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## A Triadic View of Name, Image, and Likeness from the point of Athletes, Universities, and Consumers of college athletics

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## **Introduction:**

Name, Image, and Likeness is a new era of college athletics that allows student-athletes to monetize their name, image, and likeness through personal appearances, social media platforms, commercials, selling merchandise, signing autographs, serving as ambassadors, and leading camps or clinics, among others. In simpler terms, NIL allows student-athletes to be paid to play. Before it was introduced, the NCAA took a strong stance against this but soon flipped its stance once states started passing laws relating to the subject.

In the past, athletic departments, coaches, and student-athletes were punished by the NCAA because of bribes as well as athletic departments or boosters buying luxury items for student-athletes. While universities cannot directly pay student-athletes, boosters, supporters, small businesses, and corporations, can all provide compensation for them.

## **Themes:**

### **Theme I: The business of college athletics**

First and foremost, colleges and college athletics function as a business. Many colleges earn a lot of money from athletics, but not many athletic departments make a profit. With the introduction of NIL, universities must deal with trying to attract, develop, and retain athletic talent. Based on data collected from the NCAA, Division I athletics made \$15.8 billion in 2019, mainly coming from football and men's basketball. "With the exception of a small number of schools, athletic expenses surpass revenue at the overwhelming majority of Division I programs" (EconoFact). This point is made further because, in 2019, only 25 Power Five Schools (out of 65) generated positive revenue.

Across NCAA Division I, II, and III schools spend over \$18 billion annually. The average Division I FBS school spends around \$45 million/year on athletics (air.org). Top schools spend an average of \$200-300,000 on each student-athlete (Sports Management Degree Hub). Universities do spend more money per student-athlete than regular student, but in total, there is more money that goes toward academics than athletics (air.org).

What changes when athletic programs succeed? Does it improve universities, allow them to make more money, or even increase enrollment? Unfortunately, for winning programs, there is nearly no benefit for universities when their programs have athletic success. Along with this, there is no connection between wins and higher entry scores of applicants. There is also evidence that shows that the amount of money given by alumni does not change by a significant amount when programs are winning. Finally, more money spent on coaches does not have any significant relationship between winning or making more money. (Bleacher Report).

## **Theme II:** The changing landscape of college athletics

In recent years, the NCAA has implemented drastic changes to college athletics: NIL and the Transfer Portal. Since these are recent changes, my research explores primarily popular press articles studying these matters, because the academic literature is not yet publishing articles on the impact of these two recent changes. “The NCAA Transfer Portal has become a one-stop-shop for college student-athletes to find a new home, and for colleges seeking out new opportunities” (SR Blog). The portal has been perfect for student-athletes looking for a second, third, or fourth destination, but has faced criticism from many, including former college athletes such as standout LSU Cornerback Tyrann Mathieu. In the past, players have had to sit out a year after transferring, but the transfer portal got rid of this rule. If a player plans to transfer, they must let

the school's compliance officer know who will enter the student-athletes name into the transfer portal.

Because of NIL, universities have created new positions and departments, such as NIL departments. These departments, which are large investments, can lead to continued financial success for student-athletes but also success for the school. Ohio State has a team called the Edge Team, which serves as "an internal advisory group whose members can assist student-athletes with access and resources to successfully pursue NIL opportunities (Squire, Patton, Boggs).

### **Theme III:** How this impacts athletes, universities, and consumers

**Student-Athletes:** Due to growing competition with NIL deals, athletes must be able to brand themselves in a way to receive the maximum investment possible. In the first year of NIL, athletes made approximately \$917 million from NIL payments, which averages \$3,711 per Division I athlete. Many of the largest NIL deals come from Power 5 Conference (SEC, ACC, Big 12, Big 10, Pac 12) football players such as Bryce Young, C.J. Stroud, Will Anderson, and Bijan Robinson. In total, 49.6% of NIL deals come from college football players. NIL deals have had positive effects on women's sports as well, with nearly 35% of NIL deal funding going to women's athletes. Three of the top five sports for NIL deals are women's basketball, volleyball, and softball (NIL: Best College Females). With NIL, there have been some weird & unique deals such as the former Nebraska WR De'Coldest Crawford signing with SOS Heating and Cooling, as well as former Miami women's basketball twins Haley and Hanna Cavinder signing an NIL deal together with Boost Mobile (ForTheWin).

**Administrators:** Since the introduction of NIL, universities and athletic departments have had to continually adjust policies to stay out of NIL litigation. These policies include not

allowing services to student-athletes, who are not available to all students, as well as not being able to directly make agreements with student-athletes. While they cannot do this directly, they can promote athletes' NIL deals. Some other regulations include being allowed to provide suites and tickets but must be equivalent for all companies, as well as school employees not being allowed to own or be employed by companies making the NIL deals (Nacubo).

