



To: NJSIAA Executive Committee

From: Colleen Maguire, Executive Director

Date: September 15, 2021

RE: Bylaw Amendment – Amateurism Rule – Article V, Section 2

NJSIAA Bylaws, Article V, Section 2 provides the NJSIAA definition of “amateur-athlete” and sets forth the constraints placed upon student-athletes in order for them to retain their amateur status, and, ultimately, their eligibility. Recently, the NCAA has lifted some of the restrictions applicable to its student-athletes in this regard, and specifically is no longer prohibiting student-athletes from profiting off of the use of their name, image and likeness (NIL). Instead, individual states, conferences and colleges are implementing regulations to address this issue.

Given this shift, and to ensure fairness to our student-athletes, NJSIAA staff believes that the Executive Committee should consider an amendment to the NJSIAA amateurism rule to allow student-athletes to engage in certain commercial activities in their individual capacities. Non-athletes are afforded opportunities that are not afforded to student-athletes under the current rule. NJSIAA should consider allowing our student-athletes the same opportunities when not representing their school or team. By permitting NJSIAA’s student-athletes to engage in these activities in their individual capacity only, and not allowing any school or team involvement, competitive balance and team dynamics will be protected.

The proposed amendment makes the following changes to the current rule:

- Currently, student-athletes are prohibited from earning compensation for coaching and providing athletic instruction. Under the proposed rule, this would be permitted, subject to certain restrictions.
- The existing rule prohibits student-athletes from being paid for “participation in athletics . . . or directly or indirectly us[ing] his/her athletic skill for pay in any form.” The proposed rule maintains the prohibition on being paid directly for participation on an athletic team, but incorporates regulations to allow student-athletes to benefit from their own NIL, subject to certain restrictions. The proposed rule makes clear that the student’s use of the student’s

own NIL cannot in anyway involve the school, the team, the school uniform or any other similar reference. For example, the student cannot appear in a commercial while wearing his/her jersey.

- The existing rule prohibits student-athletes from appearing on radio or television programming if the appearance is “related in any way to his/her athletic ability or prestige.” This would be permitted under the proposed rule.
- The existing rule permits student-athletes participating in non-NJSIAA sponsored events to accept items with a monetary value not to exceed \$250, in connection with that event. The proposed rule increases the amount to \$500.

Other state athletic associations are considering similar rule changes, and, for example, the California association had already permitted its student-athletes to profit off of their NIL. The intent of the below proposal is to recognize that the definition of “amateurism” is changing. While the expansion of social media and its impact on today’s high school student-athletes continue to evolve, NJSIAA’s role is to ensure that these activities do not interfere with the physical, mental, social and educational benefits that are derived from interscholastic athletic participation.

The proposed bylaw is below. If adopted, the proposal will become effective on January 1, 2022. Further below, for reference, is the existing bylaw.

PROPOSED BYLAW AMENDMENT

Bylaws, Article V [Eligibility of Athletes] Section 2 [Amateur-Athlete]

Amateur-Athlete – An amateur-athlete is one who participates in athletics solely for the physical, mental, social, and educational benefits derived from such participation.

The following is a list of principles student-athletes must abide by to retain their amateur status, and thus, their NJSIAA eligibility.

- A. A student-athlete may not participate in any athletic activity under an assumed name.
- B. Professional Athletics. A student-athlete may participate as an individual, or as a member of a team against professional athletes, or as a member of a team on which there are some professionals who are not currently under contract with a professional team and are not receiving money for their participation. However, a student-athlete may not (1) sign a contract to play professional athletics (whether for a money consideration or not); or (2) receive a salary or any other form of financial assistance from a professional sports organization.

C. Outside Work. Student-athletes are permitted to receive payments for coaching and providing athletic instruction, however student-athletes may not play on the teams that they coach. The student-athlete's compensation must be commensurate with the work performed.

D. Name, Image and Likeness. A student-athlete may profit off of the use of their own name, image and likeness (NIL). Such permissible activities include commercial endorsements, promotional activities, social media presence, product or service advertisements, and non-fungible tokens (NFTs).

No one employed by a member school, including coaches and administrators, may be involved with a student-athlete's use of their NIL.

Student-athletes are prohibited from making any reference to a member school or the NJSIAA when engaging in any NIL activity. Student-athletes may not endorse or promote any third-party entities, goods or services during team activities. Student-athletes may not wear the apparel or display the logo, insignia, or identifying mark of an NIL partner during any team activities.

