



Fair Pay to Play (Name, Image, and Likeness) November 2019

I. BACKGROUND OF FAIR PAY TO PLAY

The Fair Pay to Play Act was passed into California law on Sept. 30, 2019 and will allow student-athletes at California colleges to hire agents, promote products, and earn money from endorsement deals utilizing their name, image and likeness. The legislation also prohibits a conference or association from restricting California student-athletes from receiving such compensation. Despite the title, the new law does not address allowing student-athletes to be paid for playing a sport.

The law goes into effect in 2023. It will apply to all four-year collegiate institutions in the state of California, including NAIA schools.

While California is the only state to pass Fair Pay to Play into law, similar legislation is being considered in numerous other states and in some cases, with much sooner implementation dates. There is also discussion regarding this type of law at the federal level.

II. WHY IS THIS A BIG DEAL?

As a state law, Fair Pay to Play (or similar law) supersedes NCAA and NAIA rules that state a student-athlete can't receive endorsement deals or accept payment for the use of their name, image, or likeness. Therefore, while a student-athlete will be able to legally earn money for endorsing a product related to his/her athletic ability, it still currently violates NCAA and NAIA bylaws. Unless bylaws are revised to comply with the law before 2023, California institutions could no longer be NCAA or NAIA members.

III. WHAT DOES THIS MEAN TO THE NAIA?

The public perception of Fair Pay to Play is that it will primarily affect top-tier athletes at NCAA Division I schools. While that may hold true for the more lucrative endorsement deals, NAIA athletes could still benefit financially. Examples that could affect all levels of student-athletes include earning compensation for:

1. endorsing a product or service
2. making a public/media appearance that includes a reference to his/her school
3. being a social media influencer
4. providing lessons based on advertisement of their student-athlete status
5. receiving royalty/licensing rights for school-sold products (jerseys, bobble heads, etc.)

It is important to note that none of these examples include dollars paid by the institution. In the NAIA, the most likely scenarios involve ways for students to close the gap or supplement the financial aid package offered by the NAIA member institution.

IV. WHAT ARE WE DOING TO PREPARE?

Even before the passage of Fair Pay to Play, the NAIA was examining ways in which it could better support our student-athletes. In 2019, membership passed legislation that expanded existing financial assistance regulations for student-athletes, now allowing for them to receive hospitality-related items/services, gifts from friends, meals, and transportation.

Further discussion is already occurring amongst several governance groups regarding the possibility of name, image and likeness-related legislative proposals for 2020. In concept, these proposals are exploring ways to allow NAIA student-athletes the same or similar opportunities as non-athletes on campus. If successful in this regard, the NAIA should be in a solid position to comply with the various laws under consideration and strike an appropriate balance between our efforts to achieve competitive balance and support our student-athletes as they find ways to pay for the increasing costs of higher education.

