional efforts that Mr. Collin has unintentionally offered to the Popeyes brand over the last decade.

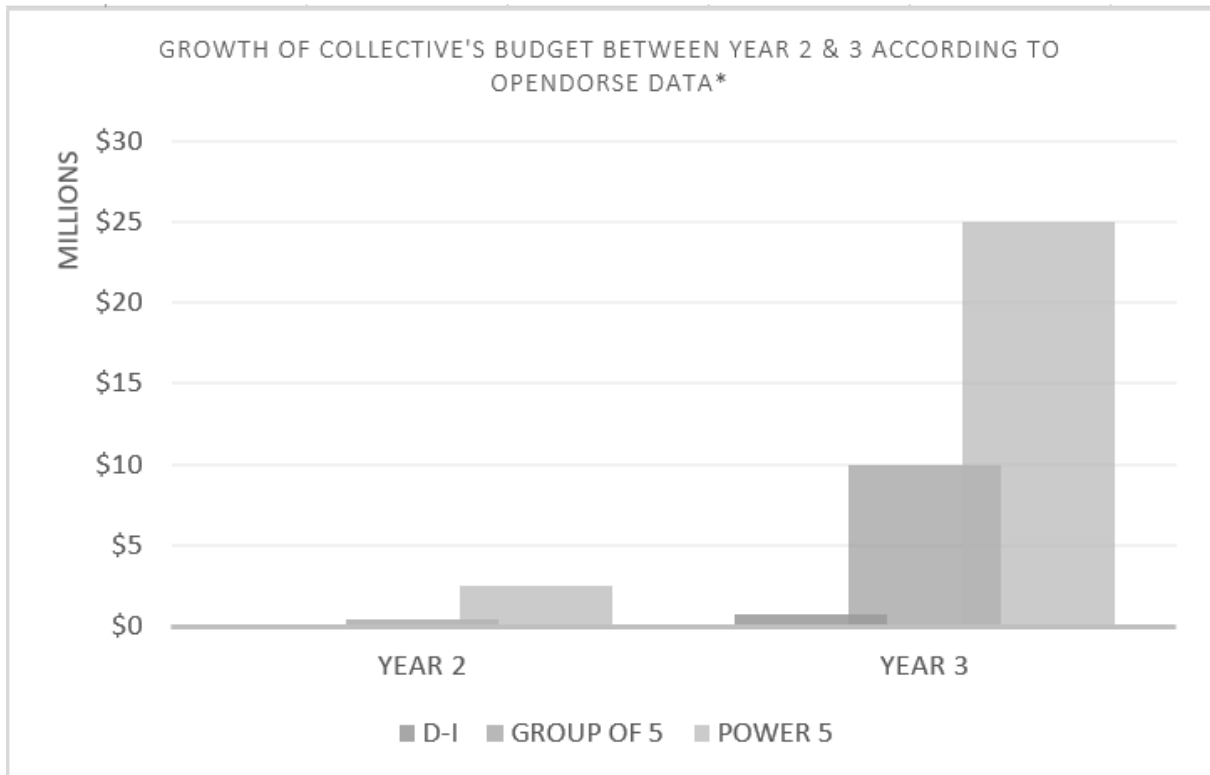
This type of collaboration allows brands to use both the branding of a student athlete but also collaborates with the branding of a school. On a local scale, this can have a very strong marketing impact and can be very effective. It is therefore essential for brands to be wary of this type of campaign and not to forget that these athletes are affiliated with universities. For universities it is also very important to “monitor” this type of partnership because their image is indirectly associated with it. This is where the whole difficulty of the NIL lies. Although the compliance rules are quite strict, they are still very vague. It is therefore very important that universities support student-athletes in their decision-making and give them the necessary tools to make the right choice of partners. The risk is not always worth it.

#### **4.3. Collective's involvement on specific deals**

The primary benefit of collectives is that they provide a way for student-athletes to more effectively manage their NIL opportunities while complying with NCAA regulations and local NIL laws. These collectives can provide resources and services, such as legal advice, financial management tools and marketing opportunities.

However, it is essential to note that the rules and regulations surrounding collectives vary from state to state, as some jurisdictions have specific laws in place to govern their operation. Collectives have become an integral part of the NIL landscape in the NCAA, providing increased opportunities for student-athletes to leverage their image and notoriety while navigating this new environment.

Collectives come in all shapes and sizes, and each organization has its own goals, priorities and limitations. The bell curves below illustrate the operating budgets of each subdivision of the collectives, with margin for special cases.



\*This data covers the period from July, 2021 to June, 2023 according to public data and opendorse statistics.

#### 4.3.1. NIL Deals from Collectives

*Despite their visibility, enormous disparities exist between the collectives. From their goals to their fundraising capacity, from their operating models to their interpretation of governance policies, they all navigate the landscape in their own unique, sometimes innovative, ways.*

In the state of Texas, the NIL scene is booming, with collectives and sports stars joining together to make huge gains. Although the Texas Longhorns and Texas A&M Aggies may seem ahead of the Texas Tech Red Raiders on the field, the latter have found an innovative way to offer each of their players a base salary of \$25,000 for the next season. What should be emphasized is that this program is part of the “pay-to-play” trend, made possible by recent developments in the NIL. Indeed, a group of Texas Tech alumni established a nonprofit collective earlier this year to allow the Red Raiders to compete with national sports programs. They managed to maintain a reasonable spending limit that didn't cause discontent within the team, as The Athletic reported.

This program offers each player the opportunity to receive a year's salary, provided they agree to fulfill community service obligations and serve as a representative for charities in the West Texas area. It is important to note that this initiative, which concerns the 85 scholarship athletes and the 20 walking players, is part of the new era of the NIL which opens up unique remuneration opportunities for student-athletes.

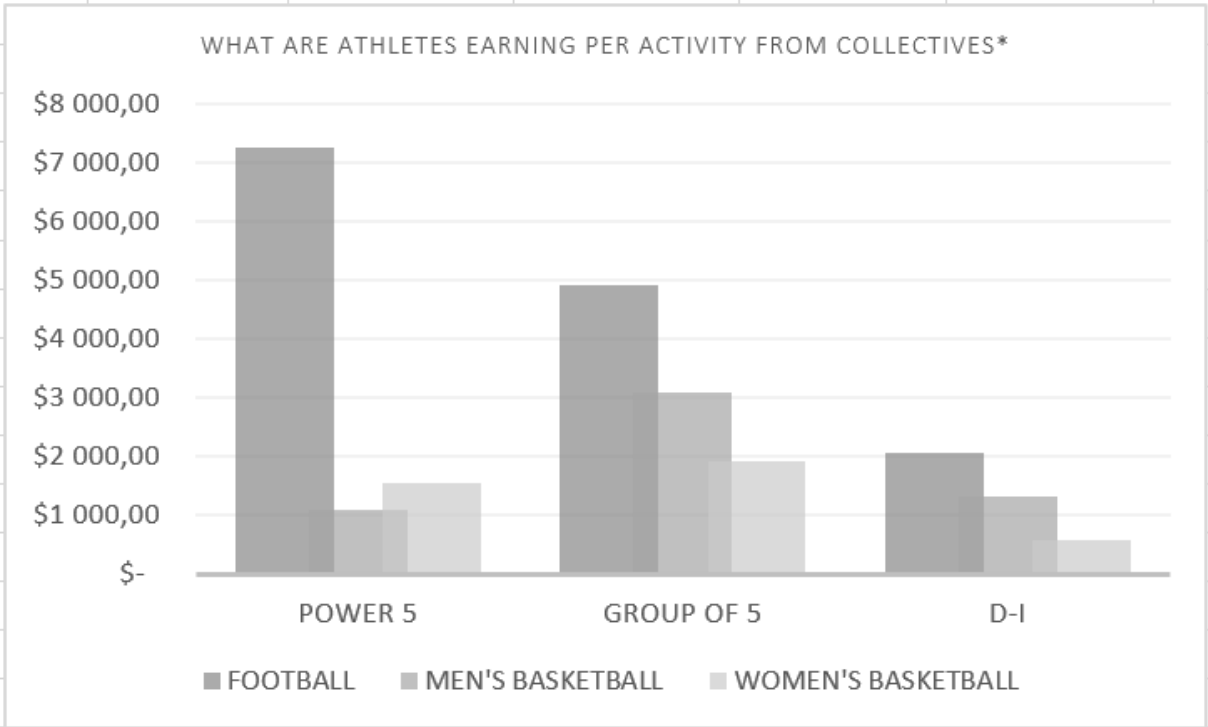
The case of the Alabama Gymnastics team is equally interesting. The University of Alabama women's gymnastics team has signed a collective NIL agreement with CrowdPush, marking the third women's team to do so.



