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# **The Perceived Impact of the New Rules Regarding Name, Image, and Likeness (NIL) in Intercollegiate Sports**

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## **ABSTRACT**

New rules allow college athletes to earn significant income from a multitude of activities common among professional athletes. These activities include allowing athletes to profit from the sale of intellectual properties that bear their name, image, or likeness (NIL); additional opportunities include blogs, social media posts, camps, and autograph sessions. Early perceptions of the impact of these new NIL rules have been far from unanimous. A sample of 404 students from five American universities provided feedback regarding their perceptions of nine NIL-related considerations: the impact that the new NIL rules have had on college sports, if the athletes benefit, whether the rules impact recruiting, if they give Power 5 schools an advantage, if boosters and wealthy alumni are given too much power, the extent to which they hope athletes at their school can benefit from the new rules, if the new rules are detrimental to amateur athletics in general, whether they approve of the new rules, and if the new rules run counter to Title IX. The results indicate that students possess a generally favorable perception of the new rules.

**Keywords:** *NIL, SCOTUS, Perceptions, Sports, Intercollegiate, Amateur, NCAA*

## INTRODUCTION

In 2021, the Supreme Court of the United States (SCOTUS) delivered a monumental ruling which has had a profound impact on amateur sports, especially with intercollegiate athletics and those who play the games. The ruling, delivered in 2021, specifically addressed – and is thought by many observers to have dramatically impacted amateur sports, particularly intercollegiate sports. For many years, there was one overarching consideration required for one to be classified as an amateur athlete. That consideration was based upon the premise that the athlete could not be compensated based upon his or her ability to play a particular sport. In one sport where professionals and amateurs do comele is golf; but while amateur golfers can participate in professional tournaments, they cannot reap the rewards of prize money. Collegiate athletes could not be paid to play for a university, and they were prohibited from cushy jobs where they were overpaid by overzealous supporters and boosters. Amateur athletes could not be given appearance money or sign autographs for compensation, nor could they endorse products or receive royalties from the sale of licensed merchandise. The consequences for amateur athletes who violated these stipulations were severe. For instance, “amateur” skier Karl Schranz was banned from participation in the 1972 Winter Olympics because he had accepted \$50,000 to endorse a brand associated with skiing (McKay, 2015). As a consequence, the IOC deemed him to be a professional athlete, thus he was not eligible to compete in the Olympic Games. More recently, Jeremy Bloom had his collegiate football career cut short after the 2002 season because he participated in endorsement deals with Under Armour and Bolle – and those deals were associated with his skiing exploits, not his football skills (SBJ, 2004). Despite this explanation, the NCAA claimed that he had violated his amateur status. In an effort to raise attention about this perceived inequity for amateur athletes in general, Bloom has become a vocal advocate at the forefront of efforts designed to provide athletes the right to capitalize on the financial opportunities that have previously been off limits to them (Thompson, 2021). After all, American universities have reaped significant income based on the sale of merchandise bearing university trademarks, and many of these same items bear the name, image, or likeness of their “amateur” athletes. The athlete does not share the wealth when these products sold, hence, the outcry.

In 2021, the Supreme Court of the United States (SCOTUS) declared restrictions of this ilk to be unconstitutional (Kendall & Radnofsky, 2021), and as of March of 2022, almost 30 states had enacted legislation designed to allow student-athletes to capitalize on new endorsement opportunities (Hicks, 2022). And as of January of 2023, 32 states had passed new NIL laws, five states had a proposal under consideration, and the federal government had enacted or introduced seven bills designed to regulate this new opportunity for amateur athletes. They bear interesting titles such as “Student-Athlete Level Playing Field Act,” the “College Athlete Bill of Rights,” and the “Fairness in College Athletics Act.” The trend at the state-level started prior to the SCOTUS ruling in 2019 when California passed the “Fair Pay to Play” Act (McNamara, 2019). Unfortunately, and predictably, there are significant differences among the new state laws; these differences further exacerbate the inequity that schools encounter when reaching out to prospective recruits (Nakos, 2022). The SCOTUS ruling created a maelstrom of confusion and competition in coaches’ efforts to recruit the top athletes. The bottom line is that the new NIL guidelines permit amateur athletes to capitalize on their popularity and fame. It has even reached the high school level (Knox, 2022) where Arch Manning and Bronny James reportedly have NIL

deals in excess of \$3 million (Zucker, 2022). This ability to capitalize on NIL opportunities has been referred to one's "right of self" (Crusto, 2022, p. 533). However, despite the new "looser" rules, the athletes do not share the wealth equally. So, while it is apparent that many athletes benefit from the new rules, the rules are not devoid of criticism.

