

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sens Cory Booker (D-NJ), Richard Blumenthal (D-CT), Jerry Moran (R-KS)</u> <u>College Athletes Protection and Compensation Act of 2023</u></p>
<p>Disclosure and Transparency Provisions (including use of common forms):</p>	<p>pp. 16-17 Enrolled athlete - not later than 7 days after entering into the endorsement contract, provide to a designated employee of the institution of higher education a copy of the endorsement contract. Recruited Athletes - before signing a letter of intent, provide to designated employee of the institution of higher education a copy of all current and expired endorsement contracts entered into by the college athlete. Does not apply to de minimis contracts (less than \$1,000 annually in the aggregate); pp. 35-36 (1) Each institution w/ an athletic program publicly posts on its institutional web site within 60 days after end of academic year and submits to CAC a report covering the previous academic year that includes: (A) revenues and expenditures of each sport including 3rd party donations, federal funds, state funds, and compensation for athletic program personnel, individually and in the aggregate by sport, (B) avg. # hrs. athlete spends on college athletic events and competitions disaggregated by sport, (C) academic outcomes and majors for college athletes, disaggregated by sport, race/ethnicity, and gender, (D) number, avg., and total value of endorsement contracts, diagggregated by sport, race/ethnicity, and gender, (2) CAC database maintains publicly accessible, searchable database containing each institution's annual report.</p>

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<p>Privacy/Non-Disclosure Provisions:</p>	<p>pp. 17-18 An individual designated by an institution of higher education to receive and review an endorsement contract, or the CAC, may not disclose the endorsement contract or any term of the endorsement contract publicly or to any other individual without the express written consent of the college athlete concerned or the athlete representative of such college athlete before such disclosure, unless such college athlete or athlete representative makes such information public. Federal or state open records laws not applicable.</p>
<p>FMV /Inducements/Extra Benefits</p>	<p>p.12-13 (A) Covered compensation shall not be promised, paid, or permitted to be used to induce— (i) the recruitment of a college athlete to any institution of higher education or group of institutions of higher education; or (ii) a college athlete to continue attending a particular institution of higher education. (B) An institution of higher education, conference, or national intercollegiate athletic association shall have no part in determining the amount of covered compensation provided by a third party in an endorsement contract with a college athlete. pp.19-20 May prohibit athlete participation if athletes receives extra benefits that violate a rules established by the CAC in accordance with section 2 8(b)(2).</p>
<p>Employee classification/ Unionization</p>	<p>NONE</p>

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<p>NIL "Collectives"/ fundraising</p>	<p>DEFINITIONS p. 10-11 Third Party defined as "unaffiliated" - do not share interrelated ops, common mgmt, centralized control of labor relations or common ownership or financial control - most NIL booster collectives meet this definition</p>
<p>Rescission of NIL/Endorsement Agreements</p>	<p>p. 18 A college athlete who no longer participates in college athletic competitions may rescind an endorsement contract with a remaining term of more than 1 year: (1) without being held liable for breach; and (2) with no obligation to return earned payments that were received before giving notice of the rescission.</p>
<p>Applicability (HS, national gov. assns, conf.)</p>	<p>Institutions of higher education, college athletes, athlete agents/representatives, college athletic conferences, national athletic associations, states with NIL laws, State AGS/regulators</p>

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<p>EXPLICIT PERMISSIONS Group Licensing/Use Institutional Marks/Co- Branding (individual athlete/institution)</p>	<p>pp. 14-15 An institution of higher education, conference, or national intercollegiate athletic association may allow a third party to use the intellectual property rights of the institution of higher education, conference, or national intercollegiate athletic association as part of an endorsement contract of a college athlete, if (A) the third party directly provides covered compensation to the college athlete concerned, or their athlete representative, pursuant to the endorsement contract; and (B) the institution of higher education, conference, or national intercollegiate athletic association has no part in determining the amount of covered compensation provided by the third party to the college athlete concerned.</p>

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<p>Investigation/Enforcement Agency/Agencies - TYPE-DUTIES</p>	<p>pp. 38-44 Sec. 8 College Athletics Corporation identity/purposes (CAC) (a) corporation that is NOT a govt. entity (b) purposes: (1) clearinghouse for best practices re: rights and protection of college athletes who enter into agency/endorsement contracts including providing guidance concerning these contracts, (2) establish rules and investigatory processes/bring actions to enforce the Act over athlete representatives, institutions, conferences, national assns that violate such rules (3) promulgate, administer, and enforce standards for review/certification of endorsement contracts including competency & ethical standards applicable to athletes, athletes representatives, institutions, conferences, national assns (4) establish formal certification process for athlete representatives including (A) eligibility to serve as ath. rep., (B) verification of continued elig. to serve as ath. rep including best practices, rules, competency and ethical standards, (C) revoke ath. rep. certification, (5) recommend to institutions how to protect college athletes from unscrupulous ath. reps. (6) investigate disputes re: agency/endorsement contracts including (A) verify ath. rep. acted in athletes' best interest, (B) monitoring compliance with, making determinations/findings of Act violations (7) provide athletes with process for swift resolution of contract conflicts by providing a neutral arbitrator for any case in which athlete is the complaining party-if requested by both parties (8) ensure institutions/orgs are complying w/ agency/endorsement contract rules set forth by CAC (c) membership (1) established by CAC constitution and bylaws, (2) reasonable representation of college athletes, administrators of higher education/athletics, administrators of national coll. ath. assns, professionals w/ expertise in spts. mktg, contracting and PR, unaffiliated individuals who, in judgement of CAC BOD represent the interest of providing oversight of CAC activities. (d) BOD (1) 15 voting members (2) 1/3 current or former college athletes (3) not less than 20% of the BOD composed of active college athletes or were college athletes within 10 years immediately preceding appt to BOD (e) powers (1) adopt constitution/bylaws, (2) exercise corporate powers (establish offices, enter into contracts, accept gifts, etc necessary to accomplish corporate purposes) (3) subpoena power/rules for use resulting in the CAC issuing subpoenas, discovery, depositions in response to national assn. requests, (f) restrictions (1) no business for profit or issuance of stock (2) non-political-no endorsements of candidates for public office (g) headquarter/meetings - in USA, (h) service of process- designation of agent, (i) annual report to House and Senate Commerce Committees (1) number of disputes investigated by CAC (2) number of disputes filed (3) recommendations to improve endorsement contract process.See health and wellness provisions below for role in overseeing medical trust and promulgation of medical/health provisions - role of HHS</p>

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<p>Preemption of State Law or other US agency rules</p>	<p>pp. 45-47 Sec. 9 (a) state may bring civil action on behalf of residents in approp. State or Federal district court located in the State w/ jurisdiction over defendant to (1) enforce compliance w/ Act or such standard or rule and (2) for all appropriate remedies (b) provide written notice of State action to CAC including required contents of notice and copy of complaint - CAC upon receiving notice has right to (A) intervene in the action, (B) if intervening - to move the action to Federal district court if not originally brought there and hear all matters, (C) to appeal any order or judgement to same extent as any other party in the proceeding (c) regulations - CAC to prescribe regs to coordinate actions with State AGs or other regulators (d) rule of construction - no limit of authority of State AG or other regulators to bring action arising solely under laws in effect in that State. p.50 Preemption of State NIL laws No State or political subdivision of a State may establish or continue in effect any law or regulation that governs or regulates—(1) the freedom of a college athlete to transfer from one institution of higher education to another institution of higher education;(2) the provision by a third party of any benefit of financial value described in subparagraph (A),(B), or (C) of section 4(d) received by a college athlete;(3) the commercial use of, and the provision of covered compensation for such use of, the name, image, or likeness of a college athlete; or (4) the certification of athlete representatives associated with intercollegiate athletics.</p>
<p>Enforcement Provisions (penalty or disincentives included and when if has subpoena power)</p>	<p>pp. 38-44 CAC functions to (2) establish rules and investigatory processes/bring actions to enforce the Act over athlete representatives, institutions, conferences, national assns that violate such rules (3) promulgate, administer, and enforce standards for review/certification of endorsement contracts including competency & ethical standards applicable to athletes, athletes representatives, institutions, conferences, national assns (3) subpoena power/rules for use resulting in the CAC issuing subpoenas, discovery, depositions in response to national assn. requests, health, safety, & educ. opportunities of college athletes</p>

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<p>Athletes' Scholarships or other benefits:</p>	<p>p. 5-6 Institution may provide (not considered compensation/pay for play) grants-in-aid, Pell and other state/federal grants not awarded in relation to athletic participation, health insurance, medical expenses, disability or loss of value (LOV) insurance, career counseling, job placement services available to all students and athletes can receive hourly wages for work actually performed (not for participation in athletic events) at a rate commensurate with local rates p.19 Institution or governance assn. cannot punish an athlete based on athlete having received (A) reasonable food, rent, medical expenses, or insurance from a third party; (B) tuition, fees, or books, from a third party that are not otherwise paid for by an institution of higher education; or (C) reasonable transportation for the college athlete or the friends or family members of the college athlete during any period in which the college athlete—(i) is experiencing a physical or mental health concern; or (ii) is participating in a college athletic event or college athletic competition. p. 21 honor tuition, books and fees scholarship until graduation for any athlete who previously rec'd grant while enrolled, has not completed degree due to pursuing pro sports career. p. 22-23 institution must give timely written notice before reducing or not renewing scholarship and cannot revoke aid based on (I) athletic performance or team success, (II) athlete earning covered compensation under endorsement contract, (ii) injury or mental/physical medical conditionSec. 6 pp 33-34 institution must disclose/legally binding info to athlete prior to enrollment (A) amt./duration of financial aid relative to most recent cost of attendance, (B) amount/duration of aid to complete degree after eligibility exhausted, (C) percent comprehensive medical coverage required that will be paid by institution during eligibility, (D) percentage of out-of-pocket spts- related medical expenses paid by institution including difference between in-network and out-of-network and (E) whether future loss of earnings disability insurance covering maximum available benefits based on market rate of similarly situated athletes will be provided.</p>
<p>NIL Conflict, Dispute Resolution and Reporting Provisions:</p>	<p>p.40 CAC dispute resolution functions: (6) investigate disputes re: agency/endorsement contracts including (A) verify ath. rep. acted in athletes' best interest, (B) monitoring compliance with, making determinations/findings of Act violations (7) provide athletes with process for swift resolution of contract conflicts by providing a neutral arbitrator for any case in which athlete is the complaining party-if requested by both parties (8) ensure institutions/orgs are complying w/ agency/endorsement contract rules set forth by CAC</p>

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<p>Provisions related to transfers:</p>	<p>pp. 21-22 institution can revoke scholarship of transferee to another institution who does not (i) remain in good standing per CAC rules sec. 8(b)(2) or institutional good standing if more stringent than CAC, (ii) comply w/ institution's code of conduct applied to all students, (iii) meet athletic program standards/norm for participation in mandatory team activities, and (iv) meet scholastic standards for athlete eligibility. p. 23 may reinstate scholarship if athlete reestablishes "good standing" per above pp. 24-25 national collegiate athletic org. shall allow (1) one-time transfer w/out penalty if (A) athlete provides AD w/ not less than 7 days notice of intent to transfer, (B) transfer does not occur during the sport season or 60 days prior to start of season, or (2) athlete is subject to abusive/negligent environment</p>