**Consumers:** College athletics have always been enjoyed by fans because of the pure amateurism of it. With the emergence of NIL, do Americans know about it? If so, what do they think about it? According to the Washington Post, "About half of Americans have heard 'a lot' or 'some' about the NCAA's decision to allow college athletes to be paid...". (Washington Post). Most college sports fans ages 18-34 support NIL, while only 53% of fans 65+ agree with the NIL approach. Of the 570 fans polled,  $\frac{3}{4}$  either like or have no feelings about NIL. For the 25% not in support, the fans think it makes college athletes look more like professional athletes (Sports Business Journal).

#### **Theme IV: NIL & Lack of Regulation**

Since the NCAA introduced NIL, many critics have referred to it as the "wild west" of college sports because of the regulation or lack thereof. "It has been two and a half years since NIL deals became legal and there are still no clear rules, leading to a free-agency market where players pick the highest bidder" (SportsIllustrated). During its introduction, there was an interim NIL policy, but it has been over two years and no new rules have been set. Because of the lack of regulations, many players are making millions of sponsorships and endorsements, especially in football, where Nebraska Head Coach Matt Rhule stated, "A good quarterback in the [transfer]

portal costs \$1 million to \$1.5 million to \$2 million right now” (CornhuskerWire), as well as Deion Sanders stating that “walk-on players cost \$50,000 these days” (Essentially Sports).

Why has the NCAA not set any NIL rules? The NCAA has decided to leave this issue up to Congress to propose legislation related to NIL. In June 2023, Nick Saban highlighted a list of coaches and athletic directors who visited Washington D.C. to discuss NIL regulation with members of Congress. In a September article from the Washington Examiner, “Major university athletic directors urge Congress to pass NIL legislation”. Last Thursday there was some headway made regarding this topic, as the House Innovation, Data Commerce Subcommittee heard responses on the draft of a new bill, the FAIR College Sports Act. A general concern among lawmakers and administrators is that college student-athletes do not become employees of their universities. If that happens, NCAA President Charlie Barker believes that small college sports programs would “disappear...Because the money is just not there”. (InsideHigherEd).

### **Research Methodology:**

Because of the ever-changing environment of NIL, I must cover as many aspects as possible. This requires input from different stakeholders of college athletics, which include the athletes themselves, universities and institutions, and college sports fans. I will form recommendations for these stakeholders about navigating the complex world of NIL.

- **Student-Athletes:** While maintaining the anonymity of the athletes, I interviewed student-athletes, both male & female, across different sports. This includes student-athletes who benefit from NIL, as well as disenfranchised athletes. These interviews covered different aspects including the introduction of NIL and their opinions about it, if they have NIL deals, what NIL deals they have, if they have affected team cohesion,

suggestions, and general thoughts, as well as a chart from 0 to 100, with 0, NIL being the worst thing to happen to college athletes, to 100, where NIL is the best thing to happen to college athletics.

- **Administrators:** Once again, while maintaining the anonymity of university administrators, I interviewed individuals within the athletic department, the NCAA, or a sports marketing organization. My topics covered ways universities attract, develop, and retain student-athletes. Questions included some of the best things about NIL, ways it can be improved/regulated, the big business of college athletics, trouble with so little NCAA guidance, general thoughts on the subject, and a chart from 0 to 100, with 0, NIL being the worst thing to happen to college athletes, to 100, where NIL is the best thing to happen to college athletics.
- **Consumers:** Many people don't often think about consumers in this issue, but college sports fans are what drive college sports. Overall, based on initial research, there has been more positive support than negative, but it is often based on someone's generation. For the consumers, I created a survey to gain more of a grasp on the opinions of college sports fanatics from all ages and genders. Topics will cover general thoughts and opinions on NIL, looking to determine if consumers approve of NIL, and if so, which parts are working.

## **Findings:**

### *Changing landscape of college athletics:*

Just a few months back, Nick Saban, the seven-time national championship-winning coach, shockingly announced his retirement from college football. Anyone who somewhat

follows college sports has seen changes in recent years with the introduction of NIL and the transfer portal.

Recently, John Calipari left an \$8.5 million/year contract at Kentucky to take a contract that is estimated to pay less money at Arkansas (not including bonuses and incentives). He has one of the most robust NIL offerings, with an estimated \$5 million+ in NIL money which will be used as a recruiting tool. Simply because of funding, it gives Arkansas access to more talent that would probably not otherwise look at Arkansas as an option.

Another one of the things that has changed since I began this paper, is the NCAA's stance on multi-time transfers. "The NCAA Division I Board has approved legislation to allow instant eligibility for all multi-time transfers" (CBS Sports). Previously, players were able to transfer once without requiring a waiver, but anytime a player transferred after that, it would need to be approved by the NCAA.

