



***Penn State Athletics
Name, Image Likeness (NIL)
Policies & Procedures
February 7, 2022***

I. Philosophy Statement

As of July 1, 2021 Penn State student-athletes are permitted to take advantage of opportunities to capitalize on their name, image and likeness (NIL). Penn State fully supports and embraces the opportunity for our student-athletes to engage in these activities and the education that will accompany this experience as students discover their entrepreneurial spirit and direction. Although Pennsylvania law limits the involvement Penn State can have in a student-athlete's NIL activities, our STATEment program is designed to provide resources and direction for students who desire to fully explore this new opportunity.

This policy is designed to provide our student-athletes with the necessary framework for successfully navigating their NIL opportunities while staying within the established rules of the NCAA and the Commonwealth of Pennsylvania. As exciting as the opportunity to capitalize on your NIL is, it should not come at the price of eligibility to compete in the sport you love. Members of the Penn State Intercollegiate Athletic Department stand prepared to help you navigate the regulatory environment, enabling you to pursue an entrepreneurial adventure as well as the sport you love. At Penn State, you can have it all!

II. Scope and Applicability Policy

This policy applies to all Penn State student-athletes who have eligibility remaining in their sport and covers the entire range of NIL activities, including, but not limited to advertisements, affiliate sales, appearances, endorsements, crowdfunding, autograph sessions, sport camps, individual businesses and entrepreneurial activity.

This policy becomes applicable to prospective student-athletes as of the date they sign a National Letter of Intent to attend Penn State.

III. Penn State Student-Athlete Obligations related to NIL

- Student-athletes are responsible for knowing the NCAA, Commonwealth of Pennsylvania and Penn State regulations and policies regarding engagement in NIL.
- Student-athletes are required to disclose all NIL activities in advance of any contract, engagement, or exchange of services. According to PA law this disclosure must occur a minimum of 7 days prior to any activation (more specific disclosure instructions below).
- Student-athletes are responsible for all legal obligations they undertake in connection with their NIL activities, including contractual obligations relating to endorsement, sponsorship or representation.



- The University has intellectual property rights in the Penn State name, logos, and other marks. Student-athletes must obtain prior approval if the student-athlete desires to utilize any Penn State intellectual property (including appearing in uniform) in connection with their NIL activities. Athletic Department contact information is listed under “Resources” below to seek the appropriate approval.
- Student-athletes are responsible for all federal, state and local requirements regarding income earned, including appropriate tax filings, withholding and payments.
- Student-athletes must continue to follow all Penn State student code of conduct, student-athlete code of conduct and team policies.

IV. Pennsylvania Law

Penn State student-athletes who choose to participate in NIL activities shall do so in full compliance with the appropriate section of Pennsylvania law pertaining to college students and their opportunity to participate in NIL activities (Amendment to the Public School Code of 1949).

The pertinent Pennsylvania law is attached as an appendix to this Penn State Athletics Name, Image and Likeness (NIL) Policies and Procedures Document.

Pennsylvania Law Key Student-Athlete Points

- Commonwealth of Pennsylvania law permits student-athletes to earn compensation for the use of the college student-athlete’s name, image and likeness.
- The compensation shall be commensurate with the market value of the student-athlete’s NIL.
- Compensation may not be in exchange, in whole or part, for a current or prospective student-athlete to attend, participate or perform at a particular institution.
- The institution may not arrange for third party compensation for a college student-athlete relating to NIL.
- Student-athletes may not earn NIL compensation for activities involving a person, company or organization related to or associated with the development, production, distribution, wholesaling or retailing of any of the following:
 - Adult entertainment products and services
 - Alcohol products
 - Casinos and gambling, including sports betting, the lottery and betting in connection with video games, online games and mobile devices
 - Tobacco and electronic smoking products and devices
 - Prescription pharmaceuticals
 - A controlled dangerous substance
 - Weapons, including firearms and ammunition



V. NCAA Legislation

NCAA extra benefit legislation continues to apply and does not permit compensation to be received by a student-athlete unless it is in exchange for the right to use their NIL in commercial/charitable activity or in exchange for a product or service provided by the student-athlete. Compensation for NIL activities must be for services actually performed.

All student-athlete NIL activity should be for compensation that is defensible as “fair market value”.