The gymnasts will serve as brand ambassadors for the company during the upcoming NCAA season. As part of this partnership, each athlete will contribute to at least two social media posts and participate in a 30-minute interview on the impact of NIL opportunities on student-athletes. CrowdPush, a fan-based platform, offers supporters the opportunity to make donations, called “pushes,” to specific teams. The company then uses the funds raised to pay the student-athletes involved in promoting the platform. In accordance with CrowdPush's model, a minimum percentage of 85 to 90% of all funds raised will be allocated to student-athlete compensation. Additionally, seven percent of the funds will be used to cover expenses and contract negotiations, while three percent will be dedicated to processing fees.

Importantly, this model has been thoroughly reviewed and validated by NCAA attorneys, as well as for compliance at the state and school levels.

Josh Goodin, CrowdPush's marketing director, expressed hopes of offering \$20,000 to each gymnast by the end of the season, which would total \$350,000. This initiative, while consistent with current NIL rules, highlights the "pay-to-play" aspect, where student-athletes are paid for their participation. The border is very fine but apparently it has not been crossed. The involvement of “collectives” may be subject to questions about equity between universities. This can have a big impact on recruitment, on the longevity of NCAA careers but also on the involvement of athletes. This new format provided by the "collectives" constantly raises the question of "pay-to-play" but also provides significant financial support for these athletes and allows them to get involved in extra-sporting causes in the name of their universities while being paid whereas before they could be obliged to do so without receiving any remuneration. The balance of power is therefore also rebalanced thanks to the “collectives”.



\*According Opendorse database and public data from 2022-23.

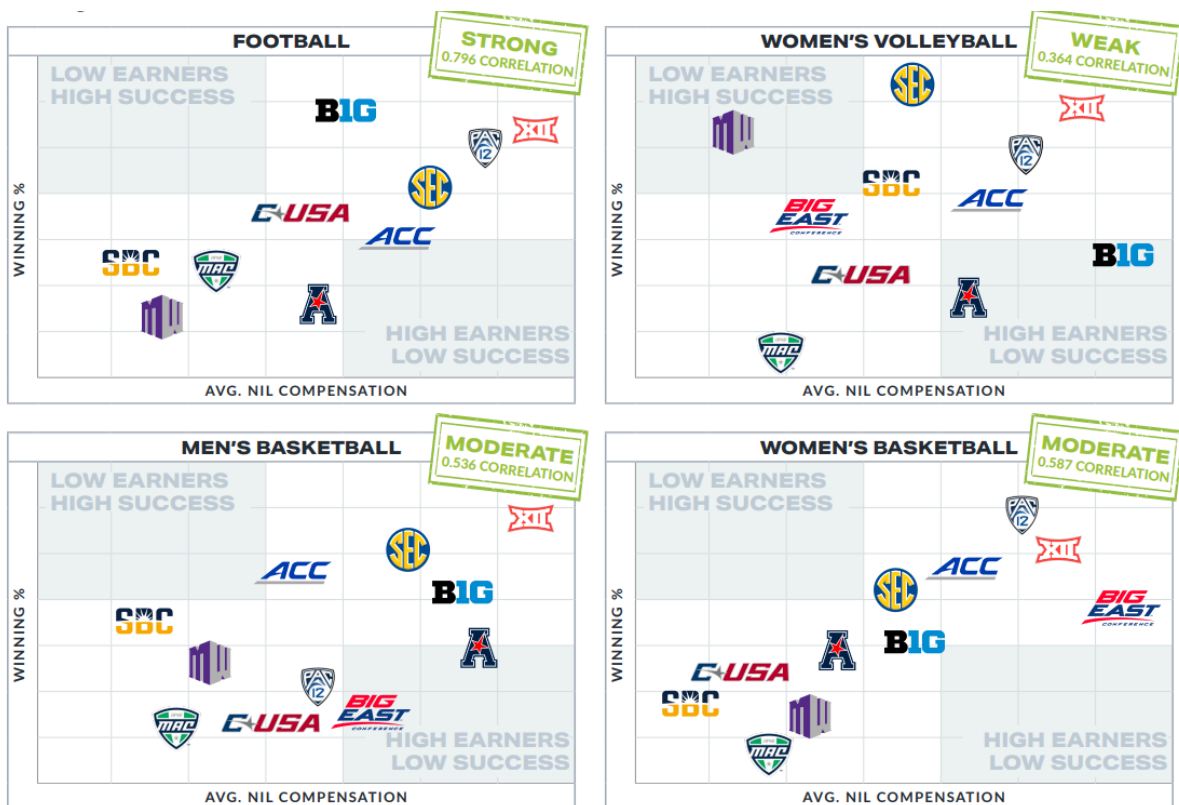
### 4.3.2. NIL Collectives supportive team-wide deals

NIL collectives aren't just supporting men's basketball and football players, they're diving into women's sports, too. NIL collectives are expanding their support beyond men's basketball and football players and into women's sports. For instance, the Michigan State women's gymnastics team recently signed a team-wide deal with Charitable Gift America, an NIL collective called "This is Sparta!" that supports Michigan State athletes. Under the agreement, each athlete will receive \$5,000 and is required to donate 5% of their earnings to a charity of their choice. This deal is an example of how NIL collectives are helping to promote women's sports and support female athletes.

### 4.3.3. Impact of results on the Collectives deals

Is Name, Image & Likeness success tied with on-field success?

The numbers indicate so. With correlation ranging from moderate to strong, the relationship between athletic performance and NIL earnings appear to be linked. Speculation continues about whether NIL earnings are a driver of or byproduct of winning.



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\*The "Average NIL Salary " is determined by the athlete, grouped by sports and based on anonymized transactions that were facilitated through Opendorse between July, 2021 and June, 2023.

\*\* "Winning percentage" is calculated by taking into account the average of the 2021-22 and 2022-23 seasons as well as the overall winning record for the 2022-23 season

\*\*\*Graph & data from Opendorse NIL Report 1, 2021-2022

#### 4.3.3.1. Nebraska: A Volley Paradise

University of Nebraska Volleyball is an integral part of NCAA history, holding the status of the most successful program. With five national championships and a head coach with more than 800 victories, it is indisputable that the Huskers have set the standard for athletic

excellence. This year, 90,000 spectators are expected to fill Memorial Stadium in Nebraska to witness an exceptional event called "Nebraska Volleyball Day."

