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BILL: House Bill 1090 **DATE:** March 8, 2023

SUBJECT: Public High Schools – Student Athletes – Compensation for Name, Image, and Likeness **COMMITTEE:** Ways and Means

POSITION: Information Only

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EXPLANATION:

The Maryland Public Secondary Schools Athletic Association (MPSSAA) is providing information for consideration regarding House Bill 1090 – Public High Schools – Student Athletes – Compensation for Name, Image, and Likeness. House Bill 1090 will require the Maryland Public Secondary Schools Athletic Association to rescind previous approved guidance that clarifies how student-athletes may engage in Name, Image, and Likeness (NIL) activities for financial gain and still retain athletic eligibility under COMAR 13A.06.03.10 *Amateur Rules*.

The MPSSAA issued guidance on NIL to the membership of the MPSSAA. The [MPSSAA NIL Guidance](#) was unanimously approved by the 24 local educational agencies in December 2022. The MPSSAA NIL guidance is aligned with similar successful policies in New Jersey, New York, California, and Pennsylvania.

The guidance was designed in response to the June 2021 United States Supreme Court decision that the NCAA’s rules limiting education-related benefits for student-athletes violated federal antitrust laws. Although the Court’s decision applied specifically to NCAA rules, the ruling has generated expansion of NIL opportunities for high school students. The MPSSAA guidance to member schools, parents, and students clarifies how student-athletes may engage in NIL activities for financial gain and still retain athletic eligibility under MPSSAA regulations.

The MPSSAA guidance allows for student-athletes to engage in NIL activities for financial gain while protecting the intellectual property of the member school, local educational agency, and the MPSSAA. In addition, the guidance limits NIL activities that do not align with educational programming, such NIL activities related to alcohol and tobacco products.

House Bill 1090 does not allow for any educational entity that protects the well-being of student-athletes from exploitation to provide any rule, requirement, standard, or other limitation related to NIL activities, thus removing those educational entities from any operational control to assist and protect student-athletes.

Without educational entities providing frameworks and assisting in the education and involvement of third parties looking to profit from the success of high school students, students and families could be uneducated entering into exploitative contracts. Students and families need to be educated on Federal Trade Commission (FTC) reporting requirements when being a social media influencer. Students and families need to be educated and guided on the impact of NIL deals on financial aid packages. Students and families need to understand the [Maryland Uniform Agents Act](#) including requirements, prohibited acts, and the rights of athletes who enter into contracts.

NIL collectives in the high school interscholastic community have the ability to create a transfer portal in high school athletics, where the school choice is more about NIL deals for athletes than academics. NIL collectives are a way a group of alumni or school supporters provide NIL deals to any student-athlete that attends the school. In a recent survey by [Student-Athlete Insights NIL Consulting and Education](#), 67 percent of collegiate student athletes surveyed said that NIL would play an important role in their decision-making process as to whether or not to transfer to a school. The survey goes on to say that 70 percent of student-athletes want more education and support from their institutions.

NIL Consultant Bill Carter, who is a professor at the University of Vermont, former high school student at Loyola Blakefield (Md.), and writes a NIL column monthly for the *Sports Business Journal*, complimented the MPSSAA guidance when it was first released for trying to get out in front of the collective issue. Mr. Carter states, “While Collectives have yet to infiltrate high school athletics, I commend the MPSSAA for trying to get out ahead of a potential problem in which a group of boosters could compensate high school athletes with NIL activities created by a Collective. However, I’m concerned that due to how quickly NIL is evolving that the MPSSAA’s definition of a Collective may already be too narrow.”

NIL activities and its opportunities for high school students is very fluid and ever changing. It is imperative that the educational institutions that are in place to protect students from exploitation can develop, evolve, and guide policies that not only protect student athletes, but also protect amateurism in high school athletics while allowing students to earn financial gain for NIL activities.

The MPSSAA respectfully requests that you consider this information as you deliberate **House Bill 1090**. Please contact R. Andrew Warner, at 410-767-0376, or robert.warner1@maryland.gov, for any additional information.