The current study seeks to provide insight into the perceptions of university students, a key target market, in regard to the impact of the Supreme Court's ruling while concurrently helping to develop a framework for future research into a topic that will most assuredly be top-of-mind for individuals and organizations for years to come.

## LITERATURE REVIEW

In light of the recency of the transformation of the NIL rules, it is not surprising that the extant literature on the impact of the new NIL rules is sparse. The literature that does exist is primarily found in law journals, the popular press, newspapers, magazines, and wire feeds. Furthermore, the preponderance of the literature is found online. It is typically characterized as news with essentially no empirical scrutiny in evidence. Furthermore, the vast majority of the literature regarding NIL issues has been published since the Supreme Court ruling in June of 2021. That decision by SCOTUS essentially rendered the NCAA's prohibition against student-athletes earning income from any marketing efforts involving their name, image, and likeness to run counter to the Constitution of the United States (Kendall & Radnofsky, 2021). Prior to the landmark decision, the NCAA had restricted student-athlete earnings of that ilk under the premise that such prohibitions were designed to "preserve the concepts of amateurism and competitive equity among its member institutions." (Thompson, 2022, p. 1347). In order to comply with the SCOTUS ruling, the NCAA rescinded its long-standing (over 100 years) prohibition on earnings of this ilk. Many observers – fans and critics alike – refer to that decision by the NCAA by comparing it to a popular sports-themed movie: *Show Me the Money* (Cook, 2021). But, while recognizing a potential negative consequence of this decision, the new NCAA guidelines still prohibit using NIL income as a recruiting inducement; they also require the student-athlete to engage in some independent activity, such as a blog, camp, or social media presence. Otherwise, their amateur status, thus the ability to participate in an NCAA-sanctioned sport, is in jeopardy (Hosick, 2021). In order to protect the amateur status of their players while concurrently providing guidance to a group of 18-to-22 year old individuals who likely lack the business acumen needed to make good business decisions, many schools have staff members whose job it is to provide proper guidance (Liffreing, 2021). This support may also be used to create an advantage in the recruiting process. For instance, the University of Nebraska has promoted its "ability to help students monetize their image under new laws" (Higgins, 2021). And Nebraska is just one of many schools that offer this customized service to its players. Such assistance is viewed as a benefit for the athlete, but it also benefits the school as they engage competitors in the recruiting process (Eggers, 2022).

For the sake of brevity, while still providing a comprehensive overview of the existing literature on the subject, rather than being presented in a narrative format, this literature review will be presented as a series of bullet point listings. As such, it will be summarized in three categories. These categories are: (1) general perspective (2) positive/benefit, and (3) negative/drawback.

Each entry will reference the corresponding source(s) for the listing. Each listing has an active link to the original source in the References section at the end of this paper. A brief overview of the literature will be provided at the end of review.

### ***General Perspective***

Benefits the student-athlete (Skiver, 2022)  
College athletic directors view NIL era as “good for college athletics, and athletes” (Kleps, 2021)  
Modest overall approval (Kleen, 2021)  
New NIL rules *embraced* by younger consumers (Smith & Broughton, 2021)  
May not conform to Title IX mandates (Bryant & Joshi, 2021; Jensen, 2021)  
Not available for foreign athletes in USA on student visa (Radnofsky, 2022)  
Power 5 may break away from NCAA (Olsen, 2022)  
“Chaos” in NCAA football (Gay, 2022)  
Congress needs to pass laws to protect athletes (Sutherland, 2022)  
Confusion around governance and enforcement will remain, if not intensify (Osterman, 2022).  
Beneficial for female athletes (Sherry, 2022)  
Question congruence with Title IX stipulations (Radnofsky, 2020)  
Benefits accrue to the marketer (Thompson, 2022)