Student-athletes are prohibited from engaging in any NIL activities involving the following categories of products and services:

- (1) Adult entertainment products and services;
- (2) Alcohol products;
- (3) Tobacco and nicotine-related products;
- (4) Cannabis products;
- (5) Controlled dangerous substances;
- (6) Prescription pharmaceuticals;
- (7) Casinos and gambling, including sports betting, the lottery, and betting in connection with video games, on-line games and mobile devices; and
- (8) Weapons, firearms and ammunition.

E. Awards. A student-athlete may only accept individual interscholastic awards and similar mementos if the award is approved by the local Board of Education or school governing body, in keeping with traditional high school requirements which are basically symbolic in nature, i.e., letters, sweaters, jackets, pins, trophies, rings and watches. No other award of monetary value may be granted to any student-athlete without prior approval by the local Board of Education or school governing body and the NJSIAA. Also, a student-athlete may accept a monetary award under the United States Olympic Committee's "Operation Gold" program without compromising his/her eligibility for NJSIAA competition. Operation Gold awards athletes for top-place finishes in a sport's most competitive international competition of the year.

F. Participation in Non-NJSIAA Events. A student-athlete who participates in non-NJSIAA events may receive reasonable travel, meal and lodging expenses. Beyond

reasonable, travel, meal and lodging expenses, a student-athlete may accept sports-related paraphernalia with a monetary value not to exceed \$500.00.

Note – Compliance with this provision does not ensure maintenance of eligibility under the eligibility standards of other athletic organizations, such as, but not limited to, the NCAA, NAIA, NJCAA, etc. Student-athletes are encouraged to communicate with those organizations to ensure any activity complies with those eligibility standards.

[If adopted, this provision will become effective on January 1, 2022.]

CURRENT BYLAW

Bylaws, Article V [Eligibility of Athletes] Section 2 [Amateur-Athlete]

Amateur-Athlete – An amateur-athlete is one who participates in athletics solely for the physical, mental, social and educational benefits derived from such participation. The amateur-athlete treats all athletic activities in which he/she participates as an avocational endeavor. One who takes or has taken pay, or has accepted the promise of pay, in any form, for participation in athletics or has directly or indirectly used his/her athletic skill for pay in any form shall not be considered an amateur and will not be eligible for high school interscholastic athletics in the State of New Jersey.

The following are the basic interpretations of the principles' involved in the amateur code which may lead to the loss of an athlete's eligibility:

- A. Participation in any athletic activity under an assumed name. Being guilty of any act of fraud, subterfuge, or, other sharp practice relative to this principal.

- B. Accepting pay or material remuneration for a display of athletic ability.

- C. Any student who signs or has ever signed a contract to play professional athletics (whether for a money consideration or not); plays or has ever played on any professional team in any sport; receives or has ever received directly or indirectly, a salary or any other form of financial assistance from a professional sports organization or any of his/her expenses for reporting to or visiting a professional team is no longer an amateur as defined by this code.

- D. A Student-Athlete may participate as an individual, or as a member of a team against professional athletes, or as a member of a team on which there are some professionals who are not currently under contract with a professional team and are not receiving payment for their participation; but he/she may not participate on a professional team.

E. A Student-Athlete may work as a counselor in a summer camp, lifeguard, swimming pool attendant and swimming instructor for children without affecting his/her eligibility under the terms of this principle; he/she may work in a tennis or golf shop provided he/she does not give instruction for compensation, and he/she may obtain employment with a recreation department, his/her duties to include some officiating and coaching responsibilities; however, he/she may not be employed as an athletic coach.

F. If a Student-Athlete's appearance on radio or television is related in any way to his/her athletic ability or prestige, the athlete may not under any circumstances receive remuneration for his/her appearance. Under such circumstances, however, an athlete may appear on a sponsored radio or television program or have his/her name appear in newsprint ads or in player of the week, month or year advertisement promoting products provided he/she does not endorse or imply endorsement of any commercial product.

G. Individual interscholastic awards and similar mementos to Student- Athletes should be limited to those approved by the local Board of Education, in keeping with traditional high school requirements which are basically symbolical in nature, i.e., letters, sweaters, jackets, pins, trophies, other similar type awards, and rings or watches which are properly inscribed. No other award of any monetary value may be granted to any athletes without prior approval by the Board of Education and NJSIAA.

H. No awards shall be given to an athlete by anyone other than his/her own Board of Education, unless prior approval of the NJSIAA and the Board of Education is obtained.

I. A student-athlete may accept a monetary award under the United States Olympic Committee's "Operation Gold" program without compromising his/her eligibility for NJSIAA competition. Operation Gold awards athletes for top-place finishes in a sport's most competitive international competition of the year.

J. A student-athlete who participates in non-NJSIAA sponsored events may receive reasonable travel, meal, and lodging expenses. A student-athlete may accept items with a monetary value not to exceed \$250.00.