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<p>Antitrust Exemption or Application (implicit or explicit)</p>	<p>EXPLICIT APPLICATION - Collusion p. 29 institution, conference, national ath. assn. may not (2) coordinate or cooperate with any other institution of higher education, conference, national intercollegiate athletic association, or third party to limit endorsement contract opportunities or determine the amount of payment offered to a college athlete under an endorsement contract. .pp. 47-48-POSSIBLY IMPLICIT EXEMPTION (to the extent insti/conf. rules determined to be restraints on competition)Section 10. A national intercollegiate athletic assn. may (1) establish rules to enforce the provisions of the Act and CAC standards; (2) enforce such rules by, depending on severity of the violation, (A) declaring athlete who receives payments in violation of rules ineligible, (B) withholding 1 or more revenue distributions from institutions violating covered compensation rules, (C) suspending/permanently removing athletic personnel/volunteer who violate Act p. 50-EXPLICIT APPLICATION Sec. 12 Nothing in this Act may be construed to create liability at the State or Federal level for any conduct involving violations relating to antitrust laws occurring before the date of the enactment of this Act; or to interfere with the authority of the States to regulate attorneys.</p>

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Title IX and Gender Equity:	p. 24 A national intercollegiate athletic association shall not discriminate on the basis of sex with regard to the provision of medical care, rest, hotel stays, food, athletic facilities, transportation, and sporting event promotions

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<p>Athlete Education Provisions:</p>	<p>pp. 13-14 (a) Institution cannot punish/prohibit participation based on college athlete having: (A) secured legal representation; or (B) entered into an agency contract with an athlete representative who has been certified by the CAC in accordance with section prohibit college athletes from receiving, or limit the ability of college athletes to receive, from an institution of higher education advice or services with respect to legal matters unrelated to intercollegiate athletics that are available to all students.(b) Notification of Rules: before the start of the regular session or participation of the college athlete in a college athletics program, institution shall prpvide athletes with a list of rules that govern endorsement contracts. pp. 36-38 Sec. 7 (a) institution shall (1) offer financial literacy/life skills dev. prgm (2) every athlete required to attend (b) fin. literacy/life skills program shall (A) not less than 15 hrs in total duration across all sessions, (B) credit bearing consistent w/ instit. guidelines, (C) info on athletes rights under this Act, time mgmt skills, personal budgeting, debt, credit, interest rates, contracts, and tax liability relating to endorsement contracts and other income. (2) fin. literacy/life skills program may NOT include marketing, advertising, referral, or solicitation by providers of financial services or products</p>

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<p>Health and Wellness Provisions:</p>	<p>p.25-27 (j)(1)(A) institutions reporting >\$20 million in total annual revenues to DOE immediately preceding the date of athlete's last competition are responsible for athlete's medical out-of-pocket expenses for injury incurred or communicable disease acquired while participating in athletics for 2-year period from last competition date; (B) 4-year requirement and providing athletic-related health care coverage for institution reporting >\$50 million in total annual revenues to DOE; (2) During the enrollment of a college athlete in an institution of higher education and continuing through the 2-year period described in (A) or the 4-year period described in (B) above, institutions shall be financially responsible for the expense of obtaining, for college athletes and former college athletes, medical second opinions independent from the institution of higher education; (3) above responsibilities do not apply if athlete transferred out of institution to continue participation elsewhere; (4) CAC to establish a medical trust fund to help cover cost of (i) out-of-pocket jinjury/communicable disease expenses during 4-year period after an athlete's last competition; and (ii) medical expenses for athletes diagnosed w/ significant long-term conditions related to athletic participation including CTE or other cognitive impairment; (B) medical trust to be funded by CAC determined (based on revenues) annual contributions from institutions, conferences and national associations generating >\$50 million annually; (C) CAC shall contract w/ health care providers using amounts from the medical trust fund. pp. 29-31-Sec. 5. Sec. of HHS in consultation with CAC shall establish health, wellness, and safety standards to protect college athletes from serious injury and conditions, mistreatment and abuse, and death (2) consulting with other identified national athletic governance orgs and considering standards of other identified leagues (3) standards to be annually reviewed, incorporate best practices and address cardiac health, concussion and traumatic brain injuries, illegal performance enhancers and substance abuse, mental health, nutrition/sleep/performance, overuse injuries, periodization, heat-related illnesses, sexual assault, sexual harassment/interpersonal violence, athletics health services administration, weight and pain management, Rhabdomyolysis, sickle cell trait, asthma, best practices to prevent serious harm in sports medicine, physical therapy, athletic training, and athletic strength and conditioning; and any other topic the Secretary considers appropriate. p. 32 (c)(1) Trainers, PTs and Medical personnel have unchallengeable authority to determine medical mgmt/return to play-no coach/non-medical personnel may attempt to influence/disregard such decisions; (2) employment/supervision of ATs, PTs and medical personnel shall be independent of athletic dept. (c) CAC may conduct audits. p. 32-33 lifetime ban on involvement in intercollegiate athletics if individual caused serious harm due to non-compliance with standards, failed to address non-compliance, threatened/retaliated against whistle-blowers, provided false info or obstructed a CAC investigation - institution failing to address noncompliance may be punished by CAC, pay for medical expenses associated with harm, as determined by CAC.</p>

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<p>Prohibitions/Protections in addition to establishing the athlete's general right to enter into NIL agreements and rescission provisions noted above:</p>	<p>pp. 13-14 Institution cannot punish/prohibit participation based on college athlete having: (A) secured legal representation; or (B) entered into an agency contract with an athlete representative who has been certified by the CAC in accordance with section 8(b)(4). Institution may not (i) represent college athletes in endorsement contracts; (ii) regulate the representation of college athletes with respect to endorsement contracts; (iii) engage certified individuals for representation; or (iv) attempt to influence the choice of representation of a college athlete. p. 20 Cannot punish an athlete who enters a pro draft & who does not receive direct or indirect compensation from a pro team, agent, etc. & who within 7 days after the draft declares intent to resume intercollegiate competition. p.23-24 institution employee may not (1) discourage athlete choice re: course or major, (2) retaliate based on athlete choice re: course or major, (3) discourage/interfere with athlete seeking employment, internships, participation in student groups/events or serving as volunteer unless such activities interfere w/ mandatory class time or college athletic events. p. 29 (k) institution, conference, national ath. assn. may not (1) impose on college athletes restrictions on speech that are more stringent than restrictions on speech imposed on other students enrolled in the institution of higher education</p>
<p>Athlete Endorsement Prohibitions:</p>	<p>pp. 11-12 (1) CERTAIN INDUSTRIES AND CONTRACTS.—An institution of higher education may prevent college athlete from entering into an endorsement contract with a third party if—(A) the third party represents an industry—(i) with respect to which the institution of higher education imposes restrictions, in the code of student conduct of the institution of higher education, for moral reasons; and (ii) with which the institution of higher education does not partner; or (B) the endorsement contract violates a rule established by the CAC in accordance with section 8(b)(2).</p>

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Allowable Institutional Restrictions on Endorsement Activities That Conflict with Athletic Events, Team Activities or Institutional Sponsorship Agreements	<p>pp.15-16 (A) (i) may prohibit a college athlete from engaging in in-person activities in connection with an endorsement contract that are concurrent with a mandatory college athletic event or college athletic competition. (ii) CAC may, in accordance with section 8(b)(2), by rule, set a time period before and after a mandatory college athletic event or college athletic competition during which an institution of higher education may prohibit such in-person activities. (B) but these institutional restrictions cannot apply to scheduled social media posts, pre-recorded commercials, and other commercial or business activities that do not take place in person.</p>
Revenue Sharing and Institutional NIL/Royalty Payments:	<p>NONE</p>
Reports Required to Congress or a Federal Agency:	<p>p. 44 (i) annual report to House and Senate Commerce Committees - number of disputes investigated, # filed, and recommendation to improve endorsement contract process. 48 Sec. 11 Reporting - (a) biennial report to House and Senate Commerce Committees re: (1) systemic issues of national assn. in complying with Act, (2) institution, conference, nat. assn. trends in response to prohibitions prescribed by Act, (3) recommended improvements - health, safety, & educ. opportunities of college athletes (b) 5 year report -summary of investigations conducted and recommendations re: health, safety, & educ. opportunities of college athletes</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Disclosure and Transparency Provisions (including use of common forms):</p>	<p>p. 8 Disclosure by instit/nat. ath. Assn of TV media rights and other agreements using athlete NILs (A) inst/ath. assn must obtain license from athletes for use of their NILs (B) NOTIFICATION.—An institution of higher education or intercollegiate athletic association seeking a license described in subparagraph (A) shall notify the group of college athletes concerned with respect to (i) the manner in which the name, image, or likeness of the group will be used under the license; and (ii) the amount of revenue the institution of higher education or intercollegiate athletic association will receive in connection with any type of promotion, including a media rights agreement and any other revenue source, based on the use of the name, image, or likeness of the group.</p>

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<p>Privacy/Non-Disclosure Provisions:</p>	<p>NONE</p>
<p>FMV /Inducements/Extra Benefits</p>	<p>p. 6-7 Prohibits institutions of higher education from enacting or enforcing rules, requirements, standards, or limitations that prevents college athletes or prospective college athletes, individually or as a group, from marketing their NILs and athletic reputations; prohibits institutions from coordinating with other institutions or third parties to limit the amount of payment offered to a college athlete under a contract for their NIL or athletic reputation; Collusion: An institution of higher education may not coordinate with any other institution of higher education or third party to limit the amount of payment offered to a college athlete, prospective college athlete, or group of college/prospective athletes under a NIL contract; pp. 11-12 Instit/nat. ath. assn. may not regulate the legal, financial, or agency representation of college athletes and prospective college athletes with respect to the marketing of their names, images, or likenesses.</p>
<p>Employee classification/ Unionization</p>	<p>pp. 7-8 GROUP LICENSING Institution/nat. athletic assn may not use the name, image, or likeness of any group of college athletes for any type of promotion, including a media rights agreement, unless the institution of higher education or intercollegiate athletic association obtains a license from the group (ATHLETES) for that purpose Obligation of instit/assn to notify athletes of proposed group license including amt of revenue instit/assn will receive. pp. 12-13 (d)(2) EXCEPTION.—An institution of higher education or intercollegiate athletic association may restrict the commercial use of the name, image, or likeness of college athletes if such a restriction is part of a collective bargaining agreement between the institution of higher education or intercollegiate athletic association and college athletes.</p>

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NIL "Collectives"/ fundraising	<p>p. 3 Definition:'Institutional NIL Collective'— means any entity that—(A)(i) is subject to the Federal Trade Commission Act (15 U.S.C. 41 et seq.); or (ii) is an organization not organized to carry on business for its own profit or the profit of its members; and (B) supports the athletic interests of an institution of higher education or a limited group of institutions of higher education by (i) accepting contributions for the purpose of entering into or funding name, image, or likeness agreements with college athletes or prospective college athletes; or (ii) arranging for college athletes to be paid by third parties for the commercial use of their names, images, or likenesses. p.9-10 in order for equitable treatment obligation to be applicable, NIL collective must be (A)(i) "considered to be affiliated" w/ the instit., (A)(ii) must register with the FTC, (A)(iii) maintain athlete NIL records: number of NIL agmts disaggregated by gender, race, and sport, total monetary value of NIL agmts disaggregated by gender, race, and sport, number of college athletes and prospective college athletes receiving NIL agmts disaggregated by gender, race, and sport, (A)(iv) submit an annual report to FTC containing (A)(iii) info. pp. 11 (B) shall not discriminate, on the basis of gender, race, or participating sport, in the facilitation of name, image, or likeness agreements for college athletes in the athletic program of, or prospective college athletes for, any particular institution of higher education."</p>
Rescission of NIL/Endorsement Agreements	NONE
Applicability (HS, national gov. assns, conf.)	current and prospective college athletes, international college athletes, institutions, conferences, nat. ath. assns, NIL collectives, athletes assns., agents

