

**THURSDAY, FEBRUARY 10, 2022**  
**LEGAL, RISK AND COMPLIANCE COMMITTEE MEETING**

Elizabeth P. Kessler  
Alan A. Stockmeister  
Jeff M.S. Kaplan  
Elizabeth A. Harsh  
Michael Kiggin  
Tom B. Mitevski  
Tanner R. Hunt  
Gary R. Heminger (*ex officio*)

Location: Watch via livestream at <https://livestream.com/wosu/osubotfeb2022> 8:00-9:30am

**Public Session**

*ITEM FOR DISCUSSION*

1. *Name, Image & Likeness – Mr. Eugene Smith, Mr. Rick Van Brimmer, Mr. Mitchell Pehlke, Ms. Sarah Morbitzer, Mr. TreVeyon Henderson* 8:00-8:20am

*ITEM FOR ACTION*

2. Approval of November 2021 Committee Meeting Minutes – Ms. Elizabeth Kessler

**Executive Session**

8:20- 9:30am

# NIL Presentation

Name, Image and Likeness

February 10, 2022



# Overview

- NCAA issued a directive suspending Name, Image, Likeness restrictions
- NCAA rules limited to No Pay for Play, No fraudulent arrangements, Can't entice prospects to institutions with promise of NIL deals
- Governor DeWine's executive order, codified into ORC Chapter 3376, and institutional SWAT Team
- Ohio State student-athletes are thriving in new environment – over 620 NIL deals
- Most deals are small \$25-\$500 and the average deal is \$4,777, but the average is skewed because of a few six figure NIL deals

# State Law and Key Institutional Guidelines

## STATE LAW

- Allows universities to restrict certain categories (distilled alcohol, gambling, marijuana, tobacco, vapor products, adult entertainment, etc.)
- Disclosure requirements prior to activity
- Does not authorize student-athlete use of university marks

## INSTITUTIONAL GUIDELINES

- Effective 1/24 NIL guidelines have been updated to allow designated Ohio State staff members to be involved in NIL Activities
- NIL activities cannot take place during official team activities
- NIL activities cannot take place on institutional properties unless permission is granted

# SWAT Team

- SWAT team reviews deals but does not approve or provide legal guidance to student-athletes
- SWAT team verifies intellectual property rights under Learfield sponsorship



Doug  
Archie



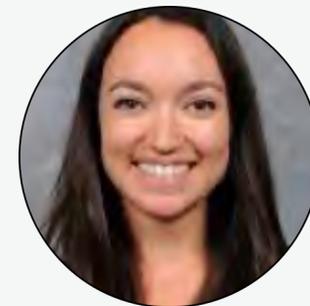
Carey  
Hoyt



Rick  
VanBrimmer



Paia  
LaPalombara



Carly  
Grimshaw



Kevin  
Saghy



Danie  
Daluisio



Amy  
Golian



Julie  
Vannatta



Kendra  
Bauman



Amy  
Rodriguez



Gates  
Garrity-Rokous



Mike  
Steffenmeier



Justin  
Kume

# Challenges of the NIL space

- No national regulations and no Big Ten Conference Standards
- Boosters have created entities geared toward creating NIL deals for student-athletes
- Collectives - crowdfunding model that provides opportunities for fans to support student-athletes and gain exclusive content
- Donor Agreements - Private boosters secured NIL deals for walk-on student-athletes
- Thin line between payment for services and funneling money to student-athletes or prospects
- Inadvertent use of institutional trademarks by third parties and student-athletes

# Provided Services

## **THE DARLOW RULES**

Ohio State purchased an agreement for every Ohio State student-athlete to have log in access to “The Darlow Rules” a guide to becoming an elite marketer by best-selling author Jeremy Darlow

## **OPENDORSE**

Ohio State Athletics hired Opendorse to provide a social media assessment for every student-athlete and purchased the Monitor system to allow for ease of NIL disclosures

## **ANOMALY SPORTS, LLC**

Ohio State Athletics retained Luke Fedlam and Anomaly Sports, LLC to provide NIL education to every Ohio State Team

## **THE OHIO STATE CENTER FOR INNOVATION AND ENTREPRENEURSHIP**

Collaboration and direct connection to the Director to assist student-athletes with starting their own business

## **THE BRANDR GROUP**

Group Licensing Service providing the opportunity to monetize and be compensated as an Ohio State student-athlete



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# The EDGE Team

An internal advisory working group of senior staff from Business Advancement and Athletics to enhance the NIL connections for our student-athletes

## **PURPOSE**

To create and coordinate best in class NIL opportunities for Ohio State Student-Athletes

## **GUIDING PRINCIPLES**

Establish meaningful connections for brands and student-athletes, creative engagements, flexibility to adapt to changing guidelines/legislation

## **STRATEGY**

Coordinate an internal team comprised of senior level staff to assist in the implementation of the newly established guidelines allowing institutional involvement in NIL

## **NIL DESIGNATED STAFF**

Members of The Eugene D. Smith Leadership Institute (Carey Hoyt, Melissa McGhee, Logan Hittle) will be permitted to engage with brands and companies to assist in connections with our student-athletes

Sport Director of Operations will be educated and designated as NIL point of contact for their respective sports. For example, if a request comes in for all walk-on rowers, Carey will work with the Director of Operations for rowing to assist in the connection and coordination of the NIL activity. Director of operations should not initiate or negotiate NIL activities, but may assist with connecting student-athletes as requested by Carey Hoyt



# NIL Group Licensing Model

## OBJECTIVE

Create a group licensing model that allows student-athletes (SA) to assign their NIL rights to an independent third-party service provider to act on their behalf for University + SA merchandise (ex: SA name/number jerseys)



# By the Numbers as of 1/23/22



**619 Disclosures**



**225 unique student-athletes  
engaging in NIL**



**Every Ohio State team has  
at least one NIL deal**



**\$2,985,559.00  
Transaction value**



**Ohio State Top Male Sport  
(Football) – 173 deals  
\$2,678,893.00**

**Average per football deal  
= \$15,537.00**

**National Average = \$2741.00**



**Ohio State Top Female Sport  
(Gymnastics) – 35 deals  
\$31,767.00**

**Average per gymnastics deal  
= \$961.00**

**National Average = \$677.00**

# By the Numbers

## NIL Activities by Sport

<b>SPORT</b>	<b>OHIO STATE</b>		
Men's Football	27.4%	Men's Volleyball	2.8%
Women's Volleyball	8.6%	Men's Baseball	2.2%
Men's Basketball	5.6%	Men's Gymnastics	1.9%
Men's Tennis	5.4%	Men's Track & Field	1.8%
Men's Lacrosse	4.8%	Men's Soccer	1.7%
Men's Wrestