

***School Law FYI***

## ***WIAA Approves NIL Rule***

RICK VERSTEGEN | 04.29.25

On April 25, 2025, the Wisconsin Interscholastic Athletic Association (WIAA) approved a new rule allowing student-athletes to earn compensation from certain Name, Image and Likeness (NIL) opportunities. This rule is a significant change, so school officials, especially high school athletic directors and coaches, should be aware of the requirements of this rule and understand its impact. The rule goes into effect on the date of publication of the WIAA Bulletin, which will likely be at the end of May 2025.

### ***Amateur Status and NIL Exception***

Even with the new NIL rule, amateurism remains a core component within Wisconsin high school sports. The WIAA rules continue to recognize that a student must be an amateur in all recognized sports in order to compete in a sport. A student may be ineligible for further participation for any violation of the amateur status provisions.

#### **A. NO PAYMENT FOR ACHIEVEMENT IN ATHLETICS**

As part of the amateur status rules, students generally cannot receive payment merely for their achievement in athletics. To this end, a student violates the rules if a student “accepts, receives, and/or directs to another, reimbursement or award in any form of salary, cash (including gift cards), or share of game or season proceeds, for achievement in

athletics.” Certain exceptions apply to this rule. Specifically, a student may receive (1) actual and necessary reimbursement for transportation, food, lodging and entry fees paid in connection with playing a contest; (2) certain awards for participation; and (3) certain items of apparel.

## **B. NO PAYMENT FOR ACTIVITIES WITH CERTAIN AFFILIATIONS**

Students must also be cautious about receiving payments in other instances. Specifically, the rules state that a student “forfeits amateur status in a sport by capitalizing on athletic fame by receiving money, compensation, endorsements or gifts of monetary value in affiliation or connection with activities involving the student’s school team, school, Conference or WIAA (scholarships to institutions of higher learning are specifically exempted).”

## **C. NIL EXCEPTION**

A student, however, can now earn compensation in limited instances. The new NIL rule states that the rules are “not intended to restrict the right of any student to participate in a Name, Image and Likeness (“NIL”) commercial endorsement provided there is no school team, school, Conference or WIAA affiliation.” Therefore, although a student can earn money from NIL, a student must make sure that the NIL endorsement does not have any affiliation with the school team, school, athletic conference, or the WIAA.

### ***Restrictions on NIL Activities***

Under the new NIL rule, it also identifies certain “prohibited NIL activities.” These prohibited NIL activities include:

1. “The student shall **not** appear in the uniform of the student’s school **and** does **not** utilize the marks, logos, etc. of the school team, school, Conference or WIAA as part of any endorsement.”
2. “The student shall **not** promote activities nor products associated with the following: gaming/gambling; alcoholic beverages, tobacco, cannabis, or related products; banned or illegal

substances; adult entertainment products or services; weapons (e.g., firearms).”

3. “The compensation is **not** contingent on specific athletic performance or achievement (i.e., financial incentives based on points scored).”
4. “The compensation is **not** provided by the school or **persons associated with school** as an inducement to attend a particular school (“recruiting”) or to remain enrolled at a particular school.”
5. “The NIL activities do **not** interfere with a student-athlete’s academic obligations.”
6. “A student does **not** miss athletic practice, competition, travel, or other team obligations in order to participate in NIL opportunities.” and
7. “A student **cannot** utilize representation or contract with an agent. High schools or their employees are **not** allowed to help facilitate deals for student-athletes.”

Under (4) above, it references “persons associated with school.” The new rules defines “Persons Associated With School” to include, but are not limited to: (1) current or former coaches, (2) current or former athletes, (3) parent(s)/guardian(s)/caregivers of current or former student/athletes (exception of one’s own parent), (4) booster club members, (5) alumni, (6) spouses or relatives of coaches, (7) teachers and other employees, (8) coaches who become employed, (9) active applicants for coaching positions, and (10) persons who are employed by companies or organizations that have donated monetarily, athletic supplies, equipment or apparel to that school.

Under (4) above, any compensation must not be provided from schools or persons associated with schools as “an inducement to attend a particular school or to remain enrolled at the school.” It is not clear when such compensation may be considered an inducement under this provision. As a result, students should be particularly cautious when accepting any compensation from such schools or persons associated with schools.