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<p>EXPLICIT PERMISSIONS Group Licensing/Use Institutional Marks/Co- Branding (individual athlete/institution)</p>	<p>pp. 7-8 GROUP LICENSING Institution/nat. athletic assn may not use the name, image, or likeness of any group of college athletes for any type of promotion, including a media rights agreement, unless the institution of higher education or intercollegiate athletic association obtains a license from the group for that purpose Obligation of instit/assn to notify athletes of proposed group license including amt of revenue instit/assn will receive.</p>

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<p>Investigation/Enforcement Agency/Agencies - TYPE-DUTIES</p>	<p>pp. 18-20 Sec. 6 (a)(1) Specifies the Federal Trade Commission to enforce the Act and cover unfair or deceptive acts or practices, (2) using Sec. 3 of the Act to enforce and (3) extending FTC reach to non-profit organizations. (b) (1) private right of action in federal district court, (2) prevailing party may be awarded actual damages and attorney's fees and (c) a per se violation of the Sherman Act (1510 U.S.C. 1 et seq.), subject to all remedies and rights afforded under that Act.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Preemption of State Law or other US agency rules</p>	<p>p. 20 SEC. 7. STATE PREEMPTION.(a) IN GENERAL.—A State may not enforce a State law relating to the ability of college athletes to enter into contracts with third parties for the use of their names, images, or likenesses pursuant to this Act (b) EXCEPTION FOR THE CERTIFICATION OF ATHLETE AGENTS.—A State may enforce a State law or regulation relating to the certification of athlete agents under the Sports Agent Responsibility and Trust Act (15 U.S.C.21 7801 et seq.)</p>
<p>Enforcement Provisions (penalty or disincentives included and when if has subpoena power)</p>	<p>p. 19-20 Sec. 6 (a)(1) Violation of athletes' NIL rights will be considered unfair or deceptive act under Federal Trade Commission Act. All means available to FTC under FTC Act. including (3) use against non-profit orgs (b) Individuals have private Right of Action (c) SHERMAN ACT.—A violation of this Act shall be deemed to be a per se violation of the Sherman Act (15 U.S.C. 1 et seq.) and subject to all remedies and rights afforded under that Act.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Athletes' Scholarships or other benefits:</p>	<p>p. 8-9 (5) Receipt of NIL or athletic reputation compensation of a college athlete or prospective college athlete shall not adversely affect eligibility or GIA opportunity, amount, duration, renewal of a college athlete or prospective college athlete. p. 21 Sec. 8 - Nothing in Act shall affect the treatment of qualified scholarships under IRS code. p. 21 Nothing in this Act shall affect the treatment of qualified scholarships under section 117 of the Internal Revenue Code of 1986.</p>
<p>NIL Conflict, Dispute Resolution and Reporting Provisions:</p>	<p>Athletes aggrieved by a violation may pursue civil action in an appropriate Federal district court of competent jurisdiction and the court may award to a prevailing part in a civil action actual damages sustained by the party as a result of the violation and the costs of the action and reasonable attorney's fees.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Provisions related to transfers:</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Antitrust Exemption or Application (implicit or explicit)</p>	<p>EXPLICIT INCLUSION p. 6 - 7 Collusion Prohibits institutions of higher education from enacting or enforcing rules, requirements, standards, or limitations that prevents college athletes or prospective college athletes, individually or as a group, from marketing their NILs and athletic reputations; prohibits institutions from coordinating with other institutions or third parties to limit the amount of payment offered to a college athlete under a contract for their NIL or athletic reputation; Collusion: An institution of higher education may not coordinate with any other institution of higher education or third party to limit the amount of payment offered to a college athlete, prospective college athlete, or group of college/prospective athletes under a NIL contract; EXPLICIT INCLUSION p. 20 (c) SHERMAN ACT.—A violation of this Act shall be deemed to be a per se violation of the Sherman Act (1510 U.S.C. 1 et seq.) and subject to all remedies and rights afforded under that Act</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Title IX and Gender Equity:</p>	<p>p. 9 (b) EQUITABLE INSTITUTIONAL SUPPORT.(1) IN GENERAL.—An institution of higher education, an intercollegiate athletic association, or a party affiliated with an institution of higher education or an intercollegiate athletic association that provides direct or indirect support to college athletes with respect to the marketing of their names, images, or likenesses shall make such support available and accessible to all college athletes in the applicable athletic program, regardless of gender, race, or participating sport. p.9-10 in order for equitable treatment obligation to be applicable, NIL collective must be (A)(i) "considered to be affiliated" w/ the instit., (A)(ii) must register with the FTC, (A)(iii) maintain athlete NIL records: number of NIL agmts disaggregated by gender, race, and sport, total monetary value of NIL agmts disaggregated by gender, race, and sport, number of college athletes and prospective college athletes receiving NIL agmts disaggregated by gender, race, and sport, (A)(iv) submit an annual report to FTC containing (A)(iii) info. pp. 11 (B) shall not discriminate, on the basis of gender, race, or participating sport, in the facilitation of name, image, or likeness agreements for college athletes in the athletic program of, or prospective college athletes for, any particular institution of higher education." p. 11 NIL Collectives (B) shall not discriminate, on the basis of gender, race, or participating sport, in the facilitation of name, image, or likeness agreements for college athletes in the athletic program of, or prospective college athletes for, any particular institution of higher education. (3) DETERMINATIONS UNDER TITLE IX.—For purposes of determinations about discrimination on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the support of an institution of higher education or intercollegiate athletic association related to athletes’ names, images, or likenesses shall be considered, including how an institution of higher education or intercollegiate athletic association promotes sports predominantly comprised of women relative to men; p. 13-15 Sec. 4 Annual reports to the Secretary of Commerce by grant recipient commissioned for that purpose shall include results of surveys and interviews conducted, analysis of compensation received by college athletes disaggregated by gender; race; and sport, provide recommendations to the Secretary to address any disparities. Appropriations tpo be authorized by the Secretary</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Athlete Education Provisions:</p>	<p>NONE</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u>
Health and Wellness Provisions:	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Prohibitions/Protections in addition to establishing the athlete's general right to enter into NIL agreements and rescission provisions noted above:</p>	<p>pp. 7-8 Right to collective representative: An institution of higher education or athletic association may not enact or enforce any rule, requirement, standard, or other limitation, or engage in conduct that prevents college athletes from forming or recognizing, or interferes with such formation or recognition of, a collective representative—(A) to facilitate contracts for the use of the name, image, or likeness of college athletes, or group licensing agreements; or (B) to provide representation for college athletes (5) athlete/prospect athlete GIA receipt/amount/duration/renewal cannot be affected by athlete obtaining NIL agmt, pp. 11-12 Athlete right to agent/representative Instit/nat. ath. assn. may not prevent college athlete or prospect from fully participating in athletics based on the college athlete or prospect having obtained professional representation with respect to a contract or legal matter, including-(A) representation provided by an athlete agent, financial advisor, or collective representative; and (B) legal representation provided by an attorney and (2) regulate the legal, financial, or agency representation with respect to the marketing of their names, images, or likenesses, including the certification of such legal, financial, or agency representation. pp. 15-18 Removes F Visa and Immigration and Nationality Act barriers to International Athlete rights to receive NILs</p>
<p>Athlete Endorsement Prohibitions:</p>	<p>pp. 12-13 (d)(2) EXCEPTION.—An institution of higher education or intercollegiate athletic association may restrict the commercial use of the name, image, or likeness of college athletes if such a restriction is part of a collective bargaining agreement between the institution of higher education or intercollegiate athletic association and college athletes.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Chris Murphy (D-CT) and Rep. Lori Trahan (D-MA): The College Athlete Economic Freedom Act</u></p>
<p>Allowable Institutional Restrictions on Endorsement Activities That Conflict with Athletic Events, Team Activities or Institution Sponsorship Agreements</p>	<p>pp. 12-13 (d)(2) EXCEPTION.—An institution of higher education or intercollegiate athletic association may restrict the commercial use of the name, image, or likeness of college athletes if such a restriction is part of a collective bargaining agreement between instit/nat. ath. assn and college athletes.</p>
<p>Revenue Sharing and Institutional NIL/Royalty Payments:</p>	<p>No prohibition as long as approved by athlete CBA agmt.</p>
<p>Reports Required to Congress or a Federal Agency:</p>	<p>pp. 13-15 Sec. 4 Annual market analysis and recommendations: the Secretary of Commerce may award a grant to, or enter into a contract with, an eligible entity for the purpose of conducting a market analysis of the monetization of the rights granted to college athletes during the 1-year period preceding the date of analysis including making results public, results of surveys and interviews conducted, analysis of compensation received by college athletes disaggregated by gender; race; and sport, provide recommendations to the Secretary to address any disparities. Appropriations to be authorized by the Secretary</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p style="text-align: center;"><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Disclosure and Transparency Provisions (including use of common forms):</p>	<p>pp. 17-18 Sec. 6 Transparency. (a) Within 30 days of entering into NIL contract, athlete shall disclose to their institution (1) existence of contract, (2) names of parties to contract, (3) athlete's scope of and timeline for work, (4) compensation and (5) duration of contract. (b) Agent representing athlete for NIL contract shall (1) register with FTC, (2) disclose to FTC agent fee, agent scope of work and duration of contract; (c) Third parties shall register w/ FTC, disclose to FTC and institution existence of contract, names of parties to contract, scope of work/timeline for athlete work, compensation to athletes and duration of contract; (d) individuals/boosters- any indiv or booster seeing to enter into an NIL contract shall register w/ FTC, not later than 7 days before date on which contract is executed, disclose to FTC existence of contract, names of parties to contract, scope of work/timeline for athlete work, compensation to athletes and duration of contract; p. 19 FTC Website not later than 180 days after date of Act enactment, FTC establishes publicly accessible internet website, publishes, frequently updates anonymized and aggregated NIL data. Disclosure of contract does not mean institution or nat. assn. approve legal, economic or fairness of terms</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u>
Privacy/Non-Disclosure Provisions:	NONE
FMV /Inducements/Extra Benefits	<p>p. 9 (b) (1) An individual, booster, or third party may not offer or provide a prospective student athlete or a student athlete with any compensation or benefit that is intended to induce the prospective student athlete or student athlete to enroll in or transfer to a particular institution of higher education, (2) Nothing in this subsection may be construed to prohibit an individual, booster, or third party from offering or providing a bona fide grant that may be used by a prospective student athlete or student athlete solely for the payment of tuition, room and board, or other fees charged by an institution of higher education for enrollment in an academic program offered by the institution of higher education; pp. 32 Amendment to FTC Act to add: “It is unlawful for a booster or a third party to directly or indirectly provide or offer to provide any funds or thing of value as an inducement to a student athlete to enroll in, transfer from, or remain at a specific institution of higher education or group of institutions of higher education.”; and (3) in section 5(a)(1) (15 U.S.C. 7804(a)(1)), by inserting “or by the engagement of any booster or third party in a practice that violates section 3A of this Act” after “section 3 of this Act”.</p>
Employee classification/ Unionization	<p>p. 38 (b) CLASSIFICATION OF STUDENT ATHLETES. Nothing in this Act or the amendments made by this Act shall affect the employment status of a student athlete with respect to a conference or an institution of higher education. Does not address</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>NIL "Collectives"/ fundraising</p>	<p>p. 9 (a) A third party may only promote an intercollegiate athletics program, assist with recruiting, or assist with providing benefits to student athletes or the family members of student athletes if the third party is formally associated with an institution of higher education through a written contract pursuant to the normal policies of the institution of higher education, (2) Nothing in this subsection may be construed to prohibit an individual, booster, or third party from offering or providing a bona fide grant that may be used by a prospective student athlete or student athlete solely for the payment of tuition, room and board, or other fees charged by an institution of higher education for enrollment in an academic program offered by the institution of higher education, (3) A third party associated with an institution of higher education shall offer equal representation of, and provide equal services to, all student athletes in all intercollegiate athletics programs at the institution of higher education.</p>
<p>Rescission of NIL/Endorsement Agreements</p>	<p>p. 13 Sec. 5 (a) Conditions. Athlete may only enter into NIL contract that is in writing and signed by each party, includes the names of each party, outlines the scope of work to be performed, states the timeline for performance of such work, states the compensation to be provided, describes duration of contract, conforms with standard contract template developed by the FTC, takes effect after date of enrollment and beginning of athletic participation, and is consistent with Act. (b) Duration. may enter NIL contract only if athletes is enrolled during an academic term for which classes have begun; duration does not extend beyond enrollment.</p>
<p>Applicability (HS, national gov. assns, conf.)</p>	<p>College athletes, former athletes, institutions, collectives, conferences, national ath associations, boosters, athlete agents</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>EXPLICIT PERMISSIONS Group Licensing/Use Institutional Marks/Co- Branding (individual athlete/institution)</p>	<p>p. 16 (ii) With express permission of institution, may use insignia, logo, or other intellectual property of the institution for any purpose</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p style="text-align: center;"><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Investigation/Enforcement Agency/Agencies - TYPE-DUTIES</p>	<p>p. 28 Sec.8 (a) FTC -A violation under section 3 or 6 of this Act shall be treated as an unfair or deceptive act or practice under section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C.20 45(a)(1)); (b) FTC Powers (b) (1) FTC shall enforce Sec. 3 and 6 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this Act, (b)(2) Any person who violates this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act; (b)(3) FTC cannot prescribe rules or regulations with respect to any act, practice, or conduct of this Act; (c) Unfair/deceptive practices by Third Parties. Amends The Sports Agent Responsibility and Trust Act to include boosters "any indiv. who has donated to athletics or bought a season ticket for any sport, been a member of an organization supporting the athletic program of an institution, or made a financial contribution to ath. dept, ath. foundation, collective, or booster organization"affiliated" with an institution, institutions, any person that offers/solicits/enters into NIL agmt w/ athlete or entity "operating independently of institutions to fund NIL agmts/opportunities; collectives" pp. 32-33 Sports Agent Responsibility and Trust Act to require Notice to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future, or enter into a name, image, or likeness contract, you, the agent by whom you are agreeing to be represented, and any other booster or third party must notify the institution of higher education in which you are enrolled that you have entered into an agency or name, image, or likeness contract." pp. 33-34 National Collegiate Gov. Org Sec. 9 Nat. College Ath. Orgs (a) Duties -- establish rules to govern, enforce, and provide oversight of institutions under Sec. 7 of this Act (additional protections for athletes @ pp 20-28), process for Third Parties to register w/ NCAA, processes to regulate Third Parties, mechanism for certification and regulaton of third parties that provide NIL compensation including (A) permissible activities, (B) uniform NIL contracts, (C) education resources, establish a dispute resolution process for athletes who assert violation of this Act under which the student may select arbitration; AUTHORITY.—(1) INVESTIGATIONS AND AUDITS.—The National Collegiate Athletic Association shall (A) conduct investigations and audits to assess compliance with this Act; and (B) not less frequently than annually, submit to the Committee on Commerce, Science,and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report with respect to such compliance.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Preemption of State Law or other US agency rules</p>	<p>p. 37 SEC. 11. RELATIONSHIP TO STATE LAW.(a) STATE PREEMPTION.—No State or political sub-division of a State may adopt, maintain, enforce, or continue in effect any law, regulation, rule, requirement, or standard that (1) conflicts with the provisions of this Act; (2) limits or restricts the rights of student athletes, the National Collegiate Athletic Association, conferences, or institutions of higher education under this Act; or (3) relates to the rights of student athletes to receive compensation directly or indirectly from any institution of higher education, affiliate of an institution of higher education, third party, conference, or the National Collegiate Athletic Association.(b) NONDISCRIMINATION OF STUDENT ATHLETES.—No State or political subdivision of a State may establish or continue in effect any law, regulation, rule, requirement, or standard that is inconsistent with title IX of the Higher Education Act of 1972 (20 U.S.C. 1681 et seq.), including any law, regulation, rule, requirement, or standard that provides for the payment of student athletes participating in a varsity intercollegiate athletics program based on a share of annual revenue generated by that particular sports program.</p>
<p>Enforcement Provisions (penalty or disincentives included and when if has subpoena power)</p>	<p>pp. 34-35 PENALTIES THAT CAN BE IMPOSED BY Nat. Ath. Assn.—In the case of a violation of this Act or a potential violation of any other Federal law by an agent, third party, institution of higher education, conference, or student athlete, the National Collegiate Athletic Association may (A) revoke licenses to participate in name, image, or likeness activities; (B) with respect to a violation of this Act, refer the matter to the Federal Trade Commission as an unfair and deceptive act or practice for enforcement; and (C) with respect to a violation of any other Federal law, refer the matter to the appropriate Federal agency for enforcement.(3) LIMITATION.—The National Collegiate Athletic Association shall not have the authority to approve name, image, or likeness contracts for legality or appropriateness. PENALTIES THAT CAN BE IMPOSED BY FTC (c) NONCOMPLIANCE.—In the case of a failure by the National Collegiate Athletic Association to carry out the duties under this section, the Federal Trade Commission may commence an investigation of such failure and impose penalties, including—(1) a penalty for an unfair and deceptive act or practice; and (2) revocation of tax-exempt status.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Athletes' Scholarships or other benefits:</p>	<p>p. 3-4 Not considered compensation: grants-in-aid, funds from any student assistance fund or academic enhancement fund affiliated with an institution of higher education that are available and distributed without regard to athletic ability for the purposes of assisting student athletes in meeting their financial needs, improving the welfare of student athletes, providing academic support for student athletes, or recognizing the academic achievement of student athletes, including by providing postgraduate scholarships, school supplies, benefits, such as travel expenses for student athletes, clothing, and magazine subscriptions; or payments incidental to athletics participation, such as the National Collegiate Athletic Association cost-of-attendance stipend, awards for participation or achievement in intercollegiate athletics, such as qualifying for a bowl game, or payments for performance in the Olympics, awards for future educational opportunities, premiums paid on behalf of a student athlete for loss-of-value insurance or disability insurance; or travel funds for members of a student athlete's immediate family to attend sporting events of the student athlete p. 5 Defined as Grant-in-Aid: tuition, fees, books etc. up to full cost of attendance, Pell and other state and federal grants, health insurance, disability or LOV insurance, career counseling/job placement services available to all students. pp. 27-28 (d) Grant-in-Aid Protection (1) cannot revoke/reduce/impose condition based on athlete entering into NIL contract or injury (2) Original GIA agmt (no mention of duration of GIA agmt) must be honored if the athlete transfers to another institution by the new institution (2)(C) GIAs to former student athletes do not count against athlete scholarship caps & and may come from general budget of institution. (3) institution CAN revoke GIA who does not remain in good standing or code of conduct of the institution p. 38 (a) TAX PROVISIONS.—Nothing in this Act or the amendments made by this Act shall affect the treatment of qualified scholarships under section 117 of the Internal Revenue Code of 1986.</p>
<p>NIL Conflict, Dispute Resolution and Reporting Provisions:</p>	<p>p. 34 Nat. Ath. Assn shall develop/maintain a dispute resolution process for athletes who assert violation of this Act under which the student may select arbitration;</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Provisions related to transfers:</p>	<p>pp. 10-12 Sec. 4. (a) National athletic assn role- shall establish transfer portal rules with respect to one or more periods during which a student may formally notify the institution of intent to transfer (b) Effect on athlete (1) immediately INELIGIBLE to play at new institution beginning at start of fall semester/ending after institution's final summer session, (2)(A) national assn may waive (1) and be immediately eligible before fall semester after entering transfer portal if athlete has completed 3 yrs of eligibility, family member dies or diagnosed w/ terminal illness, primary position coach voluntarily or involuntarily leaves institution before the date the athlete enters the portal or other criteria established by the assn.(B) only if athlete provides documentation of circumstance not later than 30 days after qualifying event and assn verifies the documentation. Supercedes any assn. transfer rule in effect when Act enacted.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Antitrust Exemption or Application (implicit or explicit)</p>	<p>POSSIBLY IMPLICIT EXEMPTION 33-34 National Collegiate Gov. Org Sec. 9 Nat. College Ath. Orgs (a) Duties -- establish rules to govern, enforce, and provide oversight of institutions under Sec. 7 of this Act (additional protections for athletes @ pp 20-28), process for Third Parties to register w/ NCAA, processes to regulate Third Parties, mechanism for certification and regulation of third parties that provide NIL compensation including (A) permissible activities, (B) uniform NIL contracts, (C) education resources, establish a dispute resolution process for athletes who assert violation of this Act under which the student may select arbitration; AUTHORITY.—(1) INVESTIGATIONS AND AUDITS.—The National Collegiate Athletic Association shall (A) conduct investigations and audits to assess compliance with this Act; and (B) not less frequently than annually, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report with respect to such compliance, p. 36 EXPLICIT EXEMPTION Nat. Ath. Assoc Limitation of Liability No agreement, understanding, rule, or bylaw adopted by a conference, the National Collegiate Athletic Association, or a combination of or more institutions of higher education acting in concert that is authorized, consistent with, or reasonably contemplated by any provision of this Act shall be invalid or a basis for liability under or pursuant to any Federal or State law upon enactment of this Act.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Title IX and Gender Equity:</p>	<p>pp. 37 - Nondiscrimination of Athletes- cannot be inconsistent w/ Title IX - including any revenue-sharing/payment p. 9 DEFINITION (a) A third party may only promote an intercollegiate athletics program, assist with recruiting, or assist with providing benefits to student athletes or the family members of student athletes if the third party is formally associated with an institution of higher education through a written contract pursuant to the normal policies of the institution of higher education, (2) Nothing in this subsection may be construed to prohibit an individual, booster, or third party from offering or providing a bona fide grant that may be used by a prospective student athlete or student athlete solely for the payment of tuition, room and board, or other fees charged by an institution of higher education for enrollment in an academic program offered by the institution of higher education, (3) A third party associated with an institution of higher education shall offer equal representation of, and provide equal services to, all student athletes in all intercollegiate athletics programs at the institution of higher education.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Athlete Education Provisions:</p>	<p>p. 20-21 (a) educational resources - nat. assn and institution shall develop and make available to athletes resources/info on rights of athletes re: NIL contracts and related legal/regulatory matters, (b) financial literacy nat. assn. shall develop, maintain, conduct financial literacy & life skills program to include financial aid, debt management, model budgets based on cost of attendance & grant-in-aid rec'd by athlete, info on tax implications of entering into NIL contract</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Health and Wellness Provisions:</p>	<p>pp. 21 - 27 (c) Travel and Medical Exp. (1)(A) Trust Fund -organizers of any revenue-generating collegiate tourney or playoff shall deposit one percent of annual gross revenues to be managed by nat. assn. to cover costs of (i) athlete who is a dependent, travel of immediate family to sporting events, (ii) all out-of-pocket medical expenses of former athletes not attending institutions whose revenue status obligates them to pay for same - up to the athlete's age of 28 OR 8 yrs. after date athletic eligibility expires conditioned on athlete completing an exit physical exam not later than 7 days after last regular season competition and graduating from institution at which athlete was enrolled during that season. (2) Medical Expenses. (A) Institution Paid Medical Coverage -All institutions shall provide or procure health care coverage for enrolled athletes during any year of athletic participation and shall pay out-of-pocket medical expenses for injuries or communicable diseases incurred during varsity intercollegiate event/competition; (B) Out-of-pockets (i) All institutions-Out-of-pocket medical exp. while athlete participating, (ii) institutions w/ >\$20MM revenues-also must pay out-of-pockets during 2 yrs. after last date of competition, (iii) institutions w/ >\$50MM revenues-also must pay out-of-pockets during 4 yrs. after last date of competitions; (C) Second opinions- (i) All institutions must pay for currently participating athletes; (ii) former student athletes (EXCEPT TRANSFERS (D)): institutions w/ >\$20MM revenues-also must pay for 2nd opinions during 2 yrs. after last date of competition, institutions w/ >\$50MM revenues-also must pay for 2nd opinions during 4 yrs. after last date of competitions, institutions w/ <\$20MM 2nd opinions paid for by Medical Trust Fund during 4 yrs. after last date of competition.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Prohibitions/Protections in addition to establishing the athlete's general right to enter into NIL agreements and rescission provisions noted above:</p>	<p>NONE</p>
<p>Athlete Endorsement Prohibitions:</p>	<p>p. 14 (2) (A) nat. assn/institution can impose ineligibility if NIL contract involves adult entertainment, alcohol products, casino or gambling or sports betting, tobacco, marijuana, electronic smoking products and devices, pharmaceuticals, dangerous or controlled substances, drug paraphernalia, weapons/firearms/ammunition, or any substance (PED) prohibited by nat. assn p. 16 (3) institution not allowed to prohibit athlete from entering into a contract with any entity with which the institution has an advertising or promo agmt pp. 16-17 (d) Prohibition. Institution shall not (1) prohibit athlete from entering into NIL contract that complies with this Act through any policy/rule that affects eligibility for grant-in-aid or (2) provide or arrange compensation for the athlete based on instit. use of athlete NIL for athletic participation</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senators. Joe Manchin (D-WV), Tommy Tuberville (R-AL)</u> <u>Protecting Athletes, Schools, and Sports Act of 2023</u></p>
<p>Allowable Institutional Restrictions on Endorsement Activities That Conflict with Athletic Events, Team Activities or Institutional Sponsorship Agreements</p>	<p>p. 15 may prohibit athlete wearing any item of clothing, shoes, or other gear with insignia of any entity while wearing any institution gear/uniform or while competing in athletic events</p>
<p>Revenue Sharing and Institutional NIL/Royalty Payments:</p>	<p>pp. 17 (d) Prohibition. Institution shall not (2) provide or arrange compensation for the athlete based on instit. use of athlete NIL for athletic participation</p>
<p>Reports Required to Congress or a Federal Agency:</p>	<p>pp. 34-36 FTC Report Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that summarizes any investigation or enforcement action brought by the Federal Trade Commission or the National Collegiate Athletic Association under this Act during the preceding year, including the number of complaints filed with the Federal Trade Commission under this Act; The National Collegiate Athletic Association shall (A) conduct investigations and audits to assess compliance with this Act; and (B) not less frequently than annually, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report with respect to such compliance.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Disclosure and Transparency Provisions (including use of common forms):</p>	<p>p. 16-25 (c) USIAC REGISTRATION DISCLOSURES subject to penalty for perjury (2)AGENTS -using USIAC portal/common forms, provide required info --i whether agent conduct has ever caused athlete/institution sanctions, been fraudulent or been sued for breach of contract/fiduciary duties and attest ag compliance with state regs regarding agents and agent contracts of athletes with whom agent has contract or if state has no rules, USIAC registration sha THIRD PARTIES (includes "booster" @p. 3 who has donated to instit. to obtain season tix, been member of 1 or more sport booster clubs, made donation above USIAC determined amt, arranged for or provided employment for a college athlete based on athlete status, assisted staff or been requested by sta recruiting, provided benefits to athlete or their family, OR p. 8-otherwise involved in promoting athletics at a college/univ. or individual who has entered any individual providing NIL payments to athlete) - using USIAC common forms, 3rd party signed under penalty of perjury by authorized rep. of 3rd party required info: name, contact info, address, social media acct., type of business, institutional affiliation, name of each individual that is a partner, membe director of the applicant, name ot each individual entitled to a share of profits, income,, receipts, or other funds, identity of any individual who holds an of at least 5 percent, and for collectives too, whether the applicant has been adjudicated as bankrupt or filed for bankruptcy and whether past conduct c applicant/persons named have caused athlete or institution to be sanctioned, suspended, or declared ineligible or individual was convicted of fraud or w registration was ever denied, suspended, abandoned, or not renewed. (4) COLLECTIVES (p.3 defined as 1 or more boosters which in a 12 month period, € quantity of NIL agmts above USIAC determined threshold) required to provide contact info of any donor to the fund including whether donor ever adju bankrupt or filed for bankruptcy and whether past conduct of applicant/donors named have ever caused athlete or institution to be sanctioned, susp declared ineligible or individual was convicted of fraud or whether USIAC registration was ever denied, suspended, abandoned, or not renewed. (d) NIL AGREEMENT/CONTRACT DISCLOSURES TO USIAC (1) THIRD PARTIES-within 30 days after signing NIL agmt disclose Third Party contact info including ins affiliation, name of athlete signing NIL agmt, name and contact info of athlete's covered agent, copy of NIL agmt signed by registered Third Party and affi agreement not used as inducement. (2) COLLECTIVES within 30 days after signing NIL agmt provide name/contact info of registered collective and athlet agent with whom agmt signed, copy of NIL agreement signed by registered collective and affidavit that collective did not use NIL agmt as inducement, (3) AGENT provides (A) Affidavit of Compliance with state regs of state in which athlete resides, and if no state regs, USIAC registration suffices; (B) within 3 an agency contract w/ athlete, name, contact info/USIAC registration info, name of institution/athletes agent is representing and copy of the contract e representation. (4) ATHLETE (A) Agmt w Agent: within 30 days of signing agency contract, name/contact info/institution of athlete and of agent and cop (B) Disclosure of NIL Agmt within 30 days of signing NIL agmt, submit name/contact info of athlete, third party or collective, copy of agmt and athlete de (e) Compensation disclosures (1) by athlete -within 30 days of signing NIL agmt, athlete or agent submits to USIAC no less than quarterly reports of com to which compensation is associated/name of each party to agmt (2) by Third Party/Collective -not less than monthly, disclose to USIAC amount of com of agmt to which compensation is associated/name and contact info of each party to the agmt and description of work required by agmt. (f) USIAC main database - not less than quarterly USIAC posts on internet website for the preceding quarter: (1) total # athletes entering into NIL agmts, (2, total amour</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Privacy/Non-Disclosure Provisions:</p>	<p>p. 23 USIAC (f) duties (A) (v) protect the privacy of athletes by taking appropriate measures to protect the information disclosed to the USIAC</p>
<p>FMV /Inducements/Extra Benefits</p>	<p>pp.11 Inducements - College Athlete (A)— No third party or collective shall directly or indirectly provide covered compensation as an inducement for a student or prospective student athlete to enroll in, maintaining enrollment in, or transferring to a specific institution; pp.11 (B) Inducements to Prospective Athlete registered booster, collective, institution shall directly or indirectly provide covered compensation or make promises of covered compensation to prospective student athlete; 11 (7) No Performance Inducements -no agent, third party or collective shall enter into NIL agmt that incentivizes on-field or in-competition actions, performance. Prerecorded commercials/announcements & aired during competition are not consider promotion for purpose of this provision.</p>