### ***Positive/Benefits***

Protect athlete from overzealous supporters (Skiver, 2022)  
Ability to pitch NIL opportunities creates more leverage for the top programs (Cadden, 2021)  
Beneficial for athletes who participate in nonrevenue sports (Kaufman & Canoles, 2022)  
Opportunities for student-athletes who do not have national appeal (Kaufman & Canoles, 2022)  
Regional opportunities for lesser known athletes (Kaufman & Canoles, 2022)  
Enhance future marketability (Pamlanye, 2022)  
Athletes stay in school longer (Florio, 2021)  
Fewer one-and-done athletes (Prisbell, 2022; Chavkin, 2022)  
Female athletes are early beneficiaries (Anzedei, 2022)

### ***Negative/Drawbacks***

“Rich college sports fans are funneling millions to athletes” (Wanna, 2022)  
NCAA allows each institution to determine permissible scope of benefits (Thompson, 2022)  
Disparity among member institutions has created considerable confusion (Crusto, 2022)  
Number of elite athletes available may dwindle for less fortunate programs (Cadden, 2021)  
Blatant tampering (Lewis, 2022)  
Power of *collectives*; NIL-disguised payments (Dellenger, 2022a)  
Unrestricted NIL expenditures (Orr, 2022)  
NIL disrupts college sports in unpredictable ways (Burton, 2022)  
Inducements to enter transfer portal (Hirsch, 2022; Parks 2022; Monteith, 2021)  
Poaching and tampering (Deren, 2022)  
Endorse unwholesome products (Wittry, 2022; Christovich, 2021; Tréguir, 2022; Mohr, 2022)  
Non-level playing field (advantage to Power 5) (Teel, 2014) exacerbated (Brezina, 2022)  
Path away from the traditional values of scholastic athletic competition” (Dellenger, 2022b)

## Non-legitimate deals could impact athletes' eligibility (2022)

In closing this literature review, two recent qualitative studies involving surveys directed towards the general public provide evidence that public sentiment about paying college athletes, or so-called pay-for-play is changing. Consider the following statement. "A Marist Poll released last week found that 74% of adults support college athletes earning money via NIL. About half of sports fans, and 46% of all adults, say colleges should pay athletes directly. After years of resistance to paying athletes, the public is rapidly changing its attitude as more people see that the NCAA's claims about amateurism are a sham" (Cunningham, 2022). To quote Bob Dylan: "The times there are a changin."

### **Overview of the Literature**

Given the recency of the SCOTUS ruling, there is a scarcity in terms of the literature from which definitive conclusions can be drawn. A cursory look at the References at the end of this paper documents the fact that, other than a few articles in law journals, the vast majority of the cited literature is from online sources, general interest newspapers, magazines, and wire feeds. Furthermore, most of the cited literature is based on conjecture, and it typically conveys the thoughts of an individual author. Sprinkled in is a modest amount of insight provided by industry insiders. Few empirical studies have sought to better understand the mindset of the broader consumer market. And the literature that can be found does not provide a consensus as to what the new NIL rules mean to college sports. What it does show is the fact that there appears to be both an upside and a downside to the SCOTUS ruling, and that the elimination of NIL prohibitions by the NCAA further exacerbate this uncertainty. Are the changes good or bad? That question is yet to be answered. Along with that question, there have been minimal efforts to determine the public's perception of these changes. Despite this shortcoming, the literature does provide some insight as to what researchers should be exploring. That insight leads to the delineation of the following set of research objectives for the current study.

### **RESEARCH OBJECTIVES**

The primary objective of the current study is to determine college students' perceptions regarding the impact that the new NIL rules are perceived to be imparting on amateur sports – particularly intercollegiate athletics. The study will focus on college students as they are the consumers who are closest to it. In order to achieve this goal, there are nine specific research objectives germane to the current study. Specifically, the nine objectives are to determine the perception of the new rules' impact on:

- college athletes,
- college athletics,
- recruiting,
- booster influence and power,
- Power 5 conferences,
- amateur athletics in general (to include non-collegiate athletics), and
- athletes at their own school.

The final two objectives address the determination the extent to which college students:

- approve of the new NIL rules, and
- view the new NIL rules to be congruent with Title IX stipulations.