The University of Nebraska-sponsored NIL collective, known as "The 1890 Initiative," just entered into a \$5 million partnership over a 10-year period. This partnership, established with Nebraska Crossing, an outdoor living center located in Gretna, Nebraska, as well as JUSTDATA, is unprecedented in the NIL era, which celebrates three years of existence this month. "The 1890" initiative was created in October by former Huskers star athlete Matt Davison in collaboration with Nebraska entrepreneurs Tom Peed and Shawn Peed. Davison, who was once part of the University's volleyball team's membership in this collective, also noted that "The 1890 Initiative" was recently ranked among the 20 most ambitious collectives in the country by On3.

The 10-year agreement promises to be a game-changing move for University of Nebraska volleyball. While most national collectives encourage their athletes to promote the organization and support charitable partners under their NIL agreements, the precise details of this agreement have not been disclosed. The 2022 season saw the Huskers ranked 9th nationally, reaching the quarterfinals before being stopped by the University of Oregon. Building on this performance and the recruitment of the best player in the country, Harper Murray, the Huskers were designated pre-season favorites for the national title.

The emergence of NIL collectives extends across nearly every Division I university, totaling more than 200 teams across the country. This sparked a major trend in the college sports landscape focused on retaining and recruiting talent through NIL agreements. This week at SEC Media Days there was a reminder of how common this practice has become in college football, but its impact is not limited to that sport alone. The strong NIL strategy has become a recruiting criterion for athletic programs for all Division I teams, including volleyball.

The significant \$5 million contribution, earmarked exclusively for University of Nebraska Volleyball, is the largest donation ever publicly announced specifically to a women's sport in the NIL era. Although other collectives raise millions for sports such as basketball and football, none have yet announced a seven-figure financial contribution aimed specifically at a women's sport. This advancement marks a significant turning point in the history of the impact of NIL opportunities on women's college sports. This follows the NCAA women's basketball final between victorious LSU and Iowa, which drew higher ratings than the Major League Baseball playoffs. It is clear that women's sport is experiencing an increasingly important moment. What we are witnessing is the result of a movement that has lasted for several decades. The women at the heart of it all know the power of what's built – and not just because of the name, image and likeness flowing their way. The success and support of Nebraska women's volleyball didn't come out of nowhere. This follows 306 consecutive sales and excellent results over the past decades.

#### 4.3.3.2. Tulane: "Fear The Wave"

The Tulane men's football team recently made history with a stellar 11-2 season, winning a conference championship and winning the Cotton Bowl against formidable USC. This performance propelled the program to prominence, despite having considerably fewer financial resources than Power 5 programs. As a result, Tulane's NIL collective, named "Fear The Wave", saw a significant increase in their donations, demonstrating how these collectives can help Group 5 programs compete with their Power 5 counterparts, even with limited resources.

By the start of the football season, “Fear The Wave” had raised about \$100,000. However, after the success of the Cotton Bowl, funds more than quadrupled, totaling over \$400,000. These funds were mainly used to pay the players. In November and December alone, the collective received nearly 70 donations. Football's success has carried over to other sports at the university, including men's and women's basketball, as well as men's and women's baseball.

The spike in donations occurred when Tulane advanced to the American Athletic Conference championship game with a victory over Cincinnati. Additionally, news of Coach Willie Fritz approaching for the head coaching job at Georgia Tech prompted donor action. “Fear The Wave” is a non-profit organization that offers contracts to athletes in exchange for charitable work. So far, offers have been made to every football and basketball player, as well as several baseball players and a tennis player. Over the next few months, the goal of “Fear The Wave” is to increase its awareness to a broader audience, capitalizing on the popularity of Tulane sports. Ultimately, the "Fear The Wave" collective aims to prevent the loss of its best players to offers from wealthier programs and their collectives. Even if coaches do not directly benefit from NIL agreements entered into by collectives, a strong NIL market can influence their decision to join a program. Additionally, preserving current talent is a priority.

Thus, Group 5 programs like Tulane use NIL collectives to financially support their athletes, strengthen their sports program and maintain their competitiveness, despite budgetary constraints. Tulane's outstanding football season has highlighted how these collectives can become a vital part of ensuring top talent remains within their ranks.

## **5. How the competition valuation will transform the intercollegiate landscape**

### **5.1. The new financial valuation of NCAA**

#### **5.1.1. College's brand valuation**

The wise choice of university is of crucial importance for athletes looking to take advantage of contract and sponsorship opportunities, highlighting a paradigm shift where the sporting aspect is relegated to the background. According to David Carter, principal owner of Sports Business Group and professor of sports business at Southern California, several factors influence an athletic program's ability to maximize the NIL success of its athletes.

Criteria such as brand reputation, including sporting heritage, winning rate, and the school's ability to tell its story, are now supported by pragmatic considerations. Geography, regional demand, and even the size of the school and its alumni network, become determining factors in athletes' decision-making.

The analysis by Ricky Volante, an attorney specializing in athlete representation, underscores the likely breakdown of any universal rule, putting consistently top recruiting programs like Clemson, Alabama and Ohio State in an advantageous position. These schools, due to their constant visibility, are likely to offer the best earning opportunities to athletes.

The phenomenon is already palpable on social media, where athletes from prestigious schools such as the University of Georgia benefit from sponsorship partnerships with established

brands. The importance of school size also manifests itself, with institutions with an engaged alumni base, such as Nebraska, being able to capitalize on NIL monetization to strengthen their position in college football.

Why is it important ? What is the direct impact can school have on a student-athlete ? The direct impact on NIL potential valuation.

The in-depth examination of college athletes' NIL valuation sheds light on various factors influencing these valuations, providing strategic avenues to guide student-athletes in choosing their future college and maximizing their value in the NIL market. Athletic performance and positioning within the team play an essential role in NIL valuation. Remarkable athletic prowess and position can significantly increase an athlete's NIL valuation. Another determining factor is your presence on social networks. Audience size and engagement on platforms such as Instagram, TikTok and Youtube are key elements in the NIL assessment. Beyond athletic performance, expanding online audiences can significantly increase the NIL value of college athletes. Media perception is also a parameter to consider. Positive media coverage in prominent publications can help increase the NIL valuation of college athletes.

Finally, the ranking of the university attended can influence NIL offers. Athletes playing at prestigious university establishments often have access to more advantageous NIL offers. This is how the brand image of a university today takes on primordial importance from a business point of view and will impact its attractiveness according to the NIL opportunities it offers and not just sports results.

### **5.1.2. Impact of the media rights valuation**

Very recently, sports decision-makers met to discuss the future of university sports, centered on image and likeness rights (NIL). At the heart of these two-day discussions is the prospect of an increase in television rights, with an orientation towards a model of redistribution in favor of collectives. This group, known as the Collective Association (TCA), made up of seven collectives led by the country's most generous donors, offers an innovative revenue sharing model.

Unlike ongoing debates over NIL legislation, the TCA focuses on a revenue-sharing approach to athlete compensation. They recently presented a plan to SEC and NCAA officials, emphasizing the use of television revenue to compensate athletes. Under their proposal, a portion of television revenue allocated to conferences would be allocated to a specific collective at each member school, then distributed equitably to athletes at that school through the collective as a third-party entity, thus avoiding the potential implications of direct hiring of athletes.