<p>Employee classification/ Unionization</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (Fairness in College Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>NIL "Collectives"/ fundraising</p>	<p>COLLECTIVES -p.3 defined as 1 or more boosters which in a 12 month period, enter into a quantity of NIL agmts above USIAC determined threshold, pp. REGISTER WITH USIAC - required to provide contact info of any donor to the fund including whether donor ever adjudicated as bankrupt or filed for bankruptcy, whether past conduct of applicant/donors named have ever caused athlete or institution to be sanctioned, suspended, or declared ineligible or individual of fraud or whether USIAC registration was ever denied, suspended, abandoned, or not renewed. p. 20 (2) NIL Agmt Disclosure - within 30 days after signature provide name/contact info of registered collective and athlete/athlete's agent with whom agmt signed, copy of NIL agreement signed by registered collective, affidavit that collective did not use NIL agmt as inducement, p. 22 Compensation disclosure -not less than monthly, disclose to USIAC amount of compensation received by athlete per agmt to which compensation is associated/name and contact info of each party to the agmt and description of work required by agmt.</p>
<p>Rescission of NIL/Endorsement Agreements</p>	<p>pp. 9 Sec. 101 - (b) Rescission-In the case of a student athlete who no longer participates in varsity intercollegiate sports competition, the student athlete's NIL agreement with a remaining term of more than 1 year—(A) without being held liable for breach; (B) with no obligation to return payments received by the student athlete upon notice of the rescission APPLICABILITY.—This subsection shall apply to any NIL contract entered into on and after the date of the enactment of this Act</p>
<p>Applicability (HS, national gov. assns, conf.)</p>	<p>College athletes, prospective athletes, agents, institutions, conferences, nat. ath. Assns., third party licensees, boosters, collectives</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F</u> <u>Sports Act) (DISCUSSION DRAFT V.2</u></p>
<p>EXPLICIT PERMISSIONS Group Licensing/Use Institutional Marks/Co- Branding (individual athlete/institution)</p>	<p>p. 12 (8) Restrictions on Use of Trademarks - Instit., conf., nat. assn. may set reasonable requirements or restrictions on the use of association, conf. or trademarks in NIL activities, including standard royalties to be paid to the assn, conf, or institution for the use of such marks.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Investigation/Enforcement Agency/Agencies - TYPE-DUTIES</p>	<p>pp. 12- United States Intercollegiate Athletics Committee (USIAC) Sec. 102 (a) independent, non-profit corporation - not a govt. agency. (b)(1) 21 members appointed by members of Congress (1 by Speaker of the House; 1 by House Maj. Leader; 1 by House Min. Leader; 1 by Senate Maj. Leaders; 1 by Senate Chair and 4 by Ranking Member of Senate Commerce, Sci. and Transportation Cmty, 4 by the Chair and 4 by the Ranking Member of the House Committee Commerce) with unspecified # of reps. from the following categories: athletes attending variously sized institutions, athletic directors, conferences, institutions sports. professionals w/ expertise in sports marketing, contracting, corporate governance and public relations, competitive divisions, HBCUs and individuals associated with any assoc., conf. or institution. (E) except NCAA President is permanent, non-voting member of BOD and cannot be elected as Chair or BOD. (2-4) Usual provisions re: staffing, chair/secretary elected by majority of board, bylaws, quorum, etc.(6) BOD Appeals Standing Committee -7 non-selected by Board to hear appeal of any individual affected by an USIAC enforcement decision (7) conflict of interest-prohibited from serving on BOD: a licensee, a collective. p.22-23 (f) USIAC Duties (1) adopt rules that (2) prevent unfair or deceptive acts or practices to promote the use of student athlete or likeness, foster cooperation and coordination with persons engaged in name, image, or likeness agreements, remove impediments to a free and open public transparency of aggregated info, prevent inducements or other compensation related to transfers, school selection, or athletic performance protection athletes by protecting info disclosed to USIAC and but USIAC prohibited from: permitting unfair or deceptive acts or practices, fixing student athlete competition regulating matters not related to the purposes of this section or the USIAC. (3) Investigations -(A) athletes, covered agents, third parties and collectives during any civil investigation; respond truthfully if questioned by FTC or USIAC (B) athlete who cooperates will not be found in violation of the USIAC rules to comply/cooperate shall be a rules violation for student, agent, collective. or Third party (D) USIAC must maintain system to respond to registrant inquiries have process for disputing accuracy of info - must promptly respond but access to system limited to applicants, institutions, agents, third parties, athletes and determined by USIAC Rules Changes must be publicly noticed and public comments accepted not less than 60 days prior to adoption (4)(A) Establish a system to respond to registration & inquiries re: registration, info on disciplinary action and appeals, and a responsive website to such queries (B) access limited to agents, 3rd parties, athletes and others determined by USIAC, (C) USIAC can charge fees for query responses, (D) USIAC must have process for disputing accuracy of information provided in response to inquiry, p.26 (i)USIAC must operate a tip line to facilitate reporting of alleged NIL agreement violations (E) USIAC not liable for action/omission, pp. 25 USIAC Funding USIAC determines rules for equitable allocation of reasonable dues, fees, and other charges among registrants and p. 26-(j) Enforcement - subject to rules or order of USIAC, persons registered may be disciplined for violations by expulsion, suspension, limitation of activity, operation, fine, censure, a suspension or bar from being associated with a party registered with USIAC or other fitting sanction following notice of charge to be heard, provision by USIAC grounds for discipline. p. 27 FAILURE TO REGISTER WITH USIAC -and not report signing an NIL agreement within 30 day violation- referred to NCAA for eligibility restrictions. Sec. 108, p. 32 Role of Nat. Assns. and Conferences - shall (1) establish rules, consistent with this Act and standards developed in accordance with section 102(e)(1); and (2) enforce such rules by—(A) declaring ineligible for competition a student athlete who makes payments in violation of this Act or any such rule or standard; and (B) withholding 1 or more revenue distributions from an institution that makes payments of this Act or any such rule or standard. p. 29 SAFE HARBOR - NO FTC ENFORCEMENT "No action shall be taken by the Federal Trade Commission, a State general, or any other state official against a person with the relevant active registrations with the USIAC for a violation of the Act." p. 30 FTC ENFORCEMENT</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Preemption of State Law or other US agency rules</p>	<p>p. 32 SEC. 106. RELATIONSHIP TO STATE LAWS. No State or political subdivision of a State may establish or continue in effect any law, regulation, rule, or standard that governs or regulates the compensation or publicity rights of student athletes, including any provision that governs or regulates the compensation of a student athlete.</p>
<p>Enforcement Provisions (penalty or disincentives included and when if has subpoena power)</p>	<p>p. 26-(j) Enforcement - subject to rules or order of USIAC, persons registered may be disciplined for violations by expulsion, suspension, limitation of activity and operation, fine, censure, a suspension or bar from being associated with a party registered with USIAC or other fitting sanction following notice of compliance and opportunity to be heard, provision by USIAC grounds for discipline. p. 27 FAILURE TO REGISTER WITH USIAC -and not report signing an NIL agreement will be considered violation- referred to NCAA for eligibility restrictions. Sec. 105, p. 32 Role of Nat. Assns. and Conferences - shall (1) establish rules, consistent with the rules and standards developed in accordance with section 102(e)(1); and (2) enforce such rules by—(A) declaring ineligible for competition a student who receives payments in violation of this Act or any such rule or standard; and (B) withholding 1 or more revenue distributions from an institution that makes a violation of this Act or any such rule or standard. p. 33 (b) Enforcement by STATE ATTORNEYS GENERAL for violations of Act affecting citizens of a State. The court may take such action in U.S. District court to (A) enjoin further such violation by the defendant, (B) enforce compliance with the Act, (C) obtain civil penalties, (D) obtain damages, restitution, or other compensation on behalf of residents of State,</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Athletes' Scholarships or other benefits:</p>	<p>p.6. (13) Grant-in-aid (GIA) defined as tuition/required fees/rm/bd/bks & personal expenses up to cost of attendance (COA), Pell and other grants unrel. Participation, health nsurance/health care costs funded by instit., conf, nat. assn., ability/loss of value insur., and career counseling/placement services a students, p. 4 . (9)(C) Not included as compensation: GIA, nat. assn. student assistance funds used for financial needs, postgrad scholarships, school sup insurance, travel exp., clothing, etc., conf/nat. champ other athletic event awards, awards for future educational opportunities, travel funds for athlete's family to attend sporting events of athlete, provision of expenses for child care, emergency family expenses, as long as not pay for play and available to a academic/graduation awards/incentives consistent w/ national assn rules, and payment of hourly wages/benefits for work performed outside athletic pa rates commensurate with prevailing rates in State or locality of institution for similar work.</p>
<p>NIL Conflict, Dispute Resolution and Reporting Provisions:</p>	<p>p. 28 (I) Athlete Complaints re: Agents. If no State licensing body, (1) USIAC shall establish procedures for addressing athlete concerns/complaints re: cc and (2) upon showing agent not competently representing athlete or has failed to comply with applicable standards of conduct and ethics, - USIAC can re registration of covered agent</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (Fairness in College Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Provisions related to transfers:</p>	<p>p.11 (6) Prohibition on Tampering. No Third Party or Collective shall directly or indirectly provide covered compensation or make promises/indicate covered compensation to be provided in the future to student athletes enrolled at institutions at which the third party or collective is not affiliated, to athletes with a transfer portal or to induce an athlete to enter the transfer portal.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Antitrust Exemption or Application (implicit or explicit)</p>	<p>p. 32, Sec. 105 POSSIBLY IMPLICIT EXEMPTION (to the extent insti/conf. rules determined to be restraints on competition) Role of Nat. Assns. and Co (1) establish rules, consistent with this Act and the rules and standards developed in accordance with section 102(e)(1); and (2) enforce such rules by—(A) ineligible for competition a student athlete who receives payments in violation of this Act or any such rule or standard; and (B) withholding 1 or more re distributions from an institution that makes payments in violation of this Act or any such rule or standard.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2</u></p>
<p>Title IX and Gender Equity:</p>	<p>p. 24. (g) (5) Public database with descriptions of NIL agmts does disaggregate by sport team (assume teams are separate sex); (6) Also, unspecified dem athletes registering as receiving NIL agmts is to be collected by USIAC and USIAC may disaggregate "any other extract of data or information the USIAC c helpful to student athletes in evaluating covered agents and NIL agreements."</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F</u> <u>Sports Act) (DISCUSSION DRAFT V.2</u></p>
<p>Athlete Education Provisions:</p>	<p>p. 28 (k) GUIDANCE FOR STUDENT ATHLETES.—Not later than six months after appt of USIAC BOD, the USIAC shall develop and publish on a publicly av website of the USIAC guidance for student athletes that—(1) explains the legal and business concepts to be considered in licensing publicity rights; and includes information concerning the implications of provisions that restrict the choice of a student athlete or bind the student athlete to long-term arran includes a recommended or standard NIL agreement; and (4) includes standard affidavits for agents, third parties, and collectives</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F</u> <u>Sports Act) (DISCUSSION DRAFT V.2</u></p>
<p>Health and Wellness Provisions:</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Prohibitions/Protections in addition to establishing the athlete's general right to enter into NIL agreements and rescission provisions noted above:</p>	<p>pp. 4 (8) Covered Agent Definition. An individual may not carry out any agent activity or represent athlete with respect to athlete NIL agreement unless defined as registered with USIAC but excluding spouse/parent/sibling/grandparent/guardian, legal for purposes other than representing athlete as agent acting on behalf of pro sports team/organization, pp. 9-10 (c) Agent Representation Agmt restriction- no agent agmt earlier than 45 days after the date athlete is first enrolled at the institution, (d) Third party or collective restriction- no NIL agmt until 90 Days after athlete enrolled. p. 28 (I) Grievance agmt- state agent licensing body, USIAC has complaint procedures for athletes concerned about agent competence, conduct, ethics</p>
<p>Athlete Endorsement Prohibitions:</p>	<p>p. 10 (3)(B) Prohibited Agmts. Instit/conf/national assn may prohibit NIL agreements related to the promotion of gambling, tobacco products, vaping products, alcohol products, controlled substances, lewd and lascivious behavior or material, or any other product or service that is reasonably considered inconsistent with the religious values of an institution, (3)(C) and institution, conf. or national assn. may not enter into agreements in these categories: PROHIBITION ON PERFORMANCE INDUCEMENTS. —No covered agent, student athlete, or third party shall enter into a name, image, and likeness agreement that requires or incentivizes on-field or in-competition actions, promotions</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Reps. Gus Bilirakis (FL-12) Fairness, Accountability, and Integrity in Representation of College Sports Act (F Sports Act) (DISCUSSION DRAFT V.2)</u></p>
<p>Allowable Institutional Restrictions on Endorsement Activities That Conflict with Athletic Events, Team Activities or Institution Sponsorship Agreements</p>	<p>p. 11 (4) Institution, conf., nat. assn. can reasonably limit NIL activities during required athletic activities and on the campus locations of those activiti</p>
<p>Revenue Sharing and Institutional NIL/Royalty Payments:</p>	<p>p. 10 (3)(A) NIL Prohibition (A) instit/conf/nat assn/ prohhibited from providing covered compensation/NILs to athlete</p>
<p>Reports Required to Congress or a Federal Agency:</p>	<p>p. 28 (m) USIAC BOD submits annual report to Congress evaluating USIAC in achieving its duties</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u>
Disclosure and Transparency Provisions (including use of common forms):	<p>p. 4-5 (a)(3) 30 days after a student athlete enters into a NIL agreement, the athlete shall disclose the terms of the agreement to the institution at which the student athlete is enrolled to include a description of services rendered, names of the parties, term of the agreement, amount of compensation provided to athlete and conditions of termination based on non-performance of athletes' obligations, and p. 7 to the nat. ath. assn annually, an anonymized description of services rendered and amount of compensation, such information to be published in a publicly accessible/searchable for athletes and their agents to use to estimate the fair market value for NIL agreements.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Privacy/Non-Disclosure Provisions:</p>	<p>p. 7, Sec. 6 ,Except for annual disclosure to nat. ath. assn of athlete NIL agmt description of services rendered and amount of compensation to be received with no personally identifiable info p. 4 (a)(3) (B) an institution may not release any NIL agmt information provided by the athlete without the express written consent of the athlete or the athlete’s third party representative</p>
<p>FMV /Inducements/Extra Benefits</p>	<p>p. 6 Sec. 5 Roles of national ath. Assns and conferences: shall (2) establish/maintain a publicly accessible, searchable database for athletes and their agents to estimate the fair market value for name, image, and likeness agreements (see p. 7 Sec. 6 (a) disclosing description of services rendered and amount of compensation for each NIL agmt reported by institutions to the nat. ath. assn.),(3)(B) a nat. ath. assn or conference may establish rules relating to prohibiting or limiting compensation to athletes by institutions, institutional affiliates, and conferences for the purposes of recruitment or inducing a student athlete to transfer institutions</p>
<p>Employee classification/ Unionization</p>	<p>p. 8 (b) Athletes Not Employees.—Notwithstanding any other provision of Federal or State law, an athlete shall not be considered an employee of an institution, conference, or nat. ath. assn. for purposes of (or as a basis for imposing liability on or awarding damages or other monetary relief under) any Federal or State law based on the student athlete’s participation in, or status as a member of, any varsity sports team</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>NIL "Collectives"/ fundraising</p>	<p>pp. 2-3 Institutional Affiliate. (7) The term “institutional affiliate,” with respect to any institution, shall mean any person, corporation, booster organization, tax-exempt organization, or other entity that provides donations or other support (other than an immediate family member of an individual student athlete, and other than persons and entities that license trademark rights of the institution and do not license NIL rights of student-athletes or make payments earmarked or designated to fund NIL license or other payments to student athletes) directly or indirectly to or for the benefit or support of any athlete enrolled or who may enroll at the institution, or to or for the benefit or support of the intercollegiate athletics program or any booster organization of the institution. p. 6 Sec. 5 (3)(B) a nat. ath. assn or conference may establish rules relating to prohibiting or limiting compensation to athletes by institutions, institutional affiliates, and conferences for the purposes of recruitment or inducing a student athlete to transfer institutions</p>
<p>Rescission of NIL/Endorsement Agreements</p>	<p>pp. 4-5 (b) Consumer Review Fairness Act of 2016 amended to specify that NIL agmt is void if the agreement is not in writing, does not contain a description of services rendered, names of the parties, term of the agreement, amount of compensation provided to athlete and conditions of termination based on non-performance of athletes' obligations</p>
