

College Athletes May be Paid for Name, Image & Likeness

05.05.20

These are indeed “Strange times.” No, I am not referring to effects of COVID-19, social distancing, and face masks. On April 29, 2020, the NCAA Board of Governors announced support of rule changes which would allow college athletes to earn money via activities which market the name, image and likeness of those athletes. The vote was the latest in fast-paced changes underway in the relationship of athletes, their respective institutions, and those associated with the business aspects of collegiate sports.

The State of California set an initial timeline, enacting a law which will take effect in 2023. Since that bill passed and signed into law, other states have filed similar legislation, but with different terms and earlier effective dates. Members of the United States Senate and the House of representatives have also become involved in the debate.

The situation remains very fluid, with frequent developments. On the NCAA front, the Board of Governors vote is but one very necessary step toward formulation of an NCAA position. Presumably, the NCAA will act no later than January 2021, to take effect for the 2021-2022 academic year.

The April 29 vote supports compensation for third-party endorsements, as well as opportunities via social media and personal appearances. The board directed all three NCAA divisions to consider rule changes based on recommendations from the previously appointed Federal and State Legislation Working Group, co-chaired by Big East Commissioner Val Ackerman and Ohio State University Athletic Director Gene Smith.

There remain many decisions to be made by entities involved in and affected by this process.

Obviously involved are the student-athletes, their advisers, the universities, and the NCAA. However, there will be some familiar faces and some new actors. Existing holders of media rights and sponsorships will be involved as this movement goes forward.

Many college athletes are minors, hence contracting is problematical until the age of majority is reached. Traditional professional services such as lawyers, accountants, media advisers, marketing specialists, and untold others will be necessary. But, the universities may be precluded from assisting with such or offering advice.

Some fear that this shift could result in recruiting abuses. Will market values for activities swing wildly from one school to another? Others say gender equity will suffer. Olympic sports may see differences, of varying degree and magnitude, from traditional revenue sports. Agency representation for NIL purposes but unrelated professional sport becomes an issue.

Contacts:

[Mike Perrin](mailto:mperrin@winstead.com) | 713.650.2726 | mperrin@winstead.com

[Denis Braham](mailto:dbraham@winstead.com) | 713.650.2743 | dbraham@winstead.com

[Stewart Whitehead](mailto:swhitehead@winstead.com) | 512.370.2854 | swhitehead@winstead.com

Disclaimer: Content contained within this news alert provides information on general legal issues and is not intended to provide advice on any specific legal matter or factual situation. This information is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. Readers should not act upon this information without seeking professional counsel.