While this bold proposal may face legal challenges and resistance in an academic environment committed to the amateurism model, it could also spark crucial discussions. TCA leaders had positive meetings with SEC and NCAA officials, showing an openness to collaboration and further discussions.

Despite the potential obstacles, TCA members, representing groups that have already distributed nearly \$70 million to more than 1,500 athletes, see the need to rethink the current model. They emphasize that the status quo is not sustainable in the long term and that adjustments are necessary to preserve college athletics.

Although experts have identified concerns such as possible Title IX violations, antitrust issues and violations of the league's television contracts, some acknowledge that the TCA proposal, while creative, could serve as a starting point for addressing the persistent challenges of the college sports landscape. The idea of sharing revenue, while controversial, could help stabilize competition between schools and create a conference-based distribution model.

As debates over amateurism and athlete compensation continue, the TCA and its members seek to catalyze a broader discussion about the future of college sports, providing an innovative perspective in an ever-changing field. The involvement of TV rights in this debate characterizes the influence of university sport in the American sports ecosystem but especially the influence of student-athletes who evolve within this ecosystem. Once again, the question of the location of schools and especially the competitions in which they are involved will impact recruitment and career choices. Broadcasters will then rush to the broadcast lots in which we find the most influential players. Thus, the SEC will attract more students for this and perhaps sink the BIG10. Universities will then ask themselves the question of changing the competition in which they operate and the impacts will be enormous on the university ecosystem.

### **5.1.3. Rich Donors and loose rules**

The emerging landscape of donor collectives in college sports is not just limited to student-athlete compensation; it also encompasses clever fiscal strategies to attract donors. Some collectives, like Penn State, use charitable structures to offer tax advantages to contributors.

The Penn State Collective, for example, informs its donors that their contributions can be tax deductible if they channel them through an affiliated charitable foundation, the BPS Foundation. More than 60 collectives have taken similar approaches, either obtaining charitable status with the IRS themselves or partnering with external charities. These tax exemption mechanisms aim to encourage donors to contribute more, knowing that they can benefit from tax advantages by supporting collectives.

However, this strategy also raises questions and concerns, as it may contribute to further clouding the funding landscape. Some observers highlight the need for greater transparency, particularly regarding the details of agreements between collectives and athletes, as well as how funds are distributed between different sporting disciplines and between genders.

Balancing donor generosity, tax benefits, and the need to ensure fairness and transparency in the college sports ecosystem is a key issue that continues to evolve as the NIL model of collectives develops. It highlights the growing complexity of the relationship between college sports, charitable initiatives and financial incentives.

Before laws allowing athletes to earn money from sponsorships took effect in July 2021, the N.C.A.A. abandoned certain rules that would have structured the new system, creating a vacuum exploited by the collectives. This lack of limits on the paid activities of athletes has led to the emergence of this model, where collectives circumvent the ban on paying players to play by channeling more money to a greater number of athletes.

Despite criticism, this phenomenon has redistributed significant revenue to athletes, easing the financial stress associated with scholarships and providing new financial opportunities for student-athletes, long excluded from the profits generated by college sports.

*The collective system is “a pay-for-play scheme disguised as N.I.L.,” Tony Petitti, the commissioner of the Big Ten Conference, said at a Senate hearing this week. “We are concerned that management of college athletics is shifting away from the universities to collectives.”*

## **5.2. Will Bag Money Bag Top Recruits?**

The recruiting process used to be based on the academic opportunity offered by a school and a sport program. The key lay in a university's ability to positively shape the future through the diverse academic programs and life lessons learned from the world of sports.

However, what started as a simple paycheck for a car dealership or local pizza place quickly evolved into unscrupulous recruiting pay deep in the cutthroat world of college football and men's basketball, where greed seems often to take precedence over sporting integrity.

Indeed, the evolution of college recruitment is evident, with expanded criteria influencing the choices of athletes. The country's most sought-after talents no longer seek success solely on the field, but now evaluate the entire player experience, including elements such as entertainment and comfort off the field. In this frantic quest for the best talent, elite programs compete like never before. Faced with this transformation, universities and professional teams are investing heavily in cutting-edge facilities. These infrastructures are designed not only to improve in-game performance, but also to provide a relaxing environment off the field. However, it is crucial to emphasize that this enthusiasm for quality facilities comes with a substantial financial burden, with universities and professional teams seeking to attract athletes through out-of-competition benefits.

*“With the significant involvement of collectives, can we say that the “Collectives” booster puts money in the pockets of student-athletes?”*

Currently, recruiting college football talent is no longer about luxury training facilities or the fame of a coach. It is now a matter of offering them the chance to get involved in innovative initiatives, generating considerable gains from generous sponsors capable of mitigating their contributions, in exchange for participation in lucrative external activities.

In the context of the liberalization of transfer rules within the NCAA, marked by the lifting of the requirement of an automatic year of inactivity in the event of a change of school for athletes, the significant rise in financial incentives has proven to be a determining factor in the dynamics of university recruitment. Coaches, while seeking to retain existing talent, are now actively engaged in strategies to attract athletes from other institutions, thereby establishing a landscape where monetary issues take center stage.

Despite the NCAA's explicit ban on the use of compensation as a recruiting tool, the collectives deny having made lucrative offers before contentious transfer cases like that of McNamara to Iowa State, or the case of the Cavinder Twins to Miami . An NCAA spokeswoman noted that N.I.L. conditional on enrollment in a particular school would likely violate the organization's rules, while refusing to comment on a specific case.

### **5.2.1. John Ruiz brought the Cavinder Twins to Miami**

The role of the entrepreneur has been completely redefined in the NIL era in recent months by becoming a major player in the recruitment process of several athletes. This highlights the influence that an entrepreneur can now exert on a university, on student-athletes and on their athletic trajectory. The Miami area was home to more than \$10 million in NIL contracts in the first year of this new era of college sports, distributed by two entities. Although the majority of these partnerships concern athletes affiliated with Miami, not all of them represent the colors of the Hurricanes.

The headlines were captured by the recent Miami recruiting in April 2022, revealing that LifeWallet had agreed to a two-year contract worth \$800,000 with a basketball player, in addition to giving him a car. Three other basketball players, Isaiah Wong, Jordan Miller and Norchad Omier, were also recruited. The Hurricanes' stellar run to the Final Four in March appears to be closely tied to these hires and LifeWallet's investment, providing a significant return on investment for the parties involved.

The case of sponsorship deals being concluded with the Cavinder Twins, NIL stars transferred to Miami last offseason, is just as intriguing, if more complex. The NCAA placed Miami on probation this spring due to an impermissible advantage during the recruiting process. The governing body said the two basketball players had an unauthorized meal with the Miami contractor, classified as a Miami recall. The NCAA has not disassociated an individual from the institution, which would prevent them from benefiting from special on-site seating, booster memberships and interactions with coaches. The line between amateurism and professionalism is becoming increasingly blurred, particularly with the lack of regulation, giving rise to unprecedented situations like this, where the impact of a sponsor on sporting results is immense and where the recruitment process itself is monetized.