Along with this, "the NCAA DI Board passed new rules allowing universities to help athletes find NIL contracts ... athletes would be required to disclose any NIL deal of more than \$600 to their schools" (CBS Sports). After speaking to administrators, they informed me that it was illegal to mention NIL deals on recruiting visits. This is yet another example of the NCAA completely reversing its original policies when it pertains to an issue.

*"I thought we could have a hell of a team next year, and then maybe 70 or 80 percent of the players you talk to, all they want to know is two*



*things: What assurances do I have that I'm  
going to play because they're thinking about  
transferring, and how much are you going to  
pay me? ” - Nick Saban*

*(Fox Sports)*

*Business of college athletics*

In my research, one thing became evident about college athletics, it makes a lot of money. While this is true, this only comes from a couple of sports, in the case of the University of Arkansas, and most other schools, men's basketball and football. With substantial revenues made from the top two or three sports, nearly all universities do NOT make a profit from college athletics. For nearly all universities, the money earned goes back into the athletic department for things such as equipment, recovery, nutrition, etc.

Luckily, for Arkansas fans, this is one of 20-25 self-sustaining athletic departments in the country. Because of self-sustaining athletics, it eliminates student expenses, such as an activity fee, which is paid by students at other universities.

*The need for NIL regulation*

One of the most consistent themes throughout the survey, student-athlete interviews, as well as administrator interviews was the need for regulation of NIL. Of the student-athletes I interviewed, three of the five mentioned regulations, or lack thereof, as an issue with NIL when asked “What are your suggestions on moving forward so we can get the best of NIL?” After talking to administrators, all three mentioned regulation multiple times citing that it is one of the main concerns with NIL. From the consumer survey, there were multiple questions regarding what consumers believed was right for NIL regulation.

Because of the lack of guidelines, it has been tough for collectives to stay ahead of the law. Texas A&M & Tennessee NIL collectives have been involved in some litigation relating to the IRS and tax law. This is one of the reasons why we saw Arkansas transition from OneArkansasNIL to NIL Edge, which is a separate entity from the athletic department.

One of the main recent controversies relating to NIL has to deal with former and current Alabama offensive lineman, Kady Proctor. Proctor started every game for the Tide last season and entered the transfer portal after the departure of Nick Saban. He committed to Iowa and participated in spring practices before entering the transfer portal once again and announcing he would head back to Alabama. After it was reported that he would transfer, reports arose that he had taken the money raised by the Iowa collective and headed to Alabama. Yes, it would not have been illegal for him to take the money and leave. While this ended up not being the case, he was able to cash in on a couple of NIL deals while at Iowa, even though he will not be playing football for them next season.

Is there any new legislation in the works? Yes, there are currently seven bills that have been proposed in Congress. These are still bills, but if they were to be passed by Congress, they would become federal law. In the paragraphs below, I will go through them.

First, The College Athlete Economic Freedom Act. This law would limit the power of colleges by allowing student-athletes to have any NIL deals, with as much money as they would like, allow student-athletes to form unions, make it illegal for a student-athletes NIL deals to affect their “grant-in-aid” and require colleges to gain permission to use a student-athletes name, image, and likeness (Littler.com).

Second, the Compensation Protection Act. This law would create the College Athletics Corporation, which would be a regulator for NIL deals, would make it illegal for universities to offer “pay-to-play” guarantees to recruits, and would force colleges to cover student-athletes’ medical expenses. This would also allow student-athletes to have any NIL deals they would like, mandate universities to have financial literacy and life skills development courses, as well as mandating student-athletes to disclose NIL deals (Littler.com).

Third, the FAIR Act. This would allow the Federal Trade Commission to regulate NIL policies, mandate NIL collectives to be registered, make a website to report breaches in NIL policy, as well as make it illegal for collectives to pursue NIL deals with student-athletes who have been at a university for less than 90 days (Littler.com).

Next, The Clearinghouse Act. This would create an NIL regulation body called “NIL Clearinghouse”, would make it illegal for universities to prevent student-athletes who receive NIL deals from affecting their financial aid packages, and would allow universities to regulate which business student-athletes receive NIL money from. Finally, it would mandate that universities let student-athletes know if they are entering into an NIL deal with a business that is not allowed and would give “NIL Clearinghouse” to investigate breaches in policy and punish universities or student-athletes for those violations (Littler.com).

Next, there is the PASS Act. This would make it illegal for student-athletes to receive NIL money until they have enrolled at a university and would make “pay-to-play” tactics illegal on recruiting visits. This would adjust the transfer portal policy by making athletes ineligible who transfer at certain times and would mandate student-athletes to let their universities know the terms of deals within the first 30 days they are signed (Littler.com).

