

# Name, Image & Likeness

*Athletics & Students*

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**EWU Guideline 801-02**

**Effective: July 1, 2021**

**Authority: University President**

**Proponent: Athletics**

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**Purpose:** This guideline is intended to inform student athletes, employees, and contractors of the restrictions and permissible activities with respect to name, image, and likeness of student athletes.

**History:** This guideline is new and was approved by the University President on July 1, 2021.

**Applicability:** This policy pertains to all prospective student athletes, student athletes, and employees within the athletic department of Eastern Washington University.

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## 1- PURPOSE

Student-athletes may profit from the use of their name, image, and likeness (NIL). The following guidelines set forth how the institution will monitor those activities and entities with whom student-athletes may not engage in business activities. Additionally, the guideline includes restrictions placed on those employed by the institution and defines the types of activities in which employees may engage with student-athletes. Finally, the guideline states how a student-athlete is to disclose NIL activities in which they plan to participate.

## 2 - DEFINITIONS

### A. Athletics Booster

A person or entity that has participated in or has been a member of an organization promoting an EWU athletic program. An “athletics booster” is defined by the NCAA as: “an individual, independent agency, corporate entity (e.g., apparel or equipment manufacturer) or other organization who is known (or who should have been known) by a member of the institution’s executive or athletics administration to:

1. Have participated in or to be a member of an agency or organization promoting the institution's intercollegiate athletics program;
2. Have made financial contributions to the athletics department or to an athletics booster organization of that institution;
3. Be assisting or to have been requested (by the athletics department staff) to assist in the recruitment of prospective student-athletes;
4. Be assisting or to have assisted in providing benefits to enrolled student-athletes or their family members; or
5. Have been involved otherwise in promoting the institution's athletics program.”

### B. Compensation

The term compensation includes anything of a

monetary value, including, but not limited to money or items of value, given to a student athlete in exchange for the use of the student athlete’s name, image, or likeness.

### C. Fair Market Value

The value of a right, good, service or property as determined by a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both of whom are informed of the facts in an arms-length transaction. In determining the fair market value, it may be helpful to consider the price other buyers and sellers have agreed to for a similar right, good, service, or property.

### D. Institution

The term “institution” in this guideline includes the university, foundation, their contractors and subcontractors, and their employees or agents.

### E. Institutional Marks

The term “institutional marks” includes the university’s name, logos, mascots, and any trademarks. As set forth below, student-athletes must receive prior permission from University Relations before using any institutional marks.

### F. Name, Image, and Likeness (NIL) Activities

A name, image and likeness activity is any activity in which a prospective student-athlete or student-athlete’s name, image, likeness or personal appearance is used for promotional purposes by a non-institutional entity, including the individual prospective student-athlete or student-athlete, a commercial entity or a non-institutional nonprofit or charitable entity.

Examples of how student-athletes could use their name, image, and likeness (not an exhaustive list):

1. Promote their own business
2. Promote a corporate entity (e.g., brand ambassador, social media influencer)
3. Establish their own camp/clinic

4. Make an appearance at any location and receive compensation
5. Sign autographs and receive compensation

### G. NIL Third-Party Consultant

A NIL third-party consultant is a platform that EWU procures to help educate the student-athlete on NIL activities and provides a product which permits a student-athlete to disclose his or her activities for institutional review and tracking.

### H. Professional Service Provider

A professional service provider is an individual who provides services to an individual regarding their name, image and likeness. It includes, but is not limited to, an agent, tax advisor, marketing consultant, attorney or anyone who is employed or associated with such persons.

### I. Recruiting Inducements

Arrangement or other direct or indirect method to give or offer to give a prospective student-athlete or their family that is not expressly permitted by NCAA regulations.

### J. Team Contract

Any agreement between a student-athlete and EWU Athletics that could impact the student-athlete's eligibility to participate in an intercollegiate sport, including, but not limited to, scholarship agreements or participation agreements (e.g., team rules).

An institutional team contract shall not prevent a student-athlete from using their name, image, or likeness for a commercial purpose when the student-athlete is not engaged in official team activities.