## **METHODOLOGY**

A 22 question survey comprised limited demographics (gender and status as a scholarship athlete), two questions addressing the respondents' history of coursework within the sports business curriculum, nine questions about sports in general (i.e., fandom, reason for enrolling at their university, perceived profitability of collegiate athletics programs, and conference shifting (among others)), and nine questions related specifically to the new NIL rules – with one question for each of the nine aforementioned research objectives. The final section of the survey began with an explanation of what NIL encompasses along with a description of the new opportunities that changes to the NIL rules provide to student-athletes at their university.

Seven professors from five schools in Michigan, Pennsylvania and Georgia were recruited to administer the survey in their classes during the opening week of classes for the Fall, 2022 semester. The five schools included two Division 1-A schools from a Power 5 conference with the standing of Football Bowl Championship (FBC) (The University of Michigan and Michigan State University), two Division 1-B schools from mid-major conferences in the Football Championship Subdivision (FBS) (Duquesne University and Eastern Michigan University), and one NCAA Division II school (Georgia College & State University). The survey was distributed according to each professor's choice; four used an Internet-based protocol (Qualtrics) and three used a traditional pencil-and-paper version. The school where the respondent was completing the survey was recorded and placed in the database as was the number of NCAA governed intercollegiate sports that each respondent's school offers.

The first four questions addressing demographics and insight regarding their coursework were posed in a multiple choice format. All but one of the *questions* regarding sports in general and opinions regarding the new NIL rules were presented as statements with the respondent answering by indicating the extent to which they agreed or disagreed with each statement. This procedure utilized a balanced, forced, six-point itemized rating scale and included a verbal description for each of the six response categories. The final question which sought their opinion as to whether the new NIL rules were inconsistent with Title IX mandates was answered using a dichotomous response set (Yes/No); it also included an unforced option (I don't know) if they preferred to indicate that they were unsure.

Data analyses consisted of routine descriptive statistics. Frequency and percentage distributions along with the mean (where appropriate) were used to achieve the nine research objectives.

## **RESULTS**

A total of 404 students provided surveys which were deemed to be complete and devoid of any identifiable response bias – such as straightlining. Furthermore, there was minimal item nonresponse in evidence for any of the five schools comprising this study's focus. The

subsamples for the five schools ranged from a low of 23 to a high of 118 respondents. The sample included both business and nonbusiness students. It also included students who had no exposure to a sports business class, those who were currently enrolled in a sports business class, and those who had completed one or more sports business classes in previous semesters.

The initial objective focused on the respondents' perception of the impact of the new NIL rules on the individuals who participate in college athletics. This construct was measured by seeking the level of agreement/disagreement with the statement that *The new NIL rules allowing athletes to make money in this way are good for student-athletes*. The grand mean across the five universities was 2.07, thus there was strong agreement with this consideration. Further evidence of this positive mindset is reflected in the fact that 92.3 percent of the respondents indicated some level of agreement with the statement.

Objective two addressed that same benefit from a different perspective by looking at college athletics rather than individual college athletes. As with the initial objective, respondents were asked to indicate their level of agreement/disagreement with a statement that focused on that potential benefit. It specifically stated that *The new NIL rules allowing student-athletes to make money in this way are good for college athletics in general*. Sentiment regarding the impact on college athletics was positive, but it was not as strong as was the case for the college athletes themselves. The somewhat higher grand mean of 2.45 represents a slightly weaker level of agreement. The higher mean can be attributed to two conditions that are evident in the responses. First, more respondents indicated some level of disagreement with the statement (16.1% vs. 7.7%) and a considerably lower percentage of respondents (20.1% vs. 32.3%) indicated that they strongly agreed with the statement. Still, the mean of 2.45 was more than a full point below the scale's midpoint of 3.50; therefore, the overall sentiment of the respondents was that the new rules are good for college athletics in general.

The third objective focused on the perception of the impact that the new NIL rules are having on the recruitment of student-athletes. Respondents were asked to indicate their level of agreement/disagreement with the statement that *The new NIL rules allowing student-athletes to make money in this way are likely to have a large impact on recruiting*. Respondents were not asked whether any such impact would be bad or good, simply do the new rules impact recruiting. The mean of 1.65 indicates an extremely high level of agreement with this premise. Perhaps even more compelling is the fact that 97.3% of the respondents indicated some level of agreement with 54.8% indicating that they strongly agreed with the statement.

The fourth objective focused on a potentially disconcerting shift of power to a university's boosters and alumni. The statement used to assess this perception was *The new NIL rules allowing student-athletes to make money in this way give boosters and wealthy alumni too much power to influence college sports*. Despite 21.1% of the respondents indicating some level of disagreement with the statement, the grand mean of 2.67 indicates general agreement with the premise.

Objective five also addressed recruiting; as such it was predicated upon the desire to understand the extent to which the prevailing perception is that the new NIL rules provide an advantage to



schools in the Power 5 conferences (which infers the imposition of harm to those schools in conferences that compete in lower Division levels) in regard to the task of recruiting student-athletes. Respondents were asked to indicate their level of agreement/disagreement with the following statement: *The new NIL rules allowing student-athletes to make money in this way give schools in large power conferences such as the Big 10 and the SEC an advantage in recruiting.* The mean of 2.02 is indicative of an extremely high level of agreement with this statement. Furthermore, fully 97.3% of the respondents indicated some level of agreement with this potentially troublesome assertion.

The sixth objective was similar to the second; however, it has a broader focus as it seeks to better understand the perceived impact on the total spectrum of amateur sports – including, but not limited to college sports. The statement under scrutiny for this objective is: *The new NIL rules are damaging amateur sports, especially college sports.* Note that it is worded in a negative context, so higher responses that represent disagreement with the statement represent positive perceptions. The mean of 3.54 was slightly to the right of the center point (3.50) on the six-point scale. The results indicate that the respondents slightly disagreed with the premise that the new NIL rules are damaging the broad category of amateur sports. This slightly positive outcome is reflected in the fact that there were more respondents who disagreed with the statement to some extent (52.7%) than there were who agreed (47.3%) it.

The seventh objective was focused on the respondents' desire for athletes at their own school to take advantage and capitalize on these new earnings opportunities. The statement under scrutiny read: *I hope athletes at XYZ are able to capitalize on the new NIL rules.* (XYZ in the statement specifically referred to the school where the survey was administered, so the survey completed at each school identified that school specifically). With a mean of 2.04, there was strong support for the schools' student-athletes earning NIL-based compensation; however, that support was not universal. A total of 7.7% of the respondents indicated that they disagreed with that premise to some extent on the six-point scale.

The penultimate objective focused on an overview of the respondents' broad perspective of the new NIL rules. This phenomenon was measured by seeking one's level of agreement or disagreement with the following statement: *In general, I approve of the new NIL rules.* The results show that fully 87.0% of the respondents indicated some level of agreement with that statement. Furthermore, their responses resulted in a mean of 2.43. Despite this strong overall level of agreement, it should be noted that 13% of the respondents did disagree with the statement with 1.5% of the respondents indicating that they strongly disagreed with the statement.

The final objective was the determination the respondents' perception of the oft-stated argument that the new NIL rules conflict with basic stipulations established by Title IX (thus having a disproportionately favorable impact for male athletes). To determine their position regarding this possible conflict, respondents were asked to provide an answer to the question: *In your opinion, are the new NIL rules in violation of Title IX rules?* It was a dichotomous response set (yes/no), but it provided an unforced opt out. In the affirmative were only 5.2% of the respondents; 41.5% said no. The remaining 53.3% opted out by indicating that they did not know. Focusing solely on

those respondents who did not opt out, 11.2% of those respondents answered in the affirmative whereas the other 87.8% answered “no” thereby indicating that they do not think that the NIL rules conflict with Title IX stipulations.

## **DISCUSSION**

The target population of university students was purposely selected; it was not a matter of convenience from a sampling perspective. It was selected in an effort to gain important insight about one of the most important segments of fans of intercollegiate athletics. The questionnaire took a broad look at sports in general, including professional sports; however, the last nine questions specifically addressed issues related to the changes in the NIL rules that were occurring in the aftermath of the SCOTUS ruling. Those nine questions represent the nine research objectives that were delineated earlier.