Then, we have the Level Playing Field Act. This would go along with previous acts and have the Federal Trade Commission and Covered Athletic Organization Commission regulate NIL deals to ban “pay-to-play” tactics. This would make it illegal for student-athletes to be considered employees of a university, mandate deals of over \$500 to be known by the Federal Trade Commission and mandate students to be enrolled at their university to receive NIL money (Littler.com).

Finally, the Cruz’s Act. This would institute a public database to determine a student-athletes NIL value, would guarantee that student-athletes are not employees of their universities, and would mandate the NCAA to “create and enforce rules governing student-athlete recruitment and transfer, with punishments ranging from loss of a student-athlete eligibility to removal of member institutions” (Littler.com).

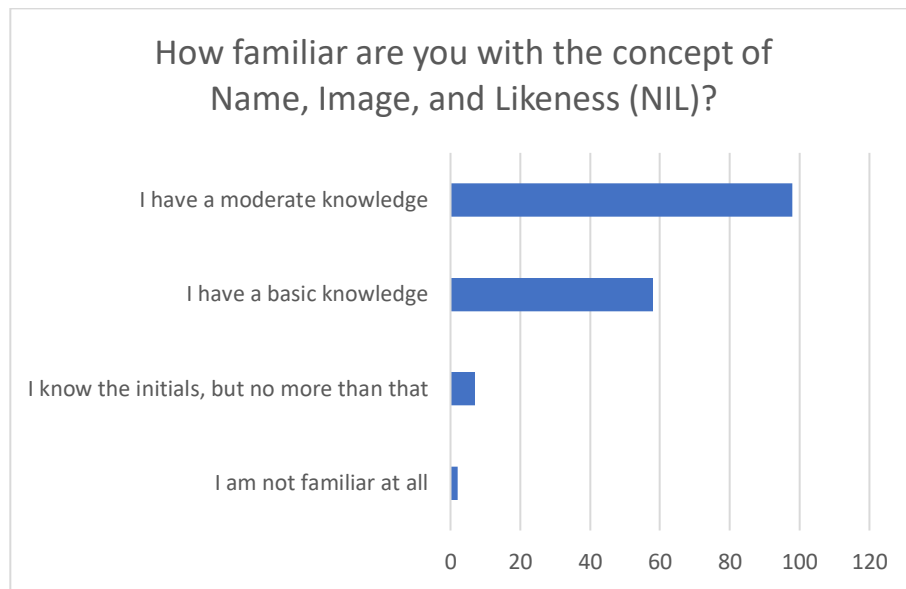
#### *Overall NIL impacts on athletes, administrators, and consumers*

As stated above, I had the privilege to be able to interview five student-athletes, three administrators, and administer a survey to consumers. Many of the answers and feedback received from student-athletes and administrators were similar, but consumers seemed to take a harsher stance on the subject. Below I will point out some of the common themes and answers to

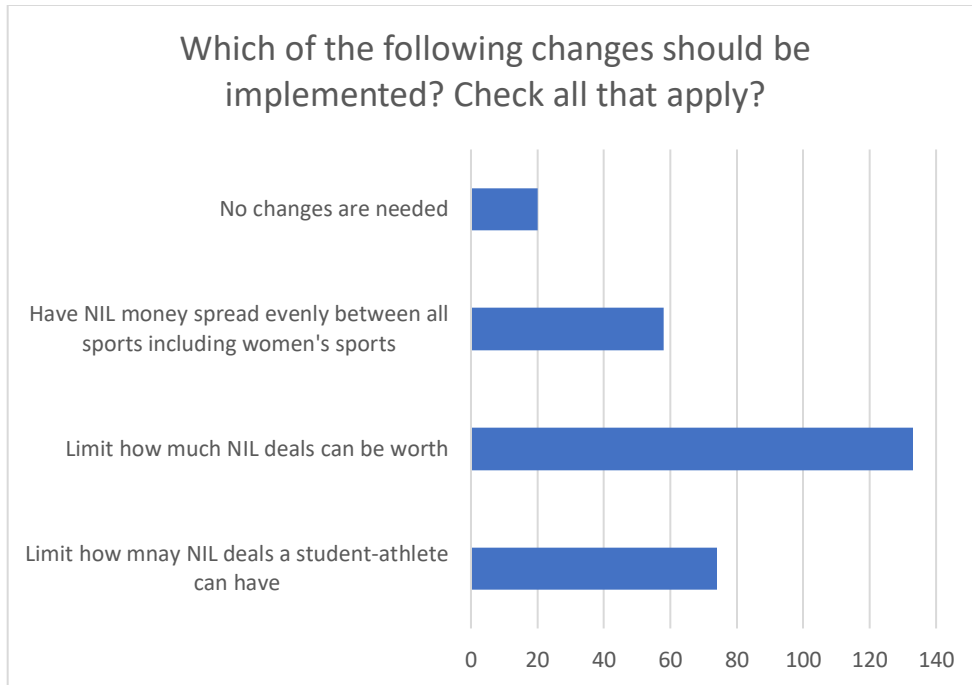
questions I asked and responses I received from administrators and student-athletes and graph out some of the answers I received from consumers.