### **5.2.2. Colorado restructuring a whole men's football roster**

Colorado only won one game last season, losing by an average of 29 points. But today's Colorado is nothing like that team. Deion Sanders has truly shaken up the college football world since arriving in Boulder last winter. He signed no fewer than 86 new players, representing 70% of the total roster, including 53 transfers, setting a constantly evolving record for roster turnover since the end of spring training. Currently, only 10 scholarship recipients from the previous year remain.

This approach has attracted criticism from all sides, from coaches, broadcasters and the media. That wasn't how the portal was supposed to work, that wasn't the intent of the rule. This wasn't supposed to be a simple roster overhaul... It makes college football coaches across the country look bad... These athletes have families, life goals - it's unclear how many of the 70 who left either really wanted to or were pushed out.

Sanders took over a team with a terrible record and cleverly exploited the unusual rules of college football, whether through the portal, NIL, boosters, whatever. These rules allow coaches to recruit players from other schools, and that's exactly what he did. They also allow players to transfer without penalty, and they did so, no doubt encouraged by Sanders.

If coaches and administrators want to pay players, let them go where they want when they want, let boosters influence player decisions and team results, if the top 25 should be determined by whoever has the no more money in NIL, if a former NFL quarterback can tweet a million dollar offer to lure another school's quarterback to his alma mater, if situations



like Sanders', almost entirely renewing a team in a few months, are accepted, then we should leave things as they are.

Last year, no one really sounded the alarm when Lincoln Riley left Oklahoma to become USC's head coach, taking several key players (and a total of 20 transfers from various schools) with him. , decimating Oklahoma and changing the destiny of USC.

The timing for Sanders couldn't be better. He could not have accomplished what he has done to date without the flexibility of college football's rules; this would have been unthinkable a few years ago. He made the most of this situation, highlighting the many shortcomings of college football. Team unity, building a team through training and recruiting, patience, coaching – all those things have been swept away. A winning, ready-made team can be created overnight. He helped create a global college football landscape, and Sanders followed that trend.

After decades of insignificance, Sanders thrust Colorado into the spotlight. A historic number of players have been transferred and released. Subscriptions are sold out. Merchandise sales have exploded, with Colorado's equipment sales increasing 505 percent in December — the month Sanders took the reins — compared to the previous year, according to the university. The Buffs are one of the most talked about teams in the country.

This is a boon for brands and donors. Thus, players operate in an environment conducive to commercial agreements, with brands wishing to take advantage of the team's star status to promote their products/services. Donors are rushing to replenish Colorado's booster coffers, and recruits are greeted with large NIL offers upon joining the team. In this case it is difficult to say whether it is only.

### **5.2.3. Division Street and Nike's direct involvement**

In the ever-changing world of college sports, the landscape has changed significantly with the advent of NIL (Name, Image and Likeness) collectives. For the Oregon Ducks, this transition ushered in a new era where the earning potential of athletes became a determining factor in recruiting.

Oregon, known for its forward-thinking in sports marketing, pushed the envelope with the groundbreaking initiative of Division Street, Inc. The company, started by alumni and donors, aims to help student-athletes of Oregon to develop and monetize their personal brands. Division Street, operating in all sports, is available to the university's more than 500 student-athletes.

The project, with a structure developed by some of the brightest minds in sports marketing, aims to operate with exceptional efficiency and drive long-term sustainability. Influential figures involved include Nike co-founder Phil Knight, former Oregon basketball star Sabrina Ionescu, and other distinguished industry experts.

In a landscape where the most important schools compete to attract the best talent by offering financial incentives, the Oregon Ducks stand out by prioritizing not only the monetary aspect, but also by highlighting skills, innovation and opportunities.

The famous comma has always exerted a magnetic pull on athletes heading to Eugene. However, the NIL era managed to merge the two entities, Nike and Oregon, in a way never

before seen. A key part of this convergence is Division Street, which counts among its ranks former Nike executives, including Rosemary St. Clair, former vice president of Nike Women, who serves as CEO within the collective.

What sets Division Street apart is its ability to not rely on solicitation from donors to adhere to a monthly program. Instead, the collective owns its own businesses and products, all powered by Nike, with profits going directly back to Oregon athletes. This synergy between the iconic sports brand and the university marks a new chapter in their partnership, highlighting the significant influence of the collaboration between Nike and Oregon in the NIL era.

For example, the creation of a house in Eugene, available on Airbnb and hosted by the athletes themselves, provides a space where athletes can develop their brand and generate income through rentals. This innovative approach allows athletes to be actively involved in developing their personal brand, while generating substantial income.

Additionally, the collaboration with Nike to create a “DOAF” (Defenders of Autzen Fashion) clothing line provides a new avenue for Oregon student-athletes. This original clothing line, accompanied by footwear collaborations and NFT collections, opens up new opportunities for athletes to thrive in the world of sports marketing.

In conclusion, Division Street emerges as a model of success in creatively exploiting the opportunities offered by the NIL. By combining sports marketing expertise, innovation and direct athlete involvement, this collective is redefining how student-athletes can thrive in this new landscape of college sports.

### **5.3. New career perspectives**

Indeed, with the advent of NIL (Name, Image and Likeness) in university sports, many student-athletes choose to extend their stay at university in order to further capitalize on their “personal branding”. The ability to profit from their name, image and likeness has transformed the traditional dynamics of college sports, prompting some athletes to make strategic decisions to maximize their market value.

Personal branding is becoming a key consideration, alongside more traditional sporting factors, in choosing to stay longer at university. Athletic performance, engagement on social media, media perception and university ranking are all elements that come into play in this new equation.

This trend highlights the changing motivations of student-athletes and the growing importance of managing their image and reputation to take full advantage of the opportunities offered by the NIL. If going pro is an option, why would you want to stay in college? And if going pro is not an option, why would you stay in college to capitalize on NIL even though you are not a star D-1 player from a football team with thousands of followers?

#### **5.3.1. Using all eligible years to capitalize on their brand**

#### 5.3.1.1. Trevor Bassitt Chooses NCAA Over Professional Path, Embracing the NIL Era

As the Name, Image, and Likeness (NIL) era continues to redefine the landscape of college sports, it is becoming increasingly clear that this revolution is not limited to just Division I athletes. Student-athletes from Divisions II and III, as well as the NAIA, are also exploring the new opportunities offered by the NIL, transforming their ability to monetize their personal brand.

A striking example of this evolution is seen through the story of Trevor Bassitt, a rising star in men's athletics at Ashland University. Faced with the possibility of choosing between a professional career and a final year of college eligibility, Bassitt made a decision that may well become emblematic of this era of change.

Despite winning numerous national titles and participating in the Olympic Trials, Bassitt faced a significant dilemma. Opt for a professional career or stay one more year in college to pursue one more national championship while exploring the opportunities offered by the NIL.

Ultimately, it was the prospect of financial benefits associated with NIL that played a key role in Bassitt's decision to return for one more college season. The opportunity to return to school while generating income, whether through lucrative sponsorship deals or launching his own line of merchandise, made his choice obvious.

The fact that these options are now available has turned this return to university to obtain his master's degree into an invaluable opportunity. Bassitt thus embodies the new generation of student-athletes who, thanks to the NIL revolution, can make informed decisions for their financial future while continuing to excel on the field. This strategic choice illustrates how the college sports landscape is evolving, providing athletes with the opportunity to become entrepreneurs of their own brand when going pro is not an option for them.