<p>Applicability (HS, national gov. assns, conf.)</p>	<p>college athletes, institutions, conferences, nat. ath. assns, institutional affiliates, agents</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>EXPLICIT PERMISSIONS Group Licensing/Use Institutional Marks/Co- Branding (individual athlete/institution)</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Investigation/Enforcement Agency/Agencies - TYPE-DUTIES</p>	<p>p. 5 Federal Trade Commission- subsections (j) and (c) of the Federal Trade Commission Act extended to also apply to non-profit organizations with respect to NIL agreements p. 6 Roles of national ath. Assns and conferences: (1) establish a process by which a third party seeking to represent an athlete in a NIL agreement may register with the assn. as an agent of the athlete; (2) establish/maintain a publicly accessible, searchable database for athletes and their agents to estimate the fair market value for name, image, and likeness agreements, (3) establish and enforce rules relating to (A) [manner and time periods for] the recruitment of student athletes before and during their eligibility for intercollegiate athletic competition; (B) [prohibiting or limiting compensation to student athletes by institutions, institutional affiliates, and conferences for the purposes of recruitment or inducing a student athlete to transfer institutions; and (B) the transfer of athletes between member institutions; (4) provide athletes and the parents and guardians of athletes with educational materials relating to name, image, and likeness rights; (5) organize championships for intercollegiate athletic competitions; and (6) establish bylaws governing membership, under which an nat ath assn or conference may (A) remove member institutions; (B) restrict participation in competition for institutions or student athletes; and (C) restrict eligibility of student athletes for intercollegiate athletic competition</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p align="center"><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Preemption of State Law or other US agency rules</p>	<p>p.8 SEC. 8. PREEMPTION.7 (a) In General.—No State or political subdivision of a State may adopt, maintain, enforce, or continue in effect any law, regulation, rule, requirement, or standard that—(1) conflicts with this Act; or (2) governs or regulates the compensation, employment status, or eligibility for intercollegiate athletic competition of a student athlete or prospective student athlete, including any provision that governs or regulates the commercial use of the name, image, or likeness of a student athlete or prospective student athlete</p>
<p>Enforcement Provisions (penalty or disincentives included and when if has subpoena power)</p>	<p>p. 5 Federal Trade Commission- subsections (j) and (c) of the Federal Trade Commission Act extended to also apply to non-profit organizations with respect to NIL agreements - can void NIL agreement and use all powers specified p. 7-8 Sec. 7 Institutions, national ath. Assns and conferences that adopt rules consistent with the Act can declares athlete ineligible for violating rule of institution, national ath. assn. and conference.</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u>
Athletes' Scholarships or other benefits:	NONE
NIL Conflict, Dispute Resolution and Reporting Provisions:	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Provisions related to transfers:</p>	<p>p. 6 Sec. 5(3)(B) Nat. Assn, conf. may establish rules related to the transfer of college athletes</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Antitrust Exemption or Application (implicit or explicit)</p>	<p>EXPLICIT EXCLUSION pp. 7-8 SEC. 7. LIMITATION ON LIABILITY. An institution, interstate intercollegiate athletic association, or conference that complies with this Act and the amendments made by this Act shall not be in violation of any law or regulation, and shall not be subject to liability under Federal or State law for—(1) the adoption of, agreement to, enforcement of, or compliance with any rule or bylaw of an interstate intercollegiate athletic association, conference, or institution that limits or prohibits a student athlete from receiving compensation from an interstate intercollegiate athletic association, conference, institution, or other person or entity; (2) restricting the eligibility for intercollegiate athletics of a student athlete who violates a rule of the institution, interstate intercollegiate athletic association, or conference; or (3) complying with an agreement, understanding, rule, or bylaw adopted by an institution, conference, or association (or a combination of conferences or institutions) that is reasonably contemplated under this Act IMPLICIT EXCLUSION (to the extent insti/conf. rules determined to be restraints on competition) pp.6-7. Sec. 5 An interstate intercollegiate athletic association or conference may (1) establish a process by which a third party seeking to represent a student athlete in a name, image, and likeness agreement may register with the nat. ath. assn. as an agent of the student athlete; (2) establish and maintain a publicly accessible, searchable database for student athletes and their agents to estimate the fair market value for name, image, and likeness agreements based on the information disclosed to institution; (3) establish and enforce rules relating to—(A) [manner and time periods for] the recruitment of student athletes before and during their eligibility for intercollegiate athletic competition; (B) [prohibiting or limiting compensation to student athletes by institutions, institutional affiliates, and conferences for the purposes of recruitment or inducing a student athlete to transfer institutions;] and (B) the transfer of student athletes between member institutions; (4) provide student athletes and the parents and guardians of student athletes with educational materials relating to name, image, and likeness rights; (5) organize championships for intercollegiate athletic competitions; and (6) establish bylaws governing membership, under which can interstate intercollegiate athletic association or conference may—(A) remove member institutions; (B) restrict participation in competition for institutions or student athletes; and (C) restrict eligibility of student athletes for intercollegiate athletic competition.</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u>
Title IX and Gender Equity:	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Athlete Education Provisions:</p>	<p>NONE</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u>
Health and Wellness Provisions:	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Prohibitions/Protections in addition to establishing the athlete's general right to enter into NIL agreements and rescission provisions noted above:</p>	<p>p.5 Sec. 4 Sport Agent Responsibility and Trust Act amended to strike current loss of eligibility warning and replace with Sec. 9 which requires an athlete agent who assists a athlete with an endorsement contract to disclose to the athlete whether the agent is registered with a national ath assn or is registered by a national ath assn but not by the national ath assn of which the institution of higher education at which the student athlete is enrolled.(b) In the case of an athlete agent not registered with an national ath assn, the athlete agent may only assist a student athlete with an endorsement contract if the student athlete (or, in the case of a student athlete who is under 18 years of age, the parent or guardian of the student athlete) provides to the athlete agent written consent for such assistance after receiving written disclosure that the athlete agent is not registered.”</p>
<p>Athlete Endorsement Prohibitions:</p>	<p>p. 4 SEC. 3. (1)(2) An institution, interstate intercollegiate athletic association, or conference may restrict the eligibility for intercollegiate athletics competition of an athlete who enters into an NIL agreement that violates the code of student conduct, reasonably impacts the reputation or public image, or conflicts with the terms of an existing contract or agreement, of the institution at which the student athlete is enrolled</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Sen. Ted Cruz (R-TX) UNTITLED NIL DRAFT BILL NOT YET INTRODUCED</u></p>
<p>Allowable Institutional Restrictions on Endorsement Activities That Conflict with Athletic Events, Team Activities or Institution Sponsorship Agreements</p>	<p>p. 4 SEC. 3. (1)(2) An institution, interstate intercollegiate athletic association, or conference may restrict the eligibility for intercollegiate athletics competition of an athlete who enters into an NIL agreement that conflicts with the terms of an existing contract or agreement of the institution at which the student athlete is enrolled</p>
<p>Revenue Sharing and Institutional NIL/Royalty Payments:</p>	<p>p. 7-8 Sec. 7 Institutions, national ath. Assns and conferences authorized to adopt rules consistent with the Act that (1) limits or prohibits an athlete from receiving compensation from institutions, national ath. Assns and conferences</p>
<p>Reports Required to Congress or a Federal Agency:</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Disclosure and Transparency Provisions (including use of common forms):</p>	<p>pp. 11-12 FTC Clearinghouse (A) not later than 180 days following enactment, FTC shall establish clearinghouse for endorsement contracts entered into by athletes and agents who represent them (B) disclose each endorsement contract w/ value >\$500 within 72 hours after agreement (C) Clearinghouse notifies the relevant institution and makes disclosures available to public on a regular basis</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Privacy/Non-Disclosure Provisions:</p>	<p>NONE</p>
<p>FMV /Inducements/Extra Benefits</p>	<p>pp. 9-11 Sec. 5 Prohibiting unfair or deceptive acts by boosters. (a)(4) The term ‘booster’ means an individual (other than an individual who is related to an applicable student athlete) or an organization (including a sponsor) that provides substantial financial assistance or services to the athletic program of an educational institution or that promotes a team or athletic program of an educational institution for purposes of the substantial financial interest of the individual or organization.”; “It is unlawful for a booster to directly or indirectly provide or offer to provide any funds or thing of value as an inducement for a student athlete to enroll at a specific educational institution or group of such institutions, including that a booster may not orally or in writing enter into a contract or agreement with a prospective student athlete to provide the prospective student athlete with consideration for the use of the name, image, or likeness of the prospective student athlete until the prospective student athlete enrolls full time at the relevant institution.”</p>
<p>Employee classification/ Unionization</p>	<p>p. 15 (d) EMPLOYEE STATUS .—Nothing in this Act, or the amendments made by this Act, may be construed to affect the employment status of a student athlete who enters into an endorsement contract with respect to a covered athletic organization or an institution of higher education</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>NIL "Collectives"/ fundraising</p>	<p>NONE</p>
<p>Rescission of NIL/Endorsement Agreements</p>	<p>NONE</p>
<p>Applicability (HS, national gov. assns, conf.)</p>	<p>college athletes, agents, boosters, conferences, institutions, nat. and other ath. gov. orgs</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>EXPLICIT PERMISSIONS Group Licensing/Use Institutional Marks/Co- Branding (individual athlete/institution)</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Investigation/Enforcement Agency/Agencies - TYPE-DUTIES</p>	<p>p. 3 Sec. 2 (d)(1) A violation of subsection (a) shall be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices. p. 4-7 Covered Athletic Organization Commission ONLY RECOMMENDS-NOT AN ENFORCEMENT ENTITY Commission purpose "shall be to make recommendations: (1) to Congress and covered athletic organizations, on the implementation of name, image, and likeness rules; (2) to covered athletic organizations, on a process for certifying or recognizing credentialed athlete agents; and (3) on the establishment of an independent dispute resolution process for disputes arising between a student athlete and a covered athletic organization or an institution of higher education. Commission consists of 13 members (athletic directors, coaches, current or former athletes, conf. and national ath. assn administrators, professionals with expertise in sports marketing, contracting and PR, individuals w/ expertise in corporate governance who are not associated with an covered org or institution, at least two of whom shall be athletes (Speaker of the House appoints 3; minority leader of House appoints 3; majority leader of the Senate appoints 3; minority leader of the Senate appoints 3; at least 8 of appointed 12 members required to elect the 13th as Chair - appointments shall be coordinated to reflect diversity of race/gender/sport prioritizing appoint of members unaffiliated with covered orgs)(provisions for mtgs, quorum) p. 16 Sec. 9 Sense of Congress (2) Federal Trade Commission should investigate each claim filed pursuant to the Sports Agent Responsibility and Trust Act (15 U.S.C. 78013 et seq.).</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Preemption of State Law or other US agency rules</p>	<p>p. 14 Sec. 7 No State may enforce a State law or regulation with respect to permitting or abridging the ability of an athlete attending an institution of higher education to enter into an endorsement contract or agency contract pursuant to this Act or an amendment made by this Act.</p>
<p>Enforcement Provisions (penalty or disincentives included and when if has subpoena power)</p>	<p>p. 13 Sec. 6 (a) Not less than 180 days after enactment of this Act, the FTC shall establish an athlete agent registration program (no fee charged) with a violation of the registration provision treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices. p. 3 The Federal Trade Commission shall enforce subsection (a) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such subsection shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Athletes' Scholarships or other benefits:</p>	<p>p. 8 Sec. 4 Section 487(a) of the Higher Education Act of 19658 (20 U.S.C. 1094(a)) is amended by adding at the end the following:“(30) In the case of an institution that has a student attending the institution who is an athlete at the institution and who is entering into an endorsement contract (as defined in section 2 of the Sports Agent Responsibility and Trust Act (1515 U.S.C. 7801)) or an agency contract (as defined in section 10 of the Student Athlete Level Playing Field Act), such institution will not prohibit such student from entering into such contract, including through a rule, standard, or policy that affects the eligibility of such student to receive athletically related student aid (as defined in section 485(e) of this Act).’ p. 15 Sec. 8 (a) TAX .—Nothing in this Act, or the amendments made by this Act, may be construed to affect the treatment of qualified scholarships under section 117 of the Internal Revenue Code of 1986.</p>
<p>NIL Conflict, Dispute Resolution and Reporting Provisions:</p>	<p>p. 4 Covered Athletic Organization Commission shall make recommendations: (1) to Congress and covered athletic organizations, on the implementation of name, image, and likeness rules and (3) on the establishment of an independent dispute resolution process for disputes arising between a student athlete and a covered athletic organization or an institution of higher education.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Provisions related to transfers:</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Antitrust Exemption or Application (implicit or explicit)</p>	<p>p. 16 EXPLICIT EXCLUSION (c) ANTITRUST —Nothing in this Act, or the amendments made by this Act, may be construed to provide a cause of action pursuant to the Sherman Act (15 U.S.C.1 et seq.).</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u>
Title IX and Gender Equity:	<p>p. 15 Sec. 8 (b) NONDISCRIMINATION .—Nothing in this Act, or the amendments made by this Act, may be construed to affect the rights of student athletes, or affect any program funded, under Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Athlete Education Provisions:</p>	<p>p. 15 Sec. 9 It is the sense of Congress that—(1) institutions of higher education and covered athletic organizations (conf. and nat. ath. governance orgs) should develop a course or program to assist student athletes with financial literacy with respect to entering into endorsement contracts;</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u>
Health and Wellness Provisions:	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Prohibitions/Protections in addition to establishing the athlete's general right to enter into NIL agreements and rescission provisions noted above:</p>	<p>p. 2 Sec. 2 (b) athlete NIL agmt for consideration, including an agreement between the institution and the athlete, may not be negotiated, drafted, or funded by the athletic department of the institution of higher education of the athlete or an institutional employee who reports to such athletic department.</p>
<p>Athlete Endorsement Prohibitions:</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Rep. Mike Carey (OH-15-R) H.R. 3630 Student Athlete Level Playing Field Act</u></p>
<p>Allowable Institutional Restrictions on Endorsement Activities That Conflict with Athletic Events, Team Activities or Institution Sponsorship Agreements</p>	<p>p. 3 (c) A student athlete may be prohibited, by the institution of higher education of the athlete, from wearing an item of clothing or gear with the insignia of an entity during an athletic competition or athletic-related event that is sponsored by the institution</p>
<p>Revenue Sharing and Institutional NIL/Royalty Payments:</p>	<p>NONE</p>
<p>Reports Required to Congress or a Federal Agency:</p>	<p>p. 7 (c) COMMISSION REPORTS—Not later than 1 year after the Commission is constituted, and annually thereafter during the subsequent 2-year period, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and make available to the public, a report on the activities of the Commission that includes the recommendations pp. 12-13 FTC Report to House Committee on Energy and Commerce and Senate Committee on Commerce, Science, and Transportation not later than 180 days after date of enactment summarizing any investigations or enforcement actions brought by the FTC during the preceding 1-year period including # of complaints.</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u>
Disclosure and Transparency Provisions (including use of common forms):	p. 11 (3)(A) By Jan. 1 each year, institution must make available to the public any prohibitions imposed on athlete NIL agmts that conflict with institution/athletic dept. agmts. that will exist the following academic year.(B) If the institution fails to give public notice, it cannot impose the restriction.