**Consumers:**

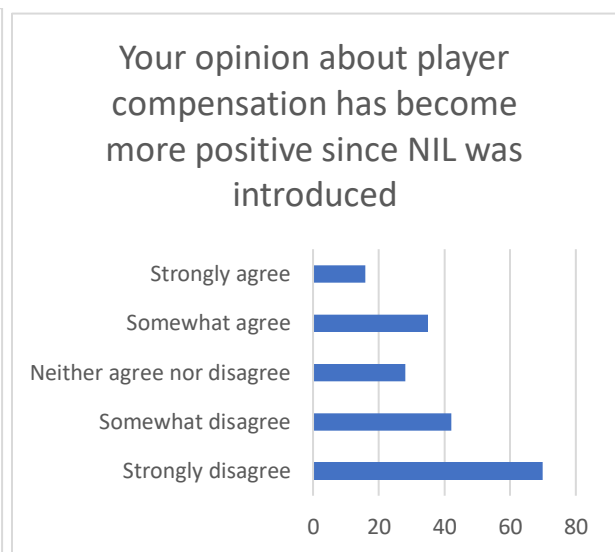
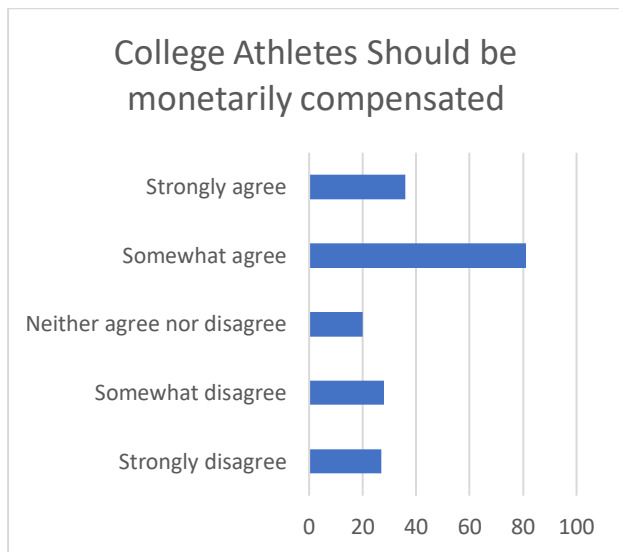
*How familiar are you with the concept of Name, Image, and Likeness (NIL)?*



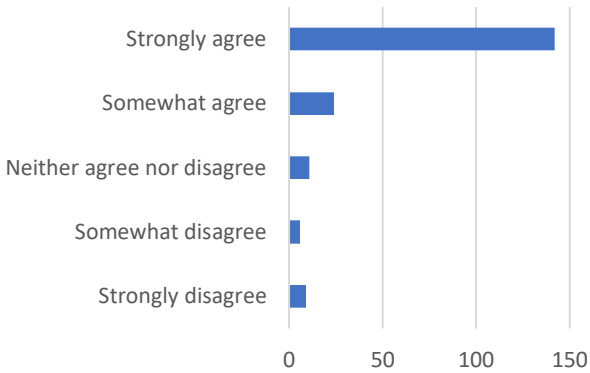
*Which of the following changes should be implemented? Check all that apply.*



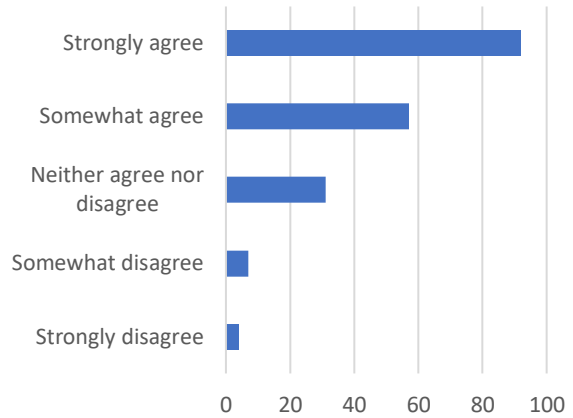
*Please indicate whether you agree or disagree with each statement.*