Each of the nine objectives was achieved. In general, there was agreement with eight of the nine issues under scrutiny. However, there were varying degrees of agreement. Five issues were viewed as having a strong positive outcome. Two other were viewed as exhibiting a moderate positive outcome. The remaining two would generally be viewed as exhibiting a negative outcome. It is worth noting that some of these issues may be viewed as positive for some while being negative for others. For example, there is a strong belief that the new rules provide an advantage to schools competing in one of the Power 5 Conferences. While this outcome will be viewed as positive for a school competing in the SEC or the Big 10, it will likely be viewed as a negative for schools competing at the mid-major level such as the MAC or the AAC as well as those competing in lower divisions. The following bullet point list summarizes these results. Note the metric at the end of each entry is the mean of the corresponding six-point scale (with lower values representing agreement with the statement). Those items with two means provide the calculated mean and the adjusted mean if one were to reverse score the scale.

### ***Strong Positive Outcome***

- Have a large impact on recruiting (1.65)
- Gives schools in Power Conferences a recruiting advantage (2.02)
- Hope athletes at my school can capitalize on new rules (2.04)
- Good for college athletes (2.07)
- Conflicts with Title IX stipulations (no = 87.8%)

### ***Moderately Positive Outcome***

- OK with the new rules (2.43)
- Good for amateur athletes (2.45)

### ***Negative Outcome***

- Gives boosters and alumni too much power (2.67/4.33)
- Damaging amateur sports (3.54/3.46)

In general, respondents appear to possess a fairly positive perspective regarding the new NIL rules. However, they seem to be more positive in regard to college athletes and college athletics

than they are for amateur athletes and amateur athletics in general. So, one might presume that they view it as a major benefit to college athletes, but not a significant advance for other amateur athletes such as Olympic competitors. This assessment seems logical given the long-standing ability of some classes of amateur athletes to already capitalize on marketing opportunities associated with the use of their name, image, and likeness.

## **SOME FINAL COMMENTS**

Each of the nine research objectives for this project was achieved. The overall conclusion is best described as a general level of comfort with the new NIL rules on the part of university students. That is to say that they appear to be comfortable with the impact that the changes in the NIL rules are having on intercollegiate sports. Despite this overall approval, it should be noted that this approval is not unanimous. There were critics of each of the nine considerations that were explored. Despite the critics, the reality is that these new opportunities for college athletes to benefit from the use of their name, image, and likeness in a marketing capacity is here to stay. Supporters of the changes will continue to assert their belief that it is about time that the competitors on the field of play benefited from their exploits the same as their coaches and their universities do, that it is past time to share the wealth. But even if one agrees with this premise, the new NIL rules simultaneously create problems. A review of the extant literature in the popular press and online documents the inconsistencies in the way the rules are being applied. The laws established in 32 states and pending in five others (as of January 18, 2023) are inconsistent; this inconsistency is further exacerbated when each university is allowed to establish its own criteria. The playing field is indeed tilted, and the existence of this undesirably tilted playing field creates a plethora of problems. In light of the inequities created by myriad inconsistent NIL rules, there is an inherent need to establish uniform standards; doing so might reduce that proverbial tilt. From a federal perspective, new legislation has already been introduced. In 2022, the “Athlete Opportunity and Taxpayer Integrity Act” was introduced to Congress; that pending legislation takes aim at name, image, and likeness collectives which have been organized as nonprofit 501(c)(3) organizations. Other bills in the US Congress that have been introduced include the Student-Athlete Level Playing Field Act, the Student-Athlete Equity Act, the College Athlete and Compensatory Rights Act, and the College Athletes Bill of Rights. Expect the United States Congress to pass legislation with the overarching objective of standardizing the NIL rules across all 50 states. Concurrent with this effort, anticipate legal challenges to new legislation; there will most assuredly be litigation challenging the constitutionality of any new federal laws that restrict an amateur athlete’s ability to generate income based upon their own name, image and likeness, which is to say their “right of self.” In light of the anticipated new standards, those who violate them must be punished accordingly. Done correctly, the new NIL rules will prove to be beneficial to all parties involved. But, if not done correctly, then criticism will intensify. Only time will tell.

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