

# NHL

## One Year In



Guide for Working With  
College Athletes



**C**ollege athletes make the ideal influencers for brands looking to reach Gen Z audiences and sports fans.

A landmark announcement in 2021 for more than 460,000 college athletes, Name, Image, Likeness (NIL), has changed the game for the profitability of athletes from their own skills, reputation and marketability.

### The origin of Name, Image, Likeness

As college athletics have grown in popularity and profitability, debates persisted on compensation for the athletes at the forefront of those monetary and reputation boosts for schools.

Ed O'Bannon, a former UCLA basketball player, led a group of former college football and men's basketball players in suing the NCAA in 2009. O'Bannon's side argued that the NCAA illegally forces athletes to sign away their right to profit from use of their name, image and likeness in video games, DVDs, photos and other products. In 2014, a federal judge ruled on the case,

O'Bannon v. NCAA, in O'Bannon's favor, stating that the NCAA's practices violated anti-trust laws.

After O'Bannon's court victory came a case against the NCAA that rose to the Supreme Court, NCAA v. Alston. Former college athletes Shawne Alston and Justine Hartman argued that the NCAA provided non-cash compensation to prevent athletes from being paid directly for their contributions to collegiate athletics. A Ninth Circuit ruling went in favor of Alston. The case went to the Supreme Court and concluded on June 21, 2021, with a ruling in favor of the student-athletes.

The Supreme Court's ruling, however, did not specify that college athletes must be paid salaries or lay out how they can be compensated, simply finding that they should have the ability to participate in the free market.

The NCAA passed its own landmark ruling on June 30, 2021, announcing it would allow athletes to “have the opportunity to benefit from their name, image and likeness.”

## College athletes as influencers

The advent of NIL has already seen athletes become spokespeople for companies in traditional advertising, set up appearances and events, sell merchandise and even get involved in NFTs and cryptocurrency.

Social media, with its young audience on certain platforms and status as the spot for innovation in advertising and partnerships, seems to be a perfect venue for NIL advertising. Content in the social media category, which includes influencers, content creators and brand promotion, accounted for 72 percent of NIL activity by college athletes, according to a survey conducted at the University of Vermont. Football players dominate the NIL space, with 40% of signed deals.

Male athletes have commanded the most NIL deals since the NCAA's ruling. In the first six months the NCAA allowed NIL deals, 59% of all male NCAA Division I athletes had signed an NIL deal. Men have generated 67.4% of the total compensation from NIL deals, while women earned 32.6% of total NIL money from July 2021 to December 2021.

Much of that gender discrepancy comes from the popularity of football. If you remove football numbers, women make up more than 50% of the total NIL money for all other sports, according to INFLCR's Jim Cavale. Five women's sports — track and field, volleyball, basketball, soccer and softball — are among the top 10 sports for NIL deals.

Alabama quarterback Bryce Young signed some of the most lucrative NIL deals early on, soon after the NCAA's landmark announcement was made. Young signed one of his biggest deals with Cashapp. Young's NIL deals were reportedly worth more than \$800,000 and many of them had been signed when Young graduated from high school, before he even suited up for Alabama's football team.

Degree, the deodorant company, signed an NIL deal with 19 student-athletes in 2021, starting a campaign



## Cavinder Twins

Some of the first college athletes to sign NIL deals in summer 2021 showed off the immediate impact these deals could make. Hanna and Haley Cavinder, twin sisters who play basketball at University of Miami after transferring from Fresno State, parlayed their already massive TikTok and Instagram following into NIL deals with Boost Mobile, Six Star Pro Nutrition and GoPuff. The Cavinder twins had 3.3 million TikTok followers in July 2021 when they signed NIL deals. Their TikTok followers had risen to 4 million by March 2022.



## Hercy Miller

Miller, a Tennessee State basketball player and the son of rapper Master P, signed a \$2 million deal with Web Apps America, a technology company that provides services for businesses. Miller signed the deal as he was leaving high school, before he even started playing at Tennessee State. The deal made him one of the highest-paid college basketball players — a label previously unthinkable before NIL regulations — and certainly provided a boost for Tennessee State's brand. Tennessee State is one of 107 Historically Black Colleges and Universities (HBCUs), which is one reason Master P said the company was interested in advertising with his son.

called the Degree Breaking Limits campaign. The campaign included a \$5 million commitment toward community enrichment initiatives and supporting athletes with their personal pursuits toward social impact. The 19 athletes were chosen for the campaign because they had overcome adversity, each in their own unique way. The campaign celebrates breaking limits and defying expectations.

An Instagram post from former Wisconsin volleyball player Dana Rettke shows Rettke's personal story and her partnership with the brand.

