

Marywood University

Policies and Procedures

Name, Image or Likeness Rights for Marywood University Student Athletes Policy

Policy Statement:

Background Information

Marywood University as a member of the NCAA Division III follows all NCAA rules and regulations as set forth by the Association. Marywood conducts their athletic programs in a manner consistent with NCAA, Atlantic East, Landmark and ECAC Conferences, and Marywood University rules and regulations. Marywood University and the Athletics and Recreation Department must comply fully with NCAA rules.

On June 30, 2021, NCAA governance bodies in each of the three NCAA Divisions, III, II, and I adopted a uniform policy suspending NCAA name, image and likeness rules for all incoming and current student athletes in all sports. Thus, NCAA student athletes have the opportunity to benefit from their name, image and likeness ("NIL") consistent with the law of the state where the school is located.

In addition, on June 30, 2021, Pennsylvania Governor Tom Wolf signed legislation to allow college student athletes in Pennsylvania to earn compensation for the use of their name, image and likeness ("NIL"). Enacted as an amendment to the Act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, this new law was adopted as part of Senate Bill 381 ("SB 381"). Pennsylvania's law applies to institutions within Pennsylvania and to students participating in intercollegiate athletics at those institutions. Thus, Pennsylvania state law will apply.

SB 381 defines the term college athlete as "an individual enrolled at an institution of higher education who participates in intercollegiate athletics for the institution of higher education. The term does not include an individual whose participation is or was in a college intramural sport, club sport or in a professional sport outside of intercollegiate athletics." Marywood University is an institution of higher education as defined in SB 381.

Further, the student athlete must comply with Marywood University's Policies and Procedures, rules, and regulations.

Policy Statement

In accordance with Pennsylvania's law, Marywood University student athletes can earn compensation for the use of their NIL if the compensation is commensurate with the market value of their NIL. Under Pennsylvania law, Marywood University student athletes are prohibited from accepting compensation in

exchange for their attendance, participation or achievement or performance at the Marywood University (“pay-for-play”). Athletic performance may enhance student athletes NIL value, but athletic performance may not be the ‘consideration’ for NIL compensation.

Furthermore, Pennsylvania law prohibits Marywood University student athletes from earning compensation for NIL use “in connection with a person, company or organization related to or associated with the development, production, distribution, wholesaling or retailing” of the following:

- i. Adult entertainment products and services.
- ii. Alcohol products.
- iii. Casinos and gambling, including sports betting, the lottery, and betting in connection with video games, online games and mobile devices.
- iv. Tobacco and electronic smoking products and devices.
- v. Prescription pharmaceuticals.
- vi. A controlled dangerous substance.
- vii. Other products or activities inconsistent with Marywood University’s Mission and Core Values

Moreover, pursuant to Pennsylvania law, Marywood University prohibits student athlete NIL use as follows: (i) in activities that conflict with existing sponsorship arrangements; and (ii) based on other considerations that conflict with Marywood University’s values, as defined and set forth in Marywood University’s Mission and Core Values.

Disclosure of NIL Contract

Marywood student athletes need to disclose proposed NIL contracts directly to Marywood University NIL Coordinator, the Assistant Director of Athletics and Recreation for Internal Operations/Senior Women's Administrator (SWA), at least seven business days prior to execution of the contract. Disclosure must include providing a copy of the proposed NIL contract by hand delivery or email to malloy@marywood.edu.

A student athlete should provide the University with as much time as possible to review the NIL contract. If the University is unable to respond to the NIL contract within seven days, such failure to respond does not mean the University has given approval to proceed with the contract.

Use of Marywood University’s Intellectual Property

Marywood student athletes cannot use any Marywood University logos, marks, nor the PACER mascot commonly known as Maxis, or any other intellectual property of the University for any aspect of an NIL endorsement contract. Further, Marywood student athletes cannot use the University’s facilities and fields for NIL purposes. NIL activities cannot interfere with team activities and games/meets, and are not eligible for an excused absence under the *Absence Policy*.

Marywood coaches and employees cannot create or facilitate endorsement contracts for current or incoming student athletes, including prospective recruits.

Impact of Earned Income

Earning income from NIL may affect a student athlete's personal financial situation, including tax status and liabilities, immigration status, and/or financial aid package. When applicable, Marywood student athletes should consult with the designated school official for international students as a student's Visa may prohibit employment. Marywood student athletes need to consult with the Financial Aid office as a successful NIL venture may result in income, which could be included in determining income-based financial aid eligibility and award.

Agent Registration

Marywood requires all agents representing student athletes for NIL activities to register with Marywood's NIL coordinator. To register, an agent must provide their name, name of business, position held at business, business address, a contact telephone number and an email address. Agents can only represent student athletes in regards to NIL activities.

Student athletes need to comply with NCAA rules regarding agents, including that students "shall be ineligible ... if the individual enters into an oral or written agreement with an agent for representation in future professional sports negotiations that are to take place after the individual has completed eligibility in that sport." NCAA Manual, Division 1, 2021-22, Bylaw 12.3.1.3.

Definitions:

N/A

Procedures:

N/A

Related Policies:

None Listed

Related Committees:

None Listed

Policy History:

11/03/21 – This University Policy was established as recommended by the Policy Committee of the University at their 10/29/21 meeting and approved by the President of the University on 11/03/21.

MARYWOOD UNIVERSITY POLICIES AND PROCEDURES

Mary Theresa Gardier Paterson, Esquire
Secretary of the University and General Counsel