



# COMPLIANCE CORNER



JUNE 2020

## INSIDE THIS ISSUE

Title IX Update

Alston v. NCAA

Name, Image, Likeness

Sports Wagering

COMPLIANCE

STAFF

Trever Wright

Associate AD/  
Compliance

trever.wright@uc.edu

Lindsay Jaffe

Assistant AD  
Compliance/  
Sport Services

lindsay.jaffe@uc.edu

Grace Kroner

Director of Compliance  
Grace.Kroner@uc.edu

Brennan Daunt

Assistant Director  
Compliance

dauntbn@mail.uc.edu



## FOCUS OF THE MONTH

### TITLE IX UPDATE

On May 6, Education Secretary Betsy DeVos announced upcoming changes to Title IX legislation. Important changes and links are listed below:

- Defines "sexual harassment" as:
  - "School employee conditioning education benefits on participation in unwelcome sexual conduct"
  - "Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school's education program or activity"
  - "Sexual assault, dating violence, domestic violence, and stalking."
- Colleges will now be required to allow cross-examination of both the complaining party, the accused and witnesses in a formal hearing overseen by school officials.
- Colleges are no longer required to investigate allegations of sexual harassment that occur outside of the United States, ie, on a school sanctioned abroad program
- Colleges must provide evidence related to allegations to parties and advisers at least 10 days prior to requiring a response, and parties will not be prohibited from speaking about the allegations
- Requires schools to offer an equal right of appeal for both parties to a Title IX proceeding
- If a Title IX coordinator receives multiple informal complaints of harassment against a single respondent, they will not be required to begin a formal complaint process.
- Universities are required to be in compliance with the new regulations by August 14

### ALSTON V. NCAA

- In March 2019, a federal district judge in California ruled that NCAA rules that limit what student-athletes can receive from their institutions violated antitrust laws, but the ruling was limited to benefits related to education (e.g., schools could cover the costs of computers, musical instruments, science equipment, and other similar items.)
- The NCAA appealed, arguing that the current rules, which allow a scholarship and an additional COA stipend, are legal under federal law
- On May 18, 2020, the Ninth Circuit Court of Appeals upheld the district court's ruling. Although Alston's attorneys asked the judges to expand the lower court ruling to give schools the option to compensate student-athletes however they want, the court declined to do so, leaving the ruling limited to education-related expenses.
- The NCAA has asked for a 30-day extension to appeal the court's ruling to the Supreme Court

# NAME, IMAGE, LIKENESS

In September, California Gov. Gavin Newsom signed the Fair Pay to Play Act into law, taking effect on 1/1/2023. It will permit California student-athletes to sign endorsement deals, earn compensation off of their NIL, sign licensing contracts, and hire an agent licensed by the state to represent them in any deals related to their NIL.

Colorado signed a similar bill into law on March 20 that will also take effect on 1/1/23. States such as Florida, Minnesota, Nebraska, Georgia, and South Carolina have introduced NIL legislation as well, but they have currently been postponed due to state legislatures focusing on the COVID-19 pandemic.



## NCAA RESPONSE

- On April 29, the Board of Governors announced support for NIL reform to allow student-athletes to receive compensation for third-party endorsements both related to and separate from athletics, as well as other opportunities such as social media, personal businesses, and personal appearances
- While student-athletes would be permitted to identify themselves by sport and school, the use of conference and school logos, trademarks or other involvement would not be allowed. The board emphasized that at no point should a university or college pay student-athletes for name, image and likeness activities.
- The recommendations will move to each division's rule-making structure for further consideration, with each division expected to adopt NIL rules by January 2021 to take effect at the beginning of the 21-22 school year

## SPORTS WAGERING

- Sports wagering is currently live and legal in 18 states and Washington, D.C. It is legal but not yet active in four states, and 16 states currently have active legislation being discussed
- Seven states have not introduced any gambling legislation in 2020, and five states, including Kentucky, have had gambling legislation die in 2020

### Ohio, Kentucky, and Indiana

- Ohio has had two bills introduced. House Bill 194 would permit mobile gambling and in-person gambling at Ohio casinos and racetracks, and would be regulated by the Ohio Lottery. Senate Bill 111 would permit gambling only at state casinos and racetracks and be regulated by the Ohio Casino Commission. Both bills are currently on hold due to COVID-19
- Kentucky introduced a bill in early 2020 that quickly made it through committee before stalling right before a full vote in the House due to conflicting opinions amongst House Republicans. The bill sponsor has said that it is a dead bill and will be reintroduced in 2021 so the state can focus on fighting the pandemic
- Indiana Gov. Eric Holcomb signed a sports gambling bill into law last year that took effect on September 1, 2019, permitting mobile gambling and in-person gambling at Indiana casinos. Since it took effect, \$895 million has been wagered in Indiana, generating over \$6.8 million in taxes/state revenue

## RECRUITING CALENDARS

Contact Period

Evaluation Period

Dead Period

Recruiting Shutdown

### All Sports

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

The NCAA adopted Emergency Legislation to establish a temporary recruiting dead period for all NCAA Division I and II sports, effective immediately, and in effect until at least July 31, 2020.