The Breaking Limits campaign shows how a brand can incorporate NIL deals with its brand storytelling and fulfillment of some corporate social responsibility messaging.

Deals with college athletes have many advantages. Chief among them is the potential for partnering early with a young athlete. Agencies that form deals with high-potential athletes have the opportunity to continue an established relationship with that athlete once they become a professional athlete. The prolonged familiarity and relationship-building can benefit both parties, as the athlete grows comfortable with off-the-field business and works as an influencer with a trusted management company.

Basketball player Keegan Murray is an interesting athlete to look from an NIL standpoint. Murray played college basketball for Iowa and was selected by the Sacramento Kings as the fourth overall pick in the 2022 NBA draft. As a student, he signed an NIL deal with a small Iowa City-based lifestyle brand called ZOARC Athletics.

Murray also set up a merchandise line and scheduled appearances and autograph signings through ZOARC. He also offered NFTs for purchase from Candy Digital, a digital collectible company.

The early experience with off-the-field business ventures will help Murray become ready for much more attention when he became a professional athlete, and the brands he has worked with can benefit from his rise in popularity as they have already established a relationship.



## McKenzie Milton and D'Eriq King

Florida State quarterback McKenzie Milton and Miami quarterback D'Eriq King collaborated to create a platform that positions them uniquely as college athlete entrepreneurs and facilitates NIL activity for their peers. King and Milton are co-founders of Dreamfield, a platform that focuses on booking live events, appearances or other engagements for college athletes. The platform has also offered NFTs, with Milton's NFT card the first college athlete NFT to ever be created.

Milton and King participated in many events surrounding the company's launch, which took place at the stroke of midnight July 1, 2021, when NIL was first put into effect by the NCAA.



## Olivia Dunne

Olivia Dunne, a gymnast at Louisiana State University, is one of the most popular female athletes on TikTok, with more than 5.6 million followers. Dunne started bringing in NIL sponsorships toward the end of 2021, and currently works with activewear brand Vuori and supplement brand PlantFuel. Dunne was only 18 years old, despite being a sophomore at LSU, when she signed those deals.



## Potential negatives, unintended consequences

The NCAA maintained its strict stance on amateurism for so long purportedly to preserve the integrity of competition and to offer a level playing field for schools and athletes with differing financial situations. That argument ultimately faltered against an increasing wave of claims that athletes' labor and image were exploited and undercompensated compared with the billions of dollars generated by college sports.

However, there are also legitimate concerns about whether NIL presents even more opportunities for college athletes to be exploited. Now, companies all over the country are the ones that could affect the livelihood of young athletes.

Inducement is the main concern about NIL deals. An inducement is defined as an NIL offer that influences an athlete to make a certain decision about which school to play for. NIL deals could result in schools influencing high-school athletes to join their schools, which would be a difficult infraction to track or prove.

College basketball's biggest scandal in many years culminated in a 2017 FBI probe that exposed bribery among top NCAA basketball schools. Head and assistant coaches at Arizona, Oklahoma State, NC State, LSU, Auburn and many other schools were implicated and some faced time in prison. The scandal consisted of basketball coaches at these schools influencing high-school recruits to choose their school in exchange for illicit payments.

Even under NIL, the activity investigated by the FBI in 2017 is still highly illegal and patently against the NCAA's rules, but the widespread nature of this scandal underlined the potential for corruption in collegiate athletics.

### Concerns for athletes

Athletes need to be selective about what partnerships they sign and understand the contracts they are signing. Athletes should be

careful when signing away exclusive rights to their name, likeness or image, according to NPR's podcast episode, "How Name, Image, and Likeness Contracts Are Transforming College Sports." Because NIL policies are brand new, they are still like the "wild, wild west." Legal representation can mitigate some of these concerns.

Oversaturation is also a potential concern for athletes, especially those who play the most-watched sports. Current partnerships can impact their future opportunities.

## How your brand can benefit from NIL partnerships

The advent of NIL opened many new opportunities for athletes and brands alike. But how do you determine the particular benefits of the NCAA's new ruling? Name, image and likeness rights come with restrictions from the NCAA, and it is paramount to find the right athlete that fits your brand. These considerations include the athlete's personality, level of reach and the prominence of the school they play for.

Timing is a key component to working with student-athletes. For example, imagine you own a company that sells protein powder. Your brand could find a boost by working alongside a college football player known for his strength and speed. You launch an ad campaign featuring the player, which starts right before the biggest game of that player's career.

Eyes from all over the nation will be on that athlete, and a look at the player's Instagram story, Facebook page or Twitter profile directs the public straight to your product. What's more, the athlete's personal reputation will connect with your product. In other words, people come to associate that player's strength, speed and agility with the features touted by your protein powder brand.

The timing aspect of this branding tactic, especially when nationally televised events are involved, can be replicated in few other places than partnerships with collegiate athletes.