#### **5.3.2. The Power of Student-Athletes: Rethinking the Choice between NCAA and Major Leagues**

Draft prospects return for a new season, seniors explore options for additional eligibility, and graduate transfers seize the opportunity to remain in the amateur world after a year marred by COVID-19. A persistent question emerges at the heart of these choices: does participation in NIL (Name, Image and Likeness) play a decisive role, and is it exclusively intended for those who favor academic continuity? Data collected during the second year reveals an intriguing pattern: upperclassmen appear to maximize this opportunity, while newcomers emerge as the main beneficiaries in terms of financial gains. These findings raise profound questions about the motivations underlying the decision to remain in the amateur world, despite the temptations of a professional career.

NIL empowers the player. They regain control of their lives, acquire financial freedom as best they can, benefit from school education and play sports more easily than ever. By empowering, NIL offers the opportunity to choose whether to go to the major leagues or stay longer in the NCAA. The NCAA men's basketball star used to stay a year or two before turning pro, but now he plans to stay in the NCAA longer. This situation wasn't very common in football, but Caleb Williams might be the first-ever Heisman Trophy winner to refuse to participate in the draft process to stay in the NCAA. But this choice is not motivated by NIL money.

### 5.3.2.1. Caleb Williams wants to choose his future NFL franchise

In an era where student-athletes hold the reins of their sporting destiny, the decision to stay in the NCAA or join the NFL is no longer a simple dilemma. College football players, even the most promising, now have the freedom to shape their own career paths, pushing the traditional boundaries of recruiting.

The recent Heisman Trophy winner, a potential No. 1 overall pick in the 2024 NFL Draft, finds himself facing a once-unheard-of decision: become a franchise's quarterback or reconsider that trajectory. The crucial question now arises: does he simply want to become a professional, or does he want to choose where he will put his exceptional talents?

In the past, players rushed to join the NFL for millions, but today the situation has changed. Thanks to Name, Image and Likeness (NIL) rules, the financial prospect of remaining in the NCAA may surpass that of entering the professional world directly. Lucrative endorsement deals with brands like Fanatics, Neutrogena, Beats by Dre, and others offer student-athletes the opportunity to earn millions while playing in the college world.

The case of Caleb Williams, currently in the spotlight, perfectly illustrates this new dynamic. His sponsorship deals and appearances in national advertisements make him an emblematic figure of the potential of NIL. With rule flexibility, USC fans can invest more in their star quarterback, changing the game in favor of college schools.

While the prospect of becoming a first-round pick is tempting, the reality of the NFL draft process cannot be ignored. The importance of joining a well-positioned and well-managed team is becoming more and more evident. Past examples, such as Kyler Murray and Baker Mayfield, highlight the significant impact the organization has on a player's career.

Carl Williams, Caleb's father, highlights the dilemma of the current system, where first choice can sometimes be a curse. Struggling organizations can jeopardize a player's success, and that crucial choice can determine the course of an entire career.

Although the choice to remain in the NCAA is still rare for a number one pick, the growing influence of student-athletes in reshaping their sporting destiny raises concerns and fuels discussions. The NIL era has created a new situation where players can reconsider their priorities, highlighting the growing power of student-athletes in today's sports landscape.

## **6. The glaring NIL impact on international student-athlete**

### **6.1. In the shadow of the NIL: International Athletes in the NCAA and the Limits of the Student Visa**

The era of Name, Image, and Likeness (NIL) has brought enormous financial opportunities for student-athletes in the United States, but for international athletes on an F-1 visa, also known as student visa, access to these benefits is complicated by federal legal constraints.

U.S. federal law prohibits foreign student-athletes on F-1 visas from earning income while studying outside of 20 hours of on-campus work, as well as limited other forms of income with prior approval immigration officers. According to the NCAA, more than 20,000 international student-athletes compete across the country, but only those with permanent resident cards or dual citizenship are eligible for NIL benefits.

International participation in American college sports is significant, accounting for 12.5% of Division I freshmen athletes over the past five years. However, within Division I, less than 1% of soccer players are international, while sports such as men's (61%) and women's tennis (60%) as well as men's (24%) and women's golf (32%) have a strong presence of international athletes.

For international athletes, the complexity of student visas limits their ability to take advantage of the NIL. Currently, the only viable option is to benefit financially from a business in their home country, but this is only possible when the athlete is physically present in that country. This reality leaves international athletes in a difficult position, unable to take full advantage of the NIL opportunities available to their American counterparts.

Some international athletes have found creative ways to get around these limitations. Mady Sissoko, a men's basketball player at Michigan State, is donating every penny of his NIL earnings to a charity he created to support underprivileged people in his native Mali. Similarly, Mason Fletcher, the Australian football punter from Cincinnati, chose to donate the money earned from the NIL for the sale of his jersey to the team's substitutes, providing financial support to those who do not receive scholarships.

Despite these laudable efforts, the reality persists: international athletes remain largely excluded from the financial benefits offered by the NIL. While some get creative with giving back, many find themselves in the shadows, unable to capitalize on their own opportunities. The challenge is balancing the pursuit of the American athletic dream with the limitations imposed by being an international student.

#### **6.1.1. NIL and Visa: International Athletes in the Vise of Federal Regulations**

The advent of Name, Image, and Likeness (NIL) has opened a lucrative avenue for many student-athletes, but for those on F-1 visas, the situation becomes more complicated due to strict federal regulations on immigration.

At West Virginia and Drexel, for example, international athletes are forced to refrain from entering into NIL agreements due to strict enforcement of federal regulations.

However, disparities exist, as demonstrated by the example of Nebraska, where the women's basketball program has welcomed NIL opportunities for international student-athletes. The program excitedly tweeted that international NIL was made possible, emphasizing the legitimacy of NIL activities for athletes once they return to their home countries.

The University of Florida has taken a hands-on approach, requiring its international athletes to properly document their physical location if they plan on NIL activities in their home country. This requirement includes providing Form I-94, arrival/departure records, flight itinerary, and port of entry stamp.

International student-athletes must juggle complex guidelines to avoid any violation of their visa status. Some, like Irish basketball player Sam Alajiki of Cal, prefer to promote businesses from their home countries. However, precautions must be taken to avoid any negative impact on their immigration status, requiring close collaboration with school compliance teams and sometimes adjustments in the timeline of NIL agreements.

The NCAA issued initial notices that international athletes were covered by the interim NIL policy, but also encouraged them to consult their school's compliance officers for guidance on maintaining their immigration status and the implications tax.

The debate is gaining steam, with notable players such as Kentucky's Oscar Tshiebwe calling on Congress to intervene on behalf of foreign student-athletes. Their limited access to the NIL, primarily due to F-1 visa constraints, raises questions about the fairness of the system, particularly for those whose potential financial benefit could exceed seven figures.

In short, international athletes on F-1 visas remain trapped in a regulatory dilemma, having to juggle their sporting aspirations with the limits imposed by their international student status.

### **6.1.2. From Australian Lands to American Campuses: The Success Story of Australian Punters in the NCAA**

In the world of American college football, a trend from Australia is gaining ground with remarkable influence. Through the Melbourne-based ProKick Australia Academy, Australian rules football players and some rugby players are transformed into exceptional punters, propelling their careers in the NCAA (National Collegiate Athletic Association).

Currently, the impact of Australians in university football is undeniable. For the 2023 season, 61 teams in the NCAA Football Bowl Subdivision have Australian punters on their rosters, according to ProKick Australia. This enthusiasm for Australian talent extends from Power Five schools to Group of Five teams, demonstrating the growing influence of these athletes from below.

