

NAME, IMAGE AND LIKENESS POLICY

INTRODUCTION

The purpose of this document is to provide San Jose State University student-athletes, coaches, faculty, staff, sponsors, and boosters, as well as professional service providers, third parties, and/or other individuals or entities related to San Jose State University, with policies regarding the usage of a student-athlete's name, image or likeness (NIL).

This document contains ten sections setting forth policies regarding the varying involvement levels of student-athletes, the institution and its employees, professional service providers, and third parties related to NIL. These sections contain applicable language from existing state laws and NCAA legislation (including proposed NCAA legislation related to NIL). Additionally, this form is suitable for the inclusion of Federal law and/or conference policies, if applicable. These excerpts are intended to provide supporting context for San Jose State University while adapting these policies, as well as additional clarity for the reader.

San Jose State University has full discretion to implement, adapt, or repeal these policies at any time.

SECTION 1. DEFINITIONS.

- 1.1 Name, Image and Likeness.** Name, image and/or likeness (NIL) are the three components of a person's "rights of publicity." These are independent or collectively identifiable aspects of a person that make them unique, including but not limited to, their name, image, likeness, nickname, signature, social media account(s), any symbol, design or any combination thereof that readily identifies a student-athlete.
- 1.2 NIL Activity.** NIL activity is any activity in which a prospective student-athlete or currently enrolled student-athlete's NIL or personal appearance is used for promotional purposes.
- 1.3 Institutional NIL Activities.** Institutional NIL activities are any activities in which a prospective student-athlete or currently enrolled student-athlete's NIL or personal appearance is used for promotional purposes by an institution, conference, or association (including but not limited to the NCAA, or an affiliate of such entities). Such use of NIL may not be compensated.
- 1.4 Noninstitutional NIL Activities.** Noninstitutional NIL activities are any activities in which a prospective student-athlete or currently enrolled student-athlete's NIL or personal appearance is used for promotional purposes by a noninstitutional entity, including the individual prospective student-athlete or currently enrolled student-athlete, a commercial entity or a noninstitutional nonprofit or charitable entity. Such use of NIL may be compensated (e.g., cash, product or other benefit) or uncompensated.
- 1.5 Uncompensated Noninstitutional NIL Activities.** Uncompensated Noninstitutional NIL Activities are noninstitutional NIL activities in which a prospective student-athlete or currently enrolled student-athlete does not receive compensation (e.g., an appearance for a charitable event).
- 1.6 Compensated Noninstitutional NIL Activities.** Compensated Noninstitutional NIL Activities are noninstitutional NIL activities in which a prospective student-athlete or currently enrolled student-athlete does receive compensation (e.g., cash, product or other benefit).
- 1.7 Student-Athlete.** A student-athlete is defined as:
NCAA Bylaw 12.02.14. A student-athlete is a student whose enrollment was solicited by a member of the athletics staff or other representative of athletics interests with a view toward the student's ultimate participation in the intercollegiate athletics program. Any other student becomes a student-athlete only when the student reports for an intercollegiate squad that is under the jurisdiction of the athletics department, as specified in the Constitution 3.2.4.6. A student is not deemed a student-athlete solely on the basis of prior high school athletics participation.
- 1.8 University or SJSU.** San Jose State University.
- 1.9 Professional Service Providers.** A professional service provider is an individual or entity that provides services to an individual, namely a currently enrolled student-athlete, regarding their NIL.
- 1.10 Third Parties.** A third-party is an individual or entity, other than an institution or professional service provider, involved in an NIL activity.
- 1.11 Representative of Athletics Interest (Booster).** NCAA Bylaw 13.02.15 . A "representative of the institution's athletics interest" is an individual, independent agency, corporate entity (e.g. apparel or equipment manufacturer), or other organization who is known (or who should have been known) by a member of the institution's executive or athletics administration to:
(a) have participated in or to be a member of an agency or organization promoting the institution's intercollegiate program;
(b) have made financial contributions to the athletics department or to an athletics booster organization of that institution;
(c) be assisting or to have been requested (by the athletics department staff) to assist in the recruitment of prospective student-athletes;
(d) be assisting or to have assisted in

providing benefits to enrolled student-athletes or their family members; or (e) have been involved otherwise in promoting the institutions athletics program.

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SECTION 2. NAME, IMAGE AND LIKENESS USAGE POLICY.

Simply put, a student-athlete can use their NIL for compensated activities (but subject to certain restrictions).

2.1 University Policy. San Jose State University will permit student-athletes to be compensated for the noninstitutional use of their name, image and likeness. San Jose State University reserves the right, however, to restrict a student-athlete's ability to reference the University in the performance of NIL activities other than referencing the fact that the individual is a student-athlete at San Jose State University.