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u>
Privacy/Non-Disclosure Provisions:	NONE
FMV /Inducements/Extra Benefits	<p>p. 4 (6) Covered Compensation provided by third party to athlete for NIL services must be (ii) "commensurate with market value for the activity" and "not intended to be a recruiting inducement or compensation for participation" in college athletics. 17-18 Sec. 7 Nothing in this Act limits the ability of an institution/conf/nat. assn from prohibiting a third party from providing an athlete a recruitment inducement or compensation for participation in a varsity intercollegiate sport.</p>
Employee classification/ Unionization	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p style="text-align: center;"><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>NIL "Collectives"/ fundraising</p>	<p>Third party prohibitions apply to any org or individual offering NIL contracts (by definition at p. 8 (16))</p>
<p>Rescission of NIL/Endorsement Agreements</p>	<p>NONE</p>
<p>Applicability (HS, national gov. assns, conf.)</p>	<p>athletes, institutions, conferences, nat. assns., States, third parties</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>EXPLICIT PERMISSIONS Group Licensing/Use Institutional Marks/Co-Branding (individual athlete/institution)</p>	

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p style="text-align: center;"><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>Investigation/Enforcement Agency/Agencies - TYPE-DUTIES</p>	<p>p. 12 Sec. 4 NIL Clearinghouse for Regulation of NIL Agreements. (a) Institutions and conferences MAY establish a Clearinghouse for the purpose of regulating NIL agmts. Consistent with this Act. (b) duties are (1) monitor compliance w/ Act, (2) establish & enforce penalties for Act violations, (3) provide athletes w/ educational info on financial and tax implications of NIL agmts. p. 14 (4) NIL Clearinghouse may act in its own name and through its own attorneys in enforcing the Act or any other law or regulation; and in any civil action. (5) Compromise of Actions - the NIL Clearinghouse may compromise or settle any civil action if such compromise or settlement is approved by the Court. (6) Civil Action may be brought by Clearinghouse in a federal district court. p. 14 Sec. 6 (b) Actions by Attorney General - AG may bring civil action for a violation of this Act in any appropriate U.S. District Court. p. 15- Sec. 6 (c)(1)(A)(B) Actions by State In any case in which the AG of a State (or other designated official) has reason to believe residents of the State are threatened or adversely affected by an Act or practice in violation of this Act, the State may bring a civil action on behalf of residents in the State court or a U.S. district court. State must give notice/copy of complaint to NIL Clearinghouse and an assessment of whether there is a need to coordinate prosecution so it doesn't interfere with any NIL Clearinghouse or Federal agency proceeding. (C) NIL Clearinghouse can intervene to remove the action to U.S. District Court, be heard in the proceedings, and appeal any order or judgment. (3) NIL Clearinghouse shall provide guidance to coordinate AG/other regulators' actions. p.17 (d) No private right of Action for civil enforcement by any individual Xcept athlete or certified agent.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p style="text-align: center;"><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>Preemption of State Law or other US agency rules</p>	<p>NONE</p>
<p>Enforcement Provisions (penalty or disincentives included and when if has subpoena power)</p>	<p>Sec. 6 (a)(1) Enforcement Penalties shall include (A) levying fines, (B) suspension or permanent ban of individual or entity from participating in athletics for period determined by Clearinghouse, (C) commencing civil actions and seeking all appropriate legal, equitable, or other relief, including damages and injunctions, (2) Prior to imposing penalties, must give notice of enforcement action to the individual or entity and an opportunity for a hearing. p. 14 (3) Imposition of fines. If violation of the Act has damaged or unjustly enriched a regulated party, the NIL clearinghous shall impose a fine in an amount not less than the value of the damage or unjust enrichment.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p style="text-align: center;"><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>Athletes' Scholarships or other benefits:</p>	<p>NONE</p>
<p>NIL Conflict, Dispute Resolution and Reporting Provisions:</p>	<p>Institutions/conferences may establish NIL Clearinghouses authorized to enforce the Act with regard to athlete protection from adverse treatment under the Act including p. 10 (2) athlete/institution sponsorship agreement conflicts and p. 2 (3) agents it certifies as being in compliance with the Act.</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>Provisions related to transfers:</p>	<p>NONE</p>