The emergence of these Australian punters is due to their initial training in Australian rules football, a fast-paced sport that places kicking at the heart of its gameplay. Unlike the American tradition of throwing footballs and baseballs, Australians grew up "hitting an oval-shaped ball hundreds of times a day," as Michael Dickson, punter for the Seattle Seahawks, points out.

ProKick Australia has played a vital role in this transition. The academy, founded in 2009, has perfected a training system that converts Australian rules football skills into punter skills for American football. With such reliability that NCAA coaches offer scholarships to players they've only seen on video, ProKick Australia has sent more than 200 Australian players to American universities, and about 95 percent of them graduated.

The diversity of Australian punters' backgrounds is also striking. Some are teenagers looking to begin their sporting careers, while others, older, aspire to extend their journey after attempts at professional Australian rules football or rugby. The success story of these Australian punters resonates beyond the playing field, changing the life trajectory of some, as T.C.U. punter Sandy, who is currently pursuing a master's degree, points out.

The growing popularity of college football in the United States, the recognition of the quality of Australian punters, and the ProKick Australia training system have created a unique symbiosis. This trend, which has transformed the college football landscape, highlights that sometimes exceptional talent comes from unexpected places, transcending borders and bringing new dynamics to the American game.

### **6.1.3. Empirical study: International student-athlete in NCAA & NAIA**

#### NIL Sponsorship of International Student-Athletes in the NCAA: Challenges and Opportunities

The world of college sports in the USA is undergoing a major transformation with the advent of NIL (Name, Image, Likeness) sponsorship agreements. However, for international student-athletes participating in the NCAA, these opportunities present particular challenges.

According to a recent survey of 63 international student-athletes, several trends emerge regarding their motivations, constraints and experiences with NIL sponsorship.

#### Motivations for joining the NCAA & NAIA

Of the respondents, 38% chose to join the NCAA because of better facilities and more competent coaches, while 52% were attracted by the higher level of competition. A significant number, 68%, indicated that their goal was to become a professional in their discipline, underlining the attractiveness of the opportunities offered by the American sports system. A further 16% explicitly mentioned their desire to leverage their talent to earn money.

#### Financial obstacles and legal constraints

A major challenge for international student-athletes lies in their F-1 visa status, held by 96% of those surveyed. This classification does not allow students to obtain sponsorship contracts in the U.S., nor to benefit from financial support from collectives. So, despite their sporting success, these athletes face significant obstacles to monetizing their image on American soil.

#### Recruitment and education

The majority of respondents (61%) were recruited through videos and international meetings, underlining the growing importance of digital visibility in sports recruitment. However, despite having come to study and practice their sport, 79% are no longer studying or have never studied in their chosen field in their home country, highlighting the trade-offs often necessary between sporting and academic careers.

#### Financial support and NIL experiences

Although 81% benefit from a full or partial scholarship, the lack of access to NIL sponsorship agreements in the USA remains a problem. Only 12% were able to benefit from such agreements during temporary stays in France to comply with regulations.

#### Collaboration with Federations and Original Sponsors

The majority of international student-athletes (56%) receive financial support from their home federations, and 63% have sponsors, mainly from their national federations and brands. However, they are faced with the need to return to their home country to obtain sponsorship products, complicating their access to financial benefits.

#### Conclusion

While international student-athletes bring a wealth of talent to the NCAA, the challenges associated with NIL sponsorship and legal constraints remain significant. Finding ways to overcome these obstacles would maximize the financial potential of these exceptional athletes, fostering a fulfilling athletic and academic experience in the United States.

#### **6.1.4. The Sports Brain Drain: French Athletes Conquering American Campuses**

Olivia Alexandre, track&field athlete at University of San Francisco UX (interviewed)

It only took 23-year-old Olivia Alexandre 15 minutes between her intense training sessions at the San Francisco University XC stadium to reveal her unique journey to us. This middle-distance and 400m hurdler made the courageous choice to leave France to pursue her sporting passion and her studies in the United States. Leaving a year of economics faculty in France, Olivia found a new balance on the American campus. His story resonates as an example of the sporting “brain drain” towards new opportunities. After racing at the highest junior level in France, she was spotted by an American coach on the internet and after a simple exchange of emails and phone calls with French people there, she flew off to continue her career at the bottom, with the support of the French federation and other French people who play under the colors of France during the European championships but on American soil the rest of the year.

#### Behind the Scenes of Sports Migration

The process of sports migration to the United States is not an easy adventure. Enzo Di Benedetto, advisor for the France-Athletes USA agency, takes us behind the scenes of this talent drain. A careful six-month procedure, gathering school report cards and sports performances, precedes the transmission of the files to American university coaches. Choosing the campus is the first step in an adventure that also requires administrative management and visa procedures, all with an average financial investment of 3000 euros.

#### Léon Marchand, Swimmer at the Conquest of Arizona

Léon Marchand, distinguished swimmer, chose to leave France after the Tokyo Olympic Games to join Arizona State University. Under the leadership of renowned coach Bob Bowman, he is already standing out on the American sports scenes. With the second best time in history in the 400 yard medley, Léon gives us his impressions of his first months in the western United States.

"The sky is always blue, we're swimming outside so it's really cool. I'm always in shorts and flip-flops." - Léon Marchand, France Bleu.

#### Conclusion: A Choice Not Without Challenges

Sports migration to the United States offers French athletes exceptional opportunities, but it is not without challenges. The sports “brain drain” reflects the aspiration of young talents for an environment conducive to personal and sporting development. This courageous choice, illustrated by Olivia Alexandre and Léon Marchand, raises questions about the quest for balance between personal life, high-level sport, and studies, while broadening the horizons of French athletes towards new territories. Their choice is not only motivated by sport, although Léon Marchand left to join Bowman, former coach of Michael Phelps, Olivia Alexandre left because practicing track & field in France is not simple, not funded and very little recognized



by universities. This makes it difficult to race at a high level and study at the same time. Choosing to run only is almost impossible because it would be impossible for him to meet his needs at the same time. Going to the US and benefiting from a scholarship, sports support, food and accommodation at the same time was the ideal solution. She hopes to participate in the Los Angeles 2028 Olympics.

## **6.2. 'It's all legal': Foreign college athletes cash in at home:**

The strategy to circumvent F-1 visa guidelines is to ensure that any income generated remains passive and not active. International athletes can participate in collective licensing deals, where a third party takes care of the marketing aspects, but they risk losing their visas if they actively promote products on social media in the United States.

Influxer, an agency facilitating NIL deals for international athletes, gained attention by hosting photo shoots in the Bahamas, collecting content for future deals. International athletes often have to rely on friends, family, and third-party companies to passively promote their image.

However, this approach raises concerns about the fairness of the system, as international athletes face additional barriers to taking advantage of the NIL. Current guidelines encourage many students to explore options outside the United States, but this adds unnecessary complexity to an already confusing process.

The situation is particularly concerning for athletes with limited earning potential. Unlike college basketball stars, college swimmers, for example, often have a smaller social media presence, making NIL deals less common and less lucrative.

The call for a leveling of the playing field is growing, with international athletes advocating for a review of F-1 visa guidelines to allow active participation in NIL agreements to match the cost of their education. This would open up opportunities for international student-athletes, easing financial pressure on families who must pay for their children's education in the United States.

The debate highlights the need for clarification of the guidelines, with calls for legal advice specialized in immigration law rather than interpretation based on NCAA statutes. For now, the dilemma persists for international athletes, who juggle their sporting aspirations with the constraints of their international student status.