## NCAA compliance

Conversations surrounding NIL rights for student-athletes have persisted because the organization's stipulations on amateurism have been difficult to completely enforce. Corruption has been reported by the news media for many years, and opening business opportunities for athletes invites even more potential complications when it comes to keeping business clean.

### NIL dos and don'ts

Businesses can pay athletes for their representation of their product or business. This includes in-kind compensation, which would be the case if a local car dealership gave a car to a collegiate athlete in exchange for that athlete's participation in a TV commercial.

The NCAA stipulates that NIL deals cannot exceed fair market value. This means that a brand can't pay an exorbitant amount of money for a service. For example, a company cannot pay an athlete \$500,000 to make one Instagram post. These market value standards can be difficult to establish at times, but an NIL deal must be in line with other agreements based on similar services.

Businesses cannot participate in quid-pro-quo compensation for an uncommitted athlete. For example, if a company based in Lawrence, Kansas, wants an uncommitted high-school football player to sign an NIL deal with them, that company's NIL cannot be contingent upon the athlete choosing to play at the University of Kansas. The company also cannot influence the athlete's commitment decision. Schools and companies must be careful with how they facilitate NIL deals with uncommitted athletes.

NIL deals cannot include the use of a school's logos and trademarks, unless the company signing the NIL deal has a deal in place with the school for use of logos and trademarks. Most NIL deals are signed with brands that do not hold licensing for use of schools' logos and trademarks. This means the deal can prominently feature the athlete and play on their individual name and likeness but cannot include their uniform or school logo.

A college's compliance staff can reject a player's proposed endorsement deal or any other proposed NIL contract, but to a limit. If a contract between an

athlete and a third party violates a state NIL law, a compliance department can reject it. Students must disclose partnership with school compliance prior to executing the partnership.

Athletes cannot promote another brand on the football field that differs from who the school has a partnership with. For example, if an athlete attends a school partnered with Nike, they cannot promote Adidas on the field.

Additionally, athletes cannot promote firearms, drugs, alcohol, sexually oriented businesses, or products and supplements.

IZEA recommends an escape clause be included in the contract to protect the brand in case an athlete leaves college early or something happens that negatively impacts their public image.

### Female athlete deals

Female athletes have typically found fewer athletic opportunities after college compared with their male counterparts. It will be intriguing to see what NIL deals can do for women's sports from an attention standpoint.

A chicken-and-egg problem has persisted with women's sports when it comes to publicity and exposure to wide audiences. While men's sports have much larger audiences as TV ratings, scale of professional leagues and media coverage bear out, women's sports have hardly had any chance to garner those levels of attention because men's sports have dominated attention.

The fact that NIL deals can highlight women athletes before they hit the professional ranks presents what could be an edge for women's sports.

The advent of NIL has changed the college sports and influencer marketing landscape drastically. One year into the NIL era, college athletes are finally receiving compensation for their effort, success and marketability. These new regulations have the potential to create a much different public perception of college athletes in the public sphere. NIL's prominence will only grow as more states legislate to allow athletes to profit from their name, image and likeness.

## How IZEA can help connect brands and athletes

IZEA is well-versed in NIL partnerships and can help brands and athletes navigate these collaborations, especially when it comes to contracts.

“IZEA can help ensure you are working with students who are adhering to the school, conference, state and national rules,” said Lorianne Lacey Cunha, Senior Account Director.

Our Managed Services team also has partnerships that can help athletes with creating their content. These partnerships keep costs lower and content quality higher.

IZEA will work with you to understand your goals and recommend ideal sports, students and timing for your campaign. If we need to plan a campaign to ensure that content is created in time to run before a big game or a season, we will work with the student athletes to make sure that their calendars are clear

and that our content creation will not interfere with mandated training or practice schedules.

Our team will make strong recommendations of players and sports to connect with based on your budget and goals.

“The right students are going to take being a brand ambassador seriously like they would a job,” Cunha said.

If you have a key player in mind, we can work with that individual to create a plan and suggest similar student athletes to round out your partnership. We also can recommend sports and students based on specific connections to causes. College athletes can serve as ideal regional influencers to help brands connect with customers on a hyper-local level.

“For some schools and teams there are even opportunities for the student to include their fellow teammates or school,” Cunha said.





## Get started on an influencer campaign

The NCAA's approval of NIL created a new class of influencer overnight, and integrating trusted brand ambassadors at every level of your marketing funnel is more effective because of it.

From targeting regional fanbases — and the consumer audiences they overlap with — to drastically increasing brand awareness and sales during an athlete's season of play, student-brand collaborations can win big for both parties.

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**Work with IZEA to create and distribute sponsored content that tells your story and generates sales.**

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