



Could Michigan Highschoolers Soon Benefit from NIL Deals?

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In December of 2020, the state of Michigan, following the national trend, officially passed legislation allowing college athletes to profit from their Name, Image, and Likeness (“NIL”) rights.

Soon, highschoolers in Michigan may also be able to benefit from NIL deals. As of October 19th, 2023, the Michigan House of Representatives passed *House Bill 4816*, which, if approved by the Michigan Senate and signed into law by Governor Gretchen Whitmer, will effectively bar high schools and athletic associations and conferences from preventing student athletes from profiting from NIL deals.

House Bill 4816, also titled the “*Compensation of High School Student Athletes Act*,” is set to implement the following laws:

1. High schools will be prohibited from implementing policies that prevent student athletes from fully participating in sports due to profiting from their NIL rights.
2. NIL earnings must not affect student athletes’ scholarship eligibility or renewal.
3. Athletic associations and conferences must not prevent high schools or student athletes from participating in high school athletics due to a student profiting from their NIL rights.
4. High schools, athletic associations, conferences, and any other groups or organizations with authority over high school athletics, cannot provide prospective student athletes with compensation in relation to their NIL rights.
5. High schools, athletic associations, conferences, and any other groups or organizations with authority over high school athletics must not prevent student athletes from obtaining professional representation in relation to contracts or legal matters regarding opportunities to be compensated for their NIL rights (this includes legal representation by an attorney).

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Name Image Likeness (NIL) Legal Services Team

6. High schools, athletic associations, conferences, and any other groups or organizations with authority over high school athletics cannot prevent student athletes from earning compensation from third parties for their NIL rights, so long as a contract does not require a student to advertise for a sponsor in person during official, mandatory team activities.
7. High schools will be prohibited from revoking or reducing an athletics grant-in-aid or stipend scholarship based on a student earning NIL compensation.
8. High schools, athletic associations, conferences, and any other groups or organizations with authority over high school athletics must not prevent a student from fully participating in sports because the student obtains professional representation regarding their opportunities to NIL compensation.

However, high school student athletes' exercise of their NIL rights will be limited in some ways. For example, high school athletes will not be permitted to enter into apparel contracts that require them to advertise for sponsors during official team activities (if the provision is in conflict with a contract regarding the student's athletic team). Furthermore, student athletes will be required to disclose potential NIL contracts to an official of their high school, for the high school's review, at least 7 days before committing to the opportunity. If there's a conflict between the student's NIL opportunity and any existing agreements of the high school, the high school is required to communicate that conflict to the student so that the student may negotiate a revision of their contract to avoid the conflict. However, a high school's contract cannot prevent a student athlete from receiving compensation for using their NIL rights when the student is not engaged in official team activities.

In addition, high schools or their employees may assist students in earning compensation for the use of their NIL rights. However, high schools and their employees cannot do any of the following: (a) Be a student's agent; (b) Receive compensation for helping the student; (c) Attempt to influence the student athlete's choice of professional representation; (d) Attempt to reduce the student's NIL opportunities; or (e) Attend any meetings where an NIL contract is negotiated or completed.

While introduction of NIL deals into high school athletics provides an exciting opportunity for Michigan high school athletes to profit from their personal brands, working with an NIL attorney who is familiar with state and local high school policies is crucial to ensuring a student athlete's compliance with all applicable regulations and policies.