### **6.2.1. Lou Hedley: The downward spiral of NIL deals for internationals**

Talented Miami Hurricanes football team punter Lou Hedley recently signed a lucrative Image Rights and Licensing (NIL) deal with John Ruiz's Life Wallet company. However, unlike his American teammates, Hedley had to navigate a complex path to fully benefit, illustrating the challenges international student-athletes face in the complex world of the NIL.

Due to current restrictions in U.S. law, international student-athletes cannot take full advantage of the NIL while in the United States. So, to seal this successful deal, Hedley took a grueling 37-hour flight back to his native Australia, where he filmed promotional content for Life Wallet in Perth.

Although the exact amount of the NIL deal was not revealed, Hedley indicated it was in the similar range as his American teammates, around \$50,000. This detour was necessary because the NIL does not cover international and military academy student-athletes, creating legal and logistical complexities.

International student-athletes, of which Hedley is one, find themselves in a gray area when it comes to NIL. The rules and regulations vary depending on the facility the athlete attends, adding to the overall confusion. However, Hedley remains optimistic, emphasizing that as long as the work is done outside the United States and all transactions take place in its home country, the deal is legal and within the rules.

Although Hedley's grueling journey was not accompanied by the Life Wallet team, modern technology allowed for virtual collaboration. This highlights the complexity of the NIL environment for international student-athletes, requiring Hedley to find someone capable of posting the content to social media from Australia.

Ultimately, the deal was a success, but it required considerable due diligence, including tax research, to ensure all transactions complied with applicable laws. Hedley's situation clearly illustrates that even for talented international athletes, navigating the murky waters of the NIL can be arduous and require careful planning.

### **6.2.2. How Léon Marchand navigates gray areas**

Strict F-1 visa guidelines prevent international students from engaging in NIL-related activities while on U.S. soil. However, experts say there is a loophole in these regulations, allowing international athletes to generate income outside of the United States.

It is in this gap that emerging athletes, such as French swimmer Léon Marchand, can exploit their growing fame. Although they cannot capitalize on their notoriety in the United States, once back in their home country, they are free to enter into sponsorship deals and leverage NIL.

Léon Marchand, a 21-year-old French swimming prodigy, is not getting carried away by the tumultuous wave of advertising partnerships despite his three world champion titles at the Fukuoka Swimming World Championships. While Name, Image, and Likeness (NIL) offers attractive financial opportunities, Marchand prefers to concentrate on sport and his studies, favoring quality over quantity when it comes to partnerships.

With three gold medals and a world record to his name, Marchand has become a key figure in French sport, naturally attracting the attention of sponsors. However, the swimmer made his priorities clear: "I don't want to turn myself into a billboard." This statement, made before his exploits in Fukuoka, reflects his determination not to let advertising contracts interfere with his sporting goals.

Currently, Marchand is only linked by two sponsorship contracts with Omega and LVMH. A careful selection, in line with its desire to remain rare in the field of partnerships. The strict rules of the NCAA, the American university championship, also limit its options. Holder of a student visa in the United States until March 2024, he cannot work on American soil or sign contracts with brands in the country.

There are also time constraints that Marchand faces due to his presence in the United States. The swimmer, who gives absolute priority to his studies and his sporting career, cannot be available for partnerships in France.

Despite the lost potential financial opportunities, Marchand remains true to his vision. Earning money doesn't matter to him. Its main concern is to perform in the basin and to capitalize for its future, while respecting the constraints of its status in the United States. Taking a plane to sign partnership contracts or promote a product is therefore not a priority in his schedule.

Marchand wants quality partnerships rather than quantity. He seeks collaborations consistent with his values of performance, hard work and the values of sport. The Omega and LVMH brands, partners of the Paris Olympic Games, correspond to this vision.

Despite his youth, Marchand demonstrates exceptional maturity in his management of partnerships and marketing. He remains true to himself, preferring to avoid permanent exposure and favoring the quality of partnerships rather than excessive visibility. An approach that sets him apart and which, coupled with his sporting ambitions, promises a bright future in and outside the pool. Marchand swims to the rhythm of his own waves, determined to leave a lasting mark on the world of swimming.

This shows how difficult it is for an international student-athlete playing at the highest level to reconcile NIL deal and sporting performance. At the same time, he will be able to receive financial prizes in the event of medals at the Olympic Games, this being authorized by the NCAA regulations, with the exception of Olympic athletes. And he will most likely win many medals for France, in Paris next August.

### **6.3. A Call for Equality: International Athletes and the Challenges of the NIL**

In the competitive world of American college sports, where the quest for athletic excellence coexists with the financial pressure of studying, international athletes face unique challenges. While Name, Image, and Likeness (NIL) offers new financial opportunities, the crucial question of its accessibility for international student-athletes remains unanswered.

#### Voices Raise for Equality

Several senators have long advocated for equal access to the NIL for all college athletes, including international students. At a minimum, all college athletes deserve to be able to use their name, image and likeness as they see fit, and that includes international athletes.

#### The Reality of High Education Costs

Yet the reality is that the high cost of education in the United States can become a major barrier for international student-athletes. Olivia Alexandre, student-athlete at the University of San Francisco or companies wishing to sponsor them as athletes.

#### A Strange Perspective on Financial Aid

It's quite strange how you can get financial help from your parents and school, but you can't get money from corporations or businesses that want to sponsor you as a student. "athlete", declares Olivia Alexandre, highlighting the complexity of the current rules.

### Towards Broader Opportunities

“With the cost of education being so high, it could open up many opportunities,” adds Olivia Alexandre during the interview she gave me. This statement highlights the critical importance of allowing international athletes access to the NIL, not only for personal advancement, but also to alleviate the financial pressure inherent in high-level study in the United States.

While the White House may have varying priorities, the issue of equitable access to the NIL for international student-athletes should feature prominently. It's a question that concerns not just a few, but thousands of athletes who contribute to the very essence of American college sports.

## **Conclusion: The Current State of American College Sports and the Challenges of the Name, Image & Likeness**

The complex landscape of American college sports reflects a unique intersection between sporting passion, academic ambitions and growing entanglement with the business world. NCAA sports leagues, often considered institutions dedicated to the development of student-athletes, today find themselves at a crossroads, faced with crucial questions related to Name, Image, and Likeness.

On the one hand, the NIL opened up new opportunities and redefined the landscape by allowing college athletes to capitalize on their fame. However, the contours of this financial revolution are not uniformly mapped, creating significant challenges for international student-athletes. These athletes, holders of the F-1 visa, face strict federal restrictions which prevent them from fully benefiting from the LNI on American soil.

NCAA sports leagues, with their complex structure and regulations, find themselves juggling the need to preserve amateurism with the need to embrace the changing economic realities of college sports. The high cost of education in the United States adds an additional dimension to the challenges faced by international athletes, creating a potentially significant financial gap.

In this context, university sport is no longer limited to the competitive arena. It has become an area where private actors, collectives and social networks play a preponderant role. Athletes, whether national or international, juggle the pressure to perform, the financial opportunities of the NIL and immigration concerns.

At the heart of these issues is a central question: how to balance the traditions of amateurism with the contemporary economic realities of university sport? As calls for equal access to the NIL grow, debates around federal law reform, visa status protection, and the future of college sports itself will continue to shape this landscape in constant evolution.

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