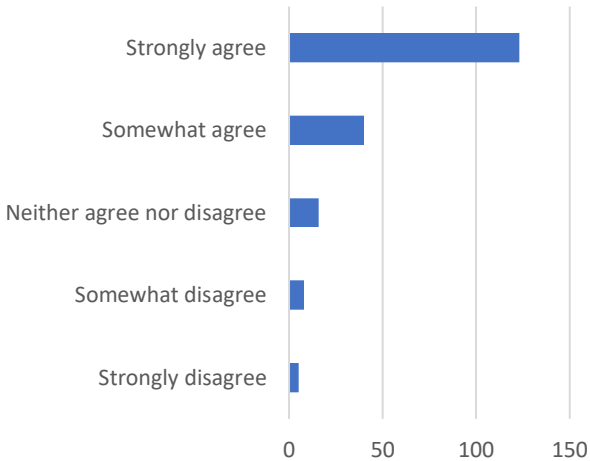
### There should be more regulation on the part of the NCAA.



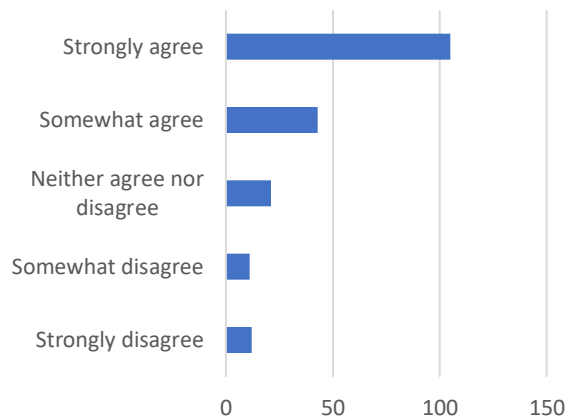
### NIL deals tend to negatively affect team cohesion