## 3 – PERMISSIBLE INSTITUTIONAL USES OF A STUDENT-ATHLETE'S NAME, IMAGE & LIKENESS

EWU, the NCAA, and the Big Sky Conference may use the name, image or likeness or appearance of a student-athlete to generally promote or to support activities considered incidental to the student-athlete's participation in intercollegiate athletics without compensation to the student-athlete (such as, but not limited, conference championships, NCAA championships or other NCAA events, activities or programs).

## 4 – STUDENT-ATHLETE COMPENSATION GUIDELINES

A. A student-athlete may earn compensation for the use of their name, image, and likeness provided:

1. The compensation is not provided in exchange for athletics performance;

2. The compensation (or prospective compensation) is not provided as an inducement to attend the institution ("recruiting");
3. The compensation is commensurate with market value; and
4. The compensation is not provided by the Institution, an entity whose purpose includes supporting or benefitting EWU or its intercollegiate athletics program, or an officer, director, employee or agent of EWU or entity.

Compensation for any of these purposes may constitute a NCAA violation and may impact a student-athlete's eligibility.

B. Compensation earned by the student-athlete in a manner consistent with the guidelines outlined herein will not affect the student-athlete's grant-in-aid or athletics eligibility. The grant-in-aid (including cost of attendance) that is awarded to a student-athlete by EWU shall not be considered compensation and shall not be revoked or reduced as a result of a student-athlete's earnings through a permissible name, image, and likeness agreement.

C. Participating in NIL activities may impact a student-athlete's ability to receive grant sums from outside sources (e.g., Pell Grant.) The student-athlete should discuss these implications with an institutional financial aid staff member or a professional servicer who is fit to provide advice. Income that must be reported on the FAFSA may impact the student's financial aid eligibility.

## 5 – PARAMETERS FOR INSTITUTIONAL INVOLVEMENT & ASSISTANCE

A. Neither the institution nor any employee or agent of the institution, including contractors, may be involved in the development, operation or promotion of a student-athlete's business activity. Examples of activities that would constitute impermissible institutional involvement in a student-athlete's name, image and likeness activity include, but are not limited to:

1. Institutional purchase of a student-athlete's work product or service.
2. Use of institutional facilities.
3. Use of institutional marks.
4. To be involved in identifying or securing name, image or likeness opportunities for a student-athlete (e.g. pairing a student-athlete with a company seeking a student-athlete for an advertisement).

B. The following activities are permitted without triggering impermissible institutional involvement in a student-athlete's name, image, and likeness activity:

1. Providing educational programming on name, image and likeness and associated

regulations;

2. Assisting in evaluating opportunities;
3. Assistance with compliance and disclosure expectations; and
4. Assistance in the evaluation of professional service providers.

C. Institutional facilities may be used by a student-athlete for name, image, and likeness activities as long as the student-athlete meets all of the university's use of facilities requirements for non-EWU entities. This would include paying a fair market value rental rate for the facilities for activities such as a camp.

### **6 – NON-PERMISSIBLE NAME, IMAGE, & LIKENESS ACTIVITIES**

A. A student-athlete shall not receive compensation for athletics performance or participation as an inducement for enrollment.

B. A student-athlete is prohibited from wearing any item of clothing or gear with the insignia of any entity during any athletic competition, practice, or university-sponsored athletic event other than EWU issued apparel.

C. A student-athlete is not permitted to sell items provided by the institution, including awards and apparel retained by the student-athlete at the end of a season that the institution will not reuse, until the student-athlete has exhausted eligibility for intercollegiate competition or has become permanently ineligible for competition.

D. A student-athlete shall not enter into an agreement regarding an NIL activity that may conflict with an institutional partnership or contract. These types of arrangements must be reviewed and approved in advance to ensure no conflict exists as set forth below in the procedures section.

E. The following types of NIL activities are prohibited as they conflict with the mission of EWU, may damage the name, image, or reputation of EWU, may lead to the violation of NCAA rules, or conflict with an existing or contemplated university relationship. Student-athletes are prohibited from earning compensation as a result of the use of the student's name, image, or likeness in connection with any person, company, or organization related to or associated with the development, production, distribution, wholesaling, or retailing of the following:

1. Adult entertainment products and services;
2. Alcoholic beverages;
3. Sports wagering;
4. Tobacco, marijuana, and electronic smoking products and devices;

5. NCAA banned substances;

6. Weapons, including firearms and ammunition; and,
7. Any unlawful activities.

### **7 – USE OF PROFESSIONAL SERVICE PROVIDERS**

A. EWU may not prevent or restrict a student-athlete from obtaining representation by a professional service provider for the sole purpose of representing the student-athlete in matters pertaining to the use of the student-athlete's name, image, and likeness.

B. Student-athletes may request education from the athletics department or the NIL third-party consultant regarding the selection of professional services; however, institutional employees are not permitted to participate in the selection or identification of professional servicers on behalf of a student-athlete.

### **8 – DISCLOSURE REQUIREMENTS**

A. A student-athlete who enters into a contract providing compensation to the student-athlete for use of his name, image, or likeness shall disclose the following details of the agreement to the Athletics Department:

1. Contact information for commercial entities;
2. Professional service providers;
3. Other involved parties;
4. Compensation arrangements with such individuals or entities;
5. Goods or services being transacted; and,
6. Times when the activities will occur.

B. The student-athlete would be required to provide disclosure information in advance of any arrangements or agreement for the use of their name, image or likeness and shall provide updates to the information within 7 days if arrangements with the commercial entity or third parties change.

C. For each agreement a student-athlete shall attest to the following:

1. The agreement was not directly or indirectly enabled by an institutional employee;
2. The agreement was not provided to solicit the student-athlete's enrollment at the institution;
3. The agreement is for work performed;
4. The NIL activity occurred at a time other than when a student-athlete was "on-call" for team activities; and
5. The agreement does not conflict with any institutional contracts or involve industries precluded in this policy.

## 9 – INVOLVEMENT OF ATHLETICS BOOSTERS

Athletics boosters may provide student-athlete compensation for NIL activities provided the following:

1. The agreement was not provided to solicit the student-athlete's enrollment at the institution;
2. The agreement is for work performed; and,
3. The agreement meets the parameters set forth in this guideline.

## 10 – EDUCATION

A. EWU shall provide and educate student-athletes on this policy during their recruitment process and before a signed National Letter of Intent and / or financial aid agreement.

B. A list of institutional agreements and precluded industries shall be made available to student-athletes.

C. The institution shall make available an NIL third-party consultant or other resources for the student-athlete to gain additional knowledge in applicable areas.

D. This policy shall be included, along with any additional information regarding NIL, in team contracts.

## 11 – PROCEDURES

A. Prior to a student-athlete engaging in a name, image, and likeness activity, whether compensated or uncompensated, he/she must complete the disclosure form via ARMS.

1. At a minimum, disclosure will include
  - a. All information related to transactions;
  - b. Compensation arrangements;
  - c. Professional service providers; and
  - d. Details of relationships with involved individuals, commercial entities and third parties.
2. If a name, image, and likeness activity involved a professional service provider, then that professional service provider should be on file with the Office of Athletic Compliance.

B. The Office of Athletic Compliance will review the request to confirm whether or not it is in conflict with NCAA rules or conference/institutional rules or policies. If compensation exceeds fair market value, the request may be subject to additional levels of review.

Use of EWU's institutional marks, including, but not limited to EWU's name, trademarks, logos, and mascot, must be approved by University Relations.

Use of EWU's facilities must be requested through and approved by Event Planning. Activities that may interfere with or present a conflict of interest with EWU's current partnerships and/or contracts must be reviewed and approved by the Director of Procurement & Contracts.

C. Once the student has the appropriate approvals for the name, image, and likeness activity, then the student-athlete may engage in the name, image, and likeness activity.

D. If details in the individual's agreement change, the individual must provide updates within 7 days of the change.