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Top 3 Takeaways for Collegiate Student-Athlete Sponsors after Ohio Passes NIL Bill

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Last week, Ohio Governor Mike DeWine signed an **executive order** allowing collegiate athletes to benefit from their name, image, and likeness in Ohio. Governor DeWine's executive order came only a few days after Ohio's promising name/image/likeness (NIL) bill stalled in the House of Representatives. The adoption of NIL legislation by state legislators has had a snowball effect – once a few states adopted such legislation, other states have been racing to pass their own to avoid state institutions being at a competitive disadvantage. As of July 1, states such as Alabama, Florida, Georgia, Kentucky, Mississippi, New Mexico, and Texas all have effective NIL laws. Governor DeWine's executive order adds Ohio to that list.

Allowing collegiate athletes to partner with companies and brands benefits both the athlete and the brand. Below are three takeaways from Governor DeWine's executive order for brands and companies looking to engage student-athletes.

1. Ohio Colleges and Institutions Cannot Prevent Student-Athletes from Entering into Endorsement Contracts

As of July 1, student-athletes in the state of Ohio may enter into endorsement contracts where the student-athlete earns compensation for the use of the student-athlete's name, image, or likeness. Governor DeWine's executive order states that no "state institution of higher education or private college shall uphold any rule, requirement, standard, or other limitation" that prevents a student-athlete from entering into such endorsement contracts. Further, a college or institution may not reduce a student-athlete's scholarship because of any endorsement contracts.

2. There are Limitations on Where, When, and What a Student-Athlete May Endorse

Colleges and other institutions maintain some level of control over student-athlete endorsement contracts. For example, student-athletes must not display a sponsor's product during official team activities or

any other time where such sponsorship would be “in conflict with a provision of a contract to which a state institution of higher education or private college is a party.” Student-athletes also must not enter into endorsement contracts to endorse marijuana, alcohol, tobacco, electronic smoking devices, vapor products, adult entertainment, or casinos.

3. Student-Athlete Endorsement Contracts Must Pass through a Conflicts Check with the College or Institution

Student-athletes must also get the approval of their college or institution before they enter into an endorsement contract. The college or institution “shall designate an official to whom the student-athlete is to disclose the proposed contract” and if that contract is in conflict with a contract to which the college or institution is a party, the student-athlete must negotiate revisions to avoid the conflict.

Companies eager to sponsor student-athletes should be aware of the restrictions present in Governor DeWine’s executive order, and any releases, statements, or conflicts with colleges or institutions.

For further information about the NIL law or for information on influencer, sponsor, or endorsement agreements, please contact John Landolfi, Gretchen Rutz, or your Vorys attorney.