VI. Penn State NIL Policy Guidelines

Pennsylvania law permits collegiate institutions to limit student-athlete NIL activity that conflicts with University values and/or existing sponsorships. In accordance with these rules, the following provisions shall apply to student-athlete NIL activity alongside what is currently prohibited through Pennsylvania law:

Additional Prohibited NIL Activity for Student-Athletes:

- Drugs, including paraphernalia and derived products
- Educational Entities in direct competition with Penn State
- Pornography
- Political or Political Issue advertising
- Scholarship, Grants, or Financial Aid
- Weight Loss products or plans
- Any advertising that includes language, pictures or other graphic representations that are unsuitable for exposure to person of young age and immature judgement, or that is derogatory or defamatory of any person or group because of race, color, national origin, ethnic background, age disability, ancestry, marital or parental status, military discharge status, source of income, religion, gender, or sexual preference
- Sponsorships or arrangements that may infringe on Penn State’s intellectual property rights
- Sponsorships or arrangements that may conflict with Penn State’s legal rights
- Other products, services or advertising that are inconsistent with Penn State’s values

NIL Activity in Exclusive Categories:

Penn State maintains exclusive sponsorship arrangements in the following categories and therefore NIL activity with competing sponsors during Penn State Athletics official team activities in these categories are precluded:

- Athletic Footwear and Apparel – Nike
- Athletic Equipment – varies by sport
- Carbonated and non-carbonated, Non-Alcoholic Beverages – this is a very broad category that includes, but is not limited to Pepsi/Aquafina/Gatorade/Starbucks ready-to-drink coffee



products. Student-athletes should assume that if it's non-alcoholic and drinkable, it is likely a conflict.

- Banking Services – PSECU

NIL Activity Examples

Examples of NIL activity include student-athletes engaging in social media activities, endorsements, crowdfunding activities (under certain circumstances), individually branded camps, autographs for compensation, sponsor activities, and business development.

Student-athlete NIL activity cannot interfere with official team activities nor is it permissible to miss academic requirements (class, exams, etc.) for NIL Activity.

Penn State Process for Disclosure and Review

Penn State Intercollegiate Athletics has partnered with Spry to provide student-athletes with the convenient opportunity to properly meet the Pennsylvania law on disclosure and approval requirements through their proprietary website and/or mobile app which can be accessed via an Android or iOS phone or internet.

All student-athletes are required to disclose and receive confirmation of compliance with ICA Policy and Pennsylvania law prior to beginning any NIL activity. Disclosure must be made a minimum of seven (7) days prior to signing a contract, engagement, promotional activity or exchange of services for NIL activity. Penn State STATEment Advisory and Review Team (START) staff will provide a timely decision on each submitted request.

Policies Related to Penn State Media Appearances

Student-athletes representing Penn State continue to have a responsibility to represent their teams on a regular basis with media as part of their team affiliation. Student-athletes will be expected to engage with both Penn State, local and national media as requested by the ICA Strategic Communications staff. Additional media sources, of the student-athletes choosing, may be accessed after institutional obligations have been fulfilled.

VII. Professional Representation for Student-Athletes

- Student-athletes may secure professional representation, who meet qualifications under Pennsylvania law, to assist them in reviewing and securing NIL activity. This representation may not engage in any activity related to professional sports representation or contract negotiation, and the student-athlete must pay the going rate for the services of the provider.
 - Professional representation obtained by a college student athlete shall be from a person:
 - (1) acting as an athlete agent in accordance with 5 Pa.C.S. Ch. 33 (relating to registration);



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- (2) acting as a financial advisor in accordance with the laws of this Commonwealth; or
- (3) admitted to practice law by a court of record of this Commonwealth
- Student-athletes may also identify and authorize non-professional representatives (such as a family member) to speak to designated NIL officials with the University on their behalf.

VIII. NIL Resources

Penn State NIL General Questions – STATEment@athletics.psu.edu

Penn State NCAA Compliance Office - compliance@athletics.psu.edu

Penn State Athletics Integrity Officer – Robert Boland - rab473@psu.edu

Penn State ICA Student Welfare and Development Office - swd@athletics.psu.edu

Penn State Trademark and Licensing Approval Process – Tom McGrath - ctm14@psu.edu

IX. Policy & Procedure Updates

Given the fluid nature of the NIL environment, we anticipate that this document will be updated and revised frequently. The most recent version of Penn State Athletics' NIL Policy and Procedure document will live on the Penn State Spry App and website and student-athletes will be notified of substantive changes.



APPENDIX A

Will attach bill once this is converted to a PDF.