## ***NIL Contracts are Permissible***

The new NIL rule also creates an exception to allow students to sign a NIL contract. Under the current rules, a student can be in violation of the rules if a student “signs a contract or agreement for services as a participating athlete.” Certain exceptions also apply to this rule. Specifically, a student may be employed (but not self-employed) on a part-time basis as an instructor on the playgrounds, game official, or lifeguard. In addition, a student may sign (1) an agreement which binds the student to play only for a particular team or (2) an athletic tender with a university or college. A new exception now allows a student to sign Name, Image or Likeness opportunities, consistent with the rules.

## ***Next Steps for School Officials***

### **A. SCHOOLS MAY NOT FACILITATE NIL DEALS**

As mentioned above, the new NIL rule restricts high schools or its employees from facilitating NIL deals for student-athletes. As a result, school officials must be cautious about participating in a NIL deal between any third party and a student. Instead, the student and the parents should be in charge of facilitating endorsements for the student. Further, school officials are not required to keep track of NIL deals by students. Because of the restriction on facilitating NIL deals, school officials may want to be cautious about maintaining any inventory of such NIL deals.

### **B. STUDENTS CANNOT USE AGENTS**

As also noted above, under the new NIL rule, a student also cannot utilize representation or contract with an agent. As a result, students cannot have a marketing agent represent the student in any NIL endorsements. School officials should not be recommending agents to students. This restriction likely does not prevent students from retaining an attorney to review any endorsement contracts.

## **C. SCHOOLS MAY NEED TO MAKE CHANGES TO ATHLETICS HANDBOOKS**

The new NIL rule does not require school officials to adopt any type of policy related to NIL deals. However, school officials may want to review their overall athletics handbook or code of conduct and make any changes to be consistent with the new rule. School officials do not need to take extra steps to ensure enforcement of the NIL rules. Instead, as with other potential rule violations, if a school official becomes aware of a potential violation of the NIL rule, schools would likely need to take steps to investigate those issues.

## **D. SCHOOLS MAY PROVIDE EDUCATION**

The new NIL rules do not require schools to educate anyone on the new rules. However, school officials may want to incorporate some discussion on the new rules to various groups.

1. For coaches and staff, school officials may want to include discussion of the new rules as part of any coach orientation or staff development. Any discussion could emphasize that high schools and its employees are not allowed to help facilitate deals for student-athletes and that compensation generally cannot be provided to students for NIL deals by the school or persons associated with the school.
2. For students and parents/guardians, school officials can include discussion of the new rules as part of any parent or student orientation (before the start of each sport season). Any discussion could emphasize all of the specific provisions noted above.
3. For third parties (including alumni, boosters, and local business owners), school officials could have a discussion or provide information to such individuals about the restrictions on such individuals, if they are categorized as “persons associated with the school.”

The WIAA has already partnered with Influential Athlete, a Wisconsin-based organization, to help educate WIAA members on the NIL rule.

Influential Athlete has also contracted with some conferences and schools to provide education services and resources for schools.

## **E. SCHOOLS SHOULD WAIT FOR FURTHER GUIDANCE FROM THE WIAA**

The WIAA intends to issue further guidance on the new rule in the near future. Such guidance will be very helpful as school officials and others navigate and interpret these rules.

### ***Conclusion***

With this new introduction of NIL for students, there will be some adjustments for school officials. Our School Law attorneys have been actively working to ensure that Wisconsin school districts are provided guidance on this topic. We will continue to provide updates on this NIL rule. Please contact a member of the Boardman Clark [School Law Practice Group](#) with any specific questions on these rules.

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### ***Primary Author***



**Rick Verstegen**  
(608) 286-7233

## ***School Law Practice Group Members***

**Rick Verstegen**  
(608) 286-7233

**William L. Fahey**  
(608) 286-7234

**Douglas E. Witte**  
(608) 283-7529

**David P. Weller**  
(608) 286-7235

**Jennifer S. Mirus**  
(608) 283-1799

**Rhonda R. Hazen**  
(608) 283-1724

**Matthew W. Bell**  
(608) 286-7239

**Christopher T. Schmidt**  
(608) 286-7157

**Brian P. Goodman**  
(608) 283-1722

**Daniel T. Fahey**  
(608) 286-7216

**Eric B. Hagen**  
(608) 286-7225

**Michael C. Wieber**  
(608) 283-1797

**Sandra G. Cohen**  
(608) 286 7213