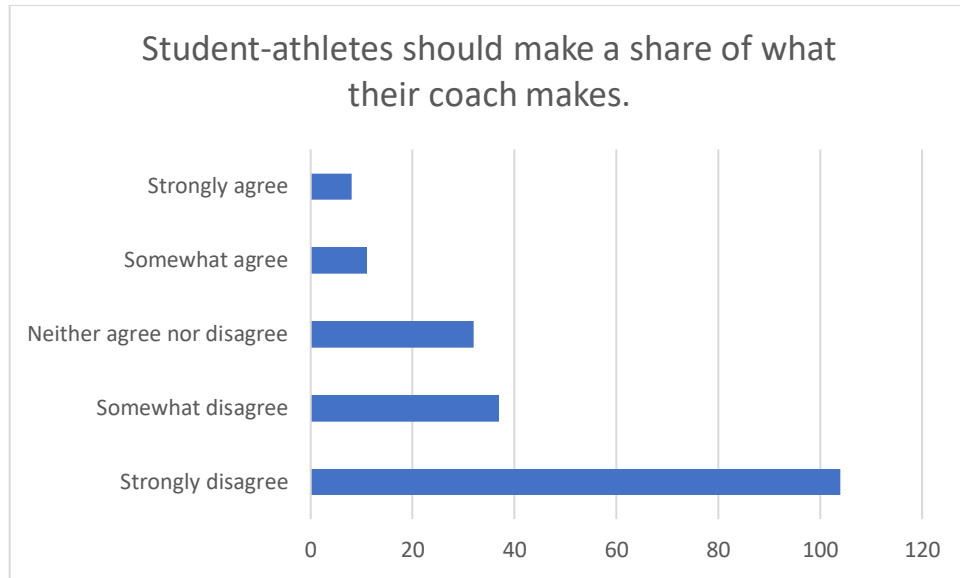


### You believe that NIL needs to be radically restructured

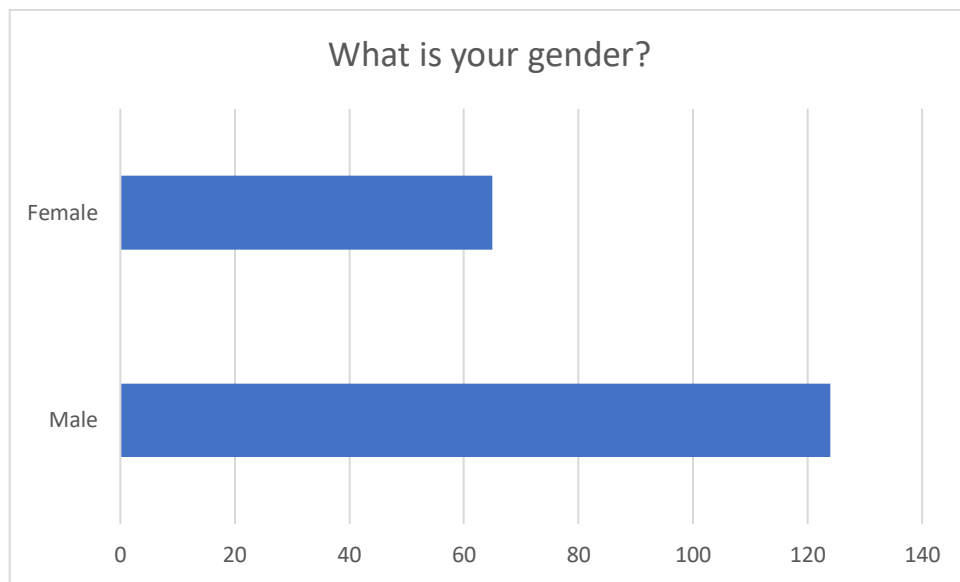


### There should be a salary cap on NIL money a student-athlete can make.





*What is your gender?*



**Administrators:**

*What are some of the best things you have seen with NIL?*

- It allows students to be able to monetize their name and image. This is a benefit that was previously only available to students but is now available for student-athletes. This was a



benefit they had been denied for a long time. One of the greatest examples of this work is in the new EA Sports College Football game, where players can be paid to have their name in the game.

*With college athletics being such a large and profitable business, would paying players through the university (which is still illegal) take away from the bottom line? Do you see it coming to this?*

- Universities do not make profits from athletics, whatever money they make goes back into things such as equipment, recovery, and nutrition. As NIL money increases, there will be more ways student-athletes could have to pay it back.

*What are some ways NIL can be improved/regulated?*

- It is challenging to navigate something when the road map changes every day, there are also many interpretations of NIL policies. No federal law, but many state laws have some differing policies. There is no definitive NIL regulation, and the NCAA keeps changing guidance. The NCAA did not act on this matter quickly enough, so states started implementing NIL policies and universities used it to their advantage.

*“There are no checks and balances”.*

*How has NIL affected student-athletes wanting to pursue professional sports?*

- It has helped even the playing field because older student-athletes fighting for roster spots or playing time with underclassmen. While it does not affect highly projected draft picks, it makes other student-athletes make other decisions. It has had a positive impact on many student-athletes who have come back to collegiate athletics to improve their draft positioning.

*What are any general thoughts and opinions related to NIL?*

- Athletic departments need more assistance. People want to rush to see whether it is good or bad, we must dig into it for the long haul and sure it all works with collegiate athletics.

*“The NCAA does not have any definitive NIL regulation”.*

- The long-term health of college sports could be in jeopardy if NIL is not regulated and things like revenue sharing are not controlled. Everyone wants to rush and see the good and bad with NIL, but we must dig in to see what it is all about. College athletics cannot turn into semi-pro leagues.

*“I don’t know how comfortable people are having Quarterbacks making millions of dollars”.*

#### **Student-athletes:**

*What sports do you play?*

- Two student-athletes play football, two play golf, and one plays baseball.

*Are you a regular starter?*

- Three of five student-athletes were regular starters in their respective sports.

*Do you currently have any NIL deals, if any, how many?*

- Two student-athletes had no NIL deals, one had one NIL deal, and two had two or more deals.

*Do you believe NIL has affected team cohesion?*

- It hasn't affected it much, but I could see where it would be a problem and I have heard about it on other teams. It has not been separating people in the locker room, but people do know what people are being paid. Some people have become jealous of how much teammates are being paid.

*What are your suggestions on moving forward so we can get the best of NIL?*

- Not enough regulation with it, tougher for people to stay in one spot when chasing money. There should be a loyalty factor between NIL and the transfer portal, where if a student-athlete stays somewhere a certain amount of time, they are allotted a certain amount of money. Making student-athletes earn money throughout the season with some type of incentive plan might help them to continue to play hard, even after cashing in on NIL deals. Performance is key, do not let NIL deals affect your performance.