2.1.1 Prohibited Usage. Student-athletes may not perform NIL activities that include any of the following elements:

2.1.1.1 Institutional Marks. Utilizing the University's marks, as identified herein, without the express written consent from the University prior to usage. For requests, please contact Ryan O'Rorke (ryan.ororke@sjsu.edu). [SJSU-Athletics Brand&StyleGuide.pdf](#)

2.1.1.1.1 Retention of Licensee Rights. If the University grants a student-athlete authorization to become a licensee and utilize the institution's marks, the rights granted therein shall only be available to the student-athlete while he or she is an active, rostered member of a San Jose State University intercollegiate athletics team and shall not be made in perpetuity.

2.1.1.2 Institutional Provided Apparel. Wearing apparel that contains the University's name, logos or marks as identified in Section 2.1.1.1.

2.1.1.3 Institutionally Created Content. Utilizing any institutionally produced content (e.g., images, video).

2.1.1.4 Memorabilia. Involving the sale of:

(a) Items provided by the institution, including but not limited to awards and apparel retained by the student-athlete at the end of a season that the institution will not reuse, until the student-athlete has exhausted eligibility for intercollegiate competition at San Jose State University or has become permanently ineligible for competition.

2.1.2 Merchandise (Purchased by Student-Athlete). Institutional merchandise purchased by the student-athlete is permissible for usage in NIL activities and/or resale consistent with existing resale policies, so long as the student-athlete abides by the existing institutional marks policies policies, as specified in Section 2.1.1.1

SECTION 3. DISCLOSURE POLICY.

Simply put, a student-athlete will be required to disclose all their NIL activities.

3.1 Institutional Policy. A student-athlete shall disclose information and details of all NIL activities, including, but not limited to, information related to transactions, compensation arrangements, details of relationships with involved individuals, commercial entities and third parties involved. Disclosure of such activities will be completed as defined herein.

3.1.1 Disclosure Requirements. A student-athlete shall disclose the following details regarding all:

3.1.1.1 NIL Activity Disclosure. NIL activities (e.g., rate of pay, who was involved, how the student-athlete got the opportunity for the activity) as defined herein;

- **Activity Classification (e.g., Services, Products, Licensing)**
- **Activity Category (e.g., Appearance, Merchandise Sales, Camp/Clinic)**
- **Activity Start Date**
- **Activity Proof (e.g., Agreement, Screenshot, URL)**

3.1.1.2 Third-Party Disclosure. Third parties involved in NIL activities (e.g., relationship to the third-party) as defined herein.

- **Third-Party Type (e.g., Individual, Business)**
- **Third-Party Name (e.g., John Doe, Sally's Soda Company)**
- **Third-Party Contact (e.g., Name of contact at business)**
- **Third-Party Contact Phone or Email**

3.1.1.3 Payment Disclosure. Payments (e.g., amount, source) associated with NIL activities as defined herein.

- **Compensation Amount (e.g., \$100 USD)**
- **Compensation Type (e.g., Cash, In-Kind)**

3.1.1.4 Professional Service Provider Disclosure. Professional service providers involved in NIL activities as defined herein (e.g., payment details, how the student-athlete acquired a professional service provider).

- **PSP Name (e.g., Sally, Ed)**
- **PSP Phone or Email**

SECTION 4. PAYMENT POLICY.

Simply put, a student-athlete can be paid by anyone for NIL activities except for employees of San Jose State University and otherwise prohibited individuals and/or entities. Further, any payment received must be for work actually performed, not conditioned on athletic performance or attendance at an institution, and at a rate commensurate with their abilities and the marketplace.

4.1 Institutional Policy. San Jose State University reserves the right to restrict a student-athlete's ability to receive compensation from certain sources for the performance of NIL activities as defined herein.

4.1.1 Compensation. All NIL activities are to be compensated:

- a) At a rate that is commensurate for work actually performed and at a rate that is commensurate based on market and volume; and
- b) In any form, including, but not limited to, cash, cash equivalent compensation, and in-kind product and/or service compensation. San Jose State University reserves the right to restrict a student-athlete's ability to accept certain sources of payment for NIL activities as defined herein.

4.1.2 Pay for Play and Inducement Prohibition. Compensation for a student-athlete's name, image or likeness may not be conditioned on athletic performance, or lack thereof, or attendance at a particular institution. Further, San Jose State University reserves the right to restrict a student-athlete's ability to perform NIL activities as defined herein.

4.1.3 Transaction Reviewal. Student-athletes are on notice that transactions related to their NIL activities are subject to review by San Jose State University, the Mountain West Conference, the NCAA and/or an independent third party as defined herein.

SECTION 5. PROHIBITED ACTIVITIES POLICY.

Simply put, a student-athlete can be paid for any NIL activity unless otherwise prohibited by San Jose State University.

5.1 Institutional Policy. San Jose State University reserves the right to restrict a student-athlete from entering into an agreement regarding compensation for their NIL in activities with certain product categories, with specific entities and/or with identified individuals that are in conflict with existing

institutional contracts, institutional values, or activities involving a commercial product or service that conflicts with NCAA legislation as defined herein.

