

Educational Column - 1 Educational Column

Title:

Issues Related to Crowdfunding (I)

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Editor's Note: This educational column was updated October 22, 2015, to reflect issues related to crowdfunding for prospective student-athletes by adding Questions Nos. 2 through 4. Questions Nos. 5 and 8 were revised to clarify the application of the legislation to student-athletes.

In NCAA Division I, under current NCAA legislation, a student-athlete's name or picture cannot be used to promote or to solicit funds for a commercial product or service of any kind. This prohibition applies to traditional, brick-and-mortar businesses, commercial websites, for-profit crowdfunding sites and other online businesses that seek to use a student-athlete's name, picture or likeness for any commercial purpose (e.g., promotion, generation of revenue). Further, a student-athlete may not use his or her name, picture or athletics reputation to solicit funds through a personal online profile or crowdfunding site, except as permitted by NCAA legislation.

This document contains questions and answers to assist the Division I membership in its understanding of how current legislation applies to crowdfunding.

Crowdfunding

Question No. 1: What is crowdfunding?

Answer: Crowdfunding is the practice of funding a project or venture by raising monetary contributions from a large number of people, typically via the Internet.

Prospective Student-Athletes

Question No. 2: Is a prospective student-athlete permitted to set up his or her own profile on a crowdfunding website to solicit funds to pay for expenses associated with competition and practice?

Answer: Yes. A prospective student-athlete who participates in a sport as a member of a team may receive actual and necessary expenses for competition and practice held in preparation for such competition from an outside sponsor other than an agent or a representative of an institution's athletics interests. A prospective student-athlete who participates as an individual in a sport may receive actual and necessary expenses associated with an athletics event and practice immediately preceding the event, from an outside sponsor other than an agent or a representative of an institution's athletics interests.

Additionally, an institutional staff member is not permitted to donate to a prospective student-athlete's crowdfunding website.

Question No. 3: Is a prospective student-athlete permitted to set up his or her own crowdfunding website and use his or her name, picture, athletics reputation or skill to solicit funds to buy items (e.g., laptop, car, food, school supplies, athletics equipment)?

Answer: A prospective student-athlete is not permitted to receive preferential treatment, benefits or services of any kind because of the prospective student-athlete's athletics reputation or skill; however, Division I legislation would permit a prospective student-athlete to fundraise in this manner, provided there is no relationship to nor mention of athletics.

Question No. 4: May an institution or its booster group accept crowdfunding donations on behalf of a prospective student-athlete?

Answer: No. Institutions and its representatives of athletics interests are prohibited from financing, arranging or using recruiting aids designed to publicize the institution's interest in a particular prospective student-athlete. Individuals who make a donation to an institution's athletics program are considered athletics representatives or boosters of the program. Further, the value of the donations provided could unduly or improperly influence the prospect's recruiting decision, contrary to the intent of the legislation.

Student-Athletes

Question No. 5: Is a student-athlete permitted to use his or her name or picture to advertise or promote a for-profit crowdfunding service?

Answer: A student-athlete would only be permitted to promote a for-profit crowdfunding service if the student-athlete became involved in similar activities prior to initial full-time collegiate enrollment at an NCAA institution for reasons independent of athletics ability, no reference is made to the individual's name or intercollegiate athletics involvement, the individual does not endorse a commercial product or service and any remuneration is at a rate commensurate with the individual's skills and experience and is not based on athletics ability or reputation.

Otherwise, a student-athlete is not permitted to use his or her name or picture to advertise, recommend or promote directly the sale or use of a commercial product or service of any kind including a crowdfunding entity. A for-profit crowdfunding site would be considered a commercial product or service under current NCAA legislation.

Question No. 6: Is a student-athlete ineligible for intercollegiate competition if his or her name, picture or likeness appears on a crowdfunding website?

Answer: No. A student-athlete's eligibility would not be impacted until he or she or the institution is aware that student-athlete's name or picture appears on a crowdfunding website. Once the student-athlete or the institution become aware that the student-athlete's name or picture is being used to promote a crowdfunding entity, the student-athlete (or the institution acting on behalf of the student-athlete) is required to take steps to stop such an activity (e.g., send a cease and desist letter) in order to retain his or her eligibility for intercollegiate athletics. If a student-athlete permits a crowdfunding entity to use the student-athlete's name or picture to promote the sale of a commercial product or service, the student-athlete shall not be eligible for participation in intercollegiate athletics based on current NCAA legislation.

