

Will Ohio Be Next in Allowing High School Athletes to Profit From NIL?

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Over the next two weeks, May 1 – May 16, 2022, 817 Ohio High School Athletic Association (“OHSAA”) school principals will vote in a referendum on Issue 12B, a proposed bylaw that would allow high school athletes to profit off their name, image and likeness by signing endorsement agreements.

The proposal generally mirrors the [changes made last year](#) expanding the rights of collegiate athletes, and similar high school-level rules have already passed in eight states. Specifically, the proposal would allow high school athletes to enter into endorsement agreements under the following conditions:

- The athlete’s team, school, or the OHSAA logo is not used.
- The endorsing company does not offer products or services that conflict with the OHSAA’s mission of education-based athletics (e.g. no casinos, gambling, alcohol, drugs or tobacco).
- The athlete does not engage in marketing/advertising during any official team activity.
- The agreement cannot require the athlete to display a sponsor’s product, or otherwise advertise for the sponsor, during official team activities.
- The agreement is made solely with the individual athlete and does not provide money, merchandise, services of value or any other benefits directly to the athlete’s school or team.
- The athlete discloses the proposed agreement to their school. Schools are encouraged to specify a specific person to whom such information is to be reported.

The timing of the vote is largely motivated by a class action lawsuit filed against the Florida High School Athletic Association challenging its prohibition against high school athletes from profiting from their name, image and likeness. The OHSAA has explained it cannot afford a similar lawsuit, and desires to shape a bylaw that allows schools to provide input rather than leaving it up to the courts.

The OHSAA has already held informational meetings regarding all 14 of this cycle’s referendum items, including Issue 12B, and voting has commenced. If passed by a majority of member schools voting, the new regulation would become effective May 16, 2022. If it becomes effective, districts will need to determine what policies and procedures will be needed to handle compliance issues and what role, if any, the school will play in reviewing contracts and advising students in this new marketplace.

While many do not believe the referendum will pass this go around, few expect the issue to disappear, and it is likely that litigation will occur, or the issue will continue to be put up for a vote until it passes

If you would like more information about the referendum and the effects should it pass, please contact any of the listed Roetzel attorneys.

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