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p style="text-align: center;"><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>Antitrust Exemption or Application (implicit or explicit)</p>	<p>p. 12 EXPLICIT EXEMPTION (c)(1) Antitrust Exemption for Clearinghouse. Para (2), section 1 of the Sherman Act shall NOT APPLY to the NIL Clearinghouse but (2) but the exemption does not apply if the Clearinghouse exceeds actions authorized by the Act. p. 17-18 IMPLIED EXEMPTION for Instit/Conf/Nat. Assn. Sec. 17 Nothing in this Act limits the ability of an institution/conf/nat. assn from from prohibiting a third party from providing an athlete a recruitment inducement or compensation for participation in a varsity intercollegiate sport.</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u>
Title IX and Gender Equity:	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>Athlete Education Provisions:</p>	<p>p. 12 Sec. 4 NIL Clearinghouse for Regulation of NIL Agreements. If a Clearinghouse is established by institutions/conference, it shall (3) provide athletes w/ educational info on financial and tax implications of NIL agmts.</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u>
Health and Wellness Provisions:	NONE

<p>FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23</p>	<p><u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u></p>
<p>Prohibitions/Protections in addition to establishing the athlete's general right to enter into NIL agreements and rescission provisions noted above:</p>	<p>p. 2 (3) Certified Agent Required - certified by the NIL Clearinghouse as being in compliance w/ Clearinghouse requirements; p. 9 Sec. 3 (1) institution cannot retaliate for having entered into by limiting playing time, adversely changing elig. for scholarships (amount/duration/renewal), GIA, or educ. loans</p>
<p>Athlete Endorsement Prohibitions:</p>	<p>p. 10 may prohibit NIL agreements w/ different categories -(A) if state law specifies or category violates institution code of conduct, (B) institution must provide student with list of categories</p>

FEDERAL NIL-RELATED BILLS (118th Congress) Analysis as of 10-16-23	<u>Senator Lindsay Graham (R-SC)</u> <u>College Sports NIL Clearinghouse Act of 2023 (DRAFT-NOT YET INTRODUCED)</u>
Allowable Institutional Restrictions on Endorsement Activities That Conflict with Athletic Events, Team Activities or Institutional Sponsorship Agreements	<p>p. 9 (2) Institution can enforce team policies (codes of conduct and policies relating to athlete acad. achievement, timely practice attendance, donning of logos during official team events if applicable to all other athletes at institution under p. 11 (2)(A) - conflict w/ institution/team sponsor agmts - institution can prohibit athlete's NIL activity during mandatory team activities if athlete NIL agreement conflicts w/ institution's NIL agmt-(B) and can waive this right only if institution does so for all athletes (3)(A) By Jan. 1 each year, institution must make available to the public such prohibitions imposed on conflicting athlete NILs that will exist the following academic year.(B) If the institution fails to give public notice, it cannot impose the restriction.</p>
Revenue Sharing and Institutional NIL/Royalty Payments:	<p>NONE</p>
Reports Required to Congress or a Federal Agency:	<p>p. 13 Sec. 5 Information Sharing. ON REQUEST, the Clearinghouse shall provide the FTC, the DOJ, or the AG of any State any NIL Clearinghouse record.</p>