Question No. 7: Even if a student-athlete's name, picture or likeness is not being used to promote a crowdfunding entity, is a student-athlete permitted to accept compensation for his or her participation in intercollegiate athletics from a crowdfunding entity?

Answer: No. A student-athlete who receives compensation for his or her athletics skill (directly or indirectly) loses eligibility for participation in intercollegiate competition in that sport.

Question No. 8: Is a student-athlete's eligibility affected if a crowdfunding entity solicits funds during the student-athlete's collegiate enrollment that are earmarked for the student-athlete upon graduation or exhaustion of athletics eligibility?

Answer: Once a student-athlete, institution or conference becomes aware that the use of the student-athlete's name or picture are being used by a crowdfunding entity, the student-athlete or institution or conference acting on behalf of the student-athlete, shall take steps (e.g., cease and desist) to stop the use of the student-athlete's name or picture. Further, a student-athlete should not take any action indicating intent to accept funds after exhausting eligibility.

Once the student-athlete accepts the promise of pay, the student-athlete has jeopardized his or her eligibility for intercollegiate athletics, even if the funds will not be disbursed until after completion of his or her intercollegiate athletics participation.

Question No. 9: Is a student-athlete permitted to set up his or her own profile on a crowdfunding website to solicit funds to pay for expenses associated with competition and practice for an outside team?

Answer: Yes. This is permissible because a student-athlete who participates in a sport as a member of a team may receive actual and necessary expenses for competition and practice held in preparation for such competition from an outside sponsor other than an agent or a representative of an institution's athletics interests. A student-athlete who participates as an individual in a sport may receive actual and necessary expenses associated with an athletics event and practice immediately preceding the event, from an outside sponsor other than an agent or a representative of an institution's athletics interests.

Question No. 10: Is a student-athlete permitted to set up his or her own crowdfunding website and use his or her name, picture, athletics reputation or skill to solicit funds to buy items (e.g., laptop, car, food, school supplies, athletics equipment)?

Answer: No. A student-athlete's eligibility to compete in intercollegiate athletics in a particular sport is jeopardized if he or she uses his or her name, picture, athletics skill or reputation to earn pay in any form in the sport, including funds through a crowdfunding website for items of need.

Question No. 11: Is an institution permitted to use crowdfunding as an institutional fundraiser?

Answer: Yes. An institution may use crowdfunding in conjunction with its institutional fundraising efforts provided provisions of the institutional, charitable, education or nonprofit promotions legislation are satisfied. However, it is not permissible for an institution's crowdfunding to include a co-sponsorship with a for-profit organization and use a current student-athlete's name, image or likeness. Further, anyone donating to the institutional fundraiser would become a representative of athletics interest for that institution.

Question No. 12: Is a student-athlete permitted to use his or her name or picture to advertise or promote a charitable crowdfunding service?

Answer: A student-athlete's name or picture may be used by a charitable crowdfunding service provided the provisions of NCAA Division I Bylaw 12.5.1.1 are met.

[References: NCAA Division I Bylaws 12.1.2 (amateur status), 12.1.2.1.4.3 (expenses from an outside sponsor), 12.1.2.1.6 (preferential treatment, benefits or services), 12.5.1.1 (institutional, charitable, education or nonprofit promotions), 12.5.1.3 (continuation of modeling and other nonathletically related promotional activities), 12.5.2.1 (advertisements and promotions after becoming a student-athlete), 12.5.2.2 (use of a student-athlete's name or picture without knowledge or permission), 13.02.14 (representative of athletics interest), 13.2 (offers and inducements) and 13.4.3.5 (miscellaneous promotions)]

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References

Legislative References			Other
Div.	Number	Title	
I	12.1.2.1.6	Preferential Treatment, Benefits or Services.	References Educational Columns: 0
I	12.5.1.3	Continuation of Modeling and Other Nonathletically Related Promotional Activities After Enrollment.	Educational Columns: 0
I	12.5.2.1	Advertisements and Promotions After Becoming a Student-Athlete.	Proposals: 0
I	12.5.2.2	Use of a Student-Athlete's Name or Picture Without Knowledge or Permission.	
I	13.02.14	Representative of Athletics Interests.	
I	13.2	Offers and Inducements.	
I	13.4.3.5	Miscellaneous Promotions.	
I	12.5.1.1	Institutional, Charitable, Education or Nonprofit Promotions.	
I	12.1.2	Amateur Status.	
I	12.1.2.1.4.3	Expenses from an Outside Sponsor.	