5.1.1 Prohibitions. Student-athletes may not perform NIL activities that involve:

5.1.1.1 Prohibited Categories. The following product categories:

- San Jose State strongly recommends students not engage in NIL activities in areas such as sports wagering, alcohol, tobacco, banned and illegal drugs and other vice categories.
- Athletics footwear, apparel and equipment (while the student-athlete is engaged in any team-related activities or or academic related activities; additionally the student-athlete must utilize a means of promotion that does not incorporate the use of the institution's marks, logos and/or uniforms).

5.1.1.2 Prohibited Activities. The following activities:

- No specific activities are prohibited at this time, unless otherwise conflicting with other prohibitions identified in Section 5.1.1.

5.1.1.3 Prohibited Entities. The following entities:

- No specific entities are prohibited at this time, unless otherwise conflicting with other prohibitions identified in Section 5.1.1.

5.1.1.4 Prohibited Individuals. The following individuals:

- No specific individuals are prohibited at this time, unless otherwise conflicting with other prohibitions identified in Section 5.1.1.

SECTION 6. PROFESSIONAL SERVICE PROVIDERS POLICY.

Simply put, a student-athlete can use the services of a professional service provider (e.g., agent, advisor or representative) with their NIL activities. Further, a student-athlete can use anyone as a professional service provider unless otherwise prohibited by San Jose State University.

6.1 Institutional Policy. A student-athlete may use the services of a professional service provider for advice, contract representation, and the marketing of their NIL, so long as the professional service provider is not representing the student-athlete for securing professional athletic opportunities.

6.1.1 Professional Service Provider Payment. A professional service provider may not be and payment to a professional service provider may not be arranged or come from an employee or representative of San Jose State University. San Jose State University reserves the right to restrict a student-athlete from utilizing a particular professional service provider (as defined herein) if San Jose State University determines the professional service provider is not fit to serve in that capacity.

6.1.2 Professional Service Provider Fees. All fee arrangements for the use of professional service providers associated with NIL activities shall be consistent with typical industry arrangements and must not be discounted as a result of athletics ability or potential payback as a professional athlete. Fees must be disclosed pursuant to a written agreement with the service provider. A student-athlete may receive the same de minimis benefits from a professional service provider that nonstudent-athletes receive. San Jose State University reserves the right to analyze those fee agreements and to restrict the use of professional service providers as defined herein.

6.1.3 Institutional Involvement. San Jose State University may not identify, select or evaluate a professional service provider for a student-athlete; however, the institution may assist a student-athlete with

connecting the student-athlete with resources to help evaluate professional service providers related to such activities.

SECTION 7. ATHLETICALLY RELATED ACTIVITIES POLICY.

Simply put, a student-athlete can participate in NIL activities at any time without restriction except during “countable” (e.g., required) athletically related activities.

7.1 Institutional Policy. San Jose State University will permit student-athletes to engage in NIL activities at any time they are not participating in countable and required athletically related activities (as defined in Bylaw 17.02.1 and 17.02.14) or during any academic activity such as during class times, study hall or academic service meetings. Additionally, San Jose State University may restrict a student-athlete’s ability to perform NIL activities as defined herein.

SECTION 8. FACILITIES POLICY.

Simply put, a student-athlete can engage in NIL activities anywhere without restriction, including institutional facilities that require a permit for use, subject to institutional rental and institutional marks usage policies.

8.1 Institutional Policy. Student-athletes are prohibited from engaging in NIL activities in San Jose State University facilities or on campus property unless the student-athlete has received express written consent from the University for usage or rental prior to usage. For usage and rental policies and procedures or requests, please contact Ryan O’Rorke (ryan.ororke@sjsu.edu).

SECTION 9. CROWDFUNDING POLICY.

Simply put, a student-athlete can use their NIL in crowdfunding campaigns to raise funds for nearly any purpose.

9.1 Institutional Policy. A student-athlete may use their NIL to be used through a crowdfunding service for educational expenses not included in their cost of attendance, for a specific charitable purpose, or to raise actual and necessary funds provided there is no institutional involvement in the NIL activities. Further, San Jose State University reserves the right to restrict a student-athlete's NIL to be used by a crowdfunding service as defined herein.

SECTION 10. EDUCATION POLICY.

Simply put, the institution can provide a student-athlete education on NIL and NIL activities. Additionally, the institution and its employees may offer courses that develop products or services used in noninstitutional NIL activities.

10.1 Institutional Policy. San Jose State University or an employee of San Jose State University may provide information and education related to NIL activities.

10.1.1 Coursework. A product or service that is developed as part of a student-athlete’s coursework is not subject to restrictions on the development, operation or promotion of a NIL activity. A product or service that is developed as part of a prospective or current student-athlete's coursework may be purchased by San Jose State University or an employee of San Jose State University.

OPENDORSE POLICY GENERATOR

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