*“Make sure you know what you want your  
personal brand to be”.*

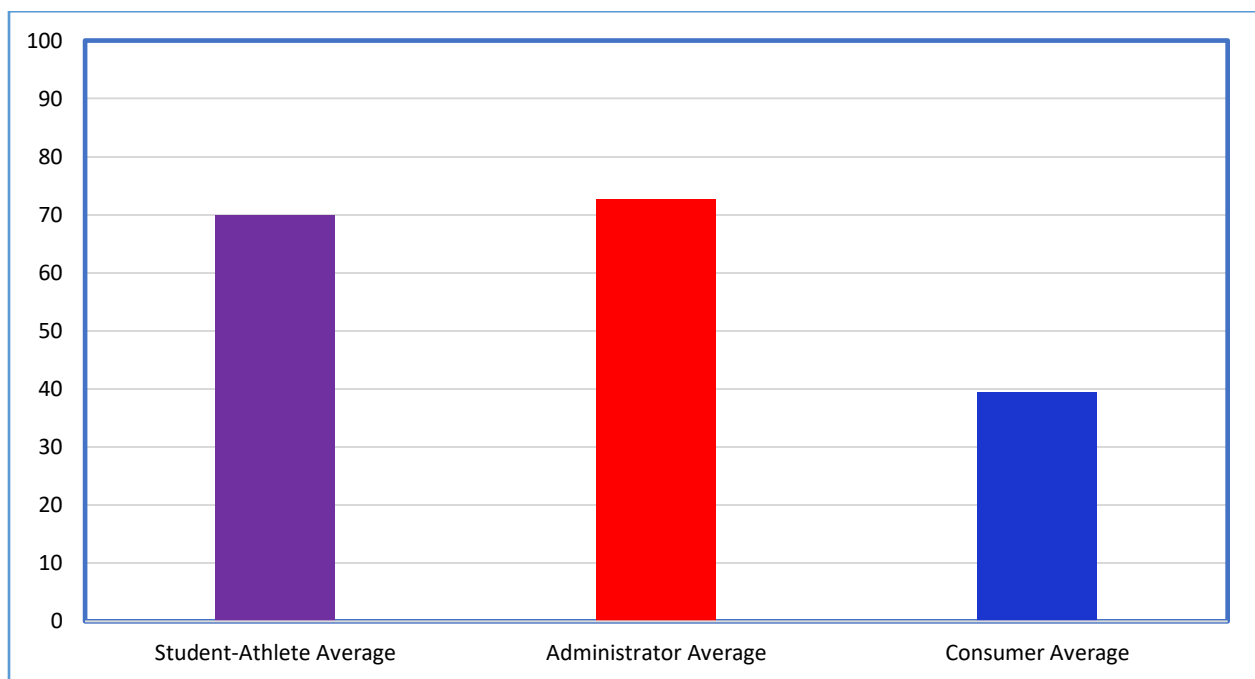
*What are your overall thoughts and opinions on the subject?*

- Overall, NIL is a great thing for student-athletes. It has helped many more people than it has hurt and has allowed student-athletes to expand their brand. It has changed college sports. It prepares people for the next stage of life by teaching people how to manage their money. It has kept people stay in college longer and sometimes has NIL deals worth more than a professional contract.

*“A lot of this would not be happening without social media and advertising”.*

*Where NIL ranks on best/worst thing to happen to college sports. (0-100)*

Purple=Student-athlete, Red=Administrator, Blue=Consumer



**Limitations:**

While trying my best to cover as many aspects of NIL as possible, there were a few main limitations, which I could capitalize on if I were to do more research. These include not having enough diversity while interviewing athletes, having a small pool of athletes and administrators, not hearing from athletes in every sport, and the fact that NIL is an ever-changing subject.

The first limitation of my research was that I did not have enough diversity for the athletes I interviewed. First off, all the athletes I interviewed are males, who are more prone to NIL money simply because numbers show that men average more deals than women. Second, I did not have enough sports represented by my interviewees. Of the five student-athletes I interviewed, they came from three sports. Lastly, I did not hear from enough student-athletes from outside the University of Arkansas and the SEC. Three of five athletes came from the U of A and four of five came from the SEC.

The second limitation of my research was the small pool of athletes and administrators I interviewed. I only had the chance to interview three administrators and interview five student-athletes. While they all had some of their unique perspectives, I do not believe that it fully encapsulates NIL from only eight minds.

Finally, the biggest limitation of my research was that everything relating to NIL is constantly changing. Since doing my original research, there have been many examples of change. These include new regulations from the NCAA, bills brought up in Congress, as well as NIL collectives being banned.

### **Implications & Future Research:**

As stated above, NIL is an ever-changing landscape in college athletics. Since I began working on this, there have been proposed NIL legislation, litigation, changes to the transfer portal, as well as changes with NIL and recruiting.

After doing research, administering my survey, as well as interviewing student-athletes and administrators, there needs to be more NIL regulation. There needs to be universal regulation. Because of the NCAA's lack of willingness to act on the matter, it seems that this

regulation will come from Congress. Currently, seven NIL bills have been proposed by Congress.

Based on research, there are a few things from the bills listed above that I would like to see implemented by Congress:

- Mandate universities to offer financial literacy courses for student-athletes who receive NIL deals.
- Institute a public database for student-athletes to determine their NIL valuation. I am neither for nor against setting a cap, but if there were to be a cap set, this database could help determine how much that cap would be.
- Not allow collectives to engage in NIL talks and let student-athletes receive NIL money until they have been at a university for at least 90 days.
- Mandate that student-athletes disclose NIL deals to universities.
- Create something like the Federal Trade Commission or Clearinghouse to regulate NIL deals and any breaches in NIL policies. They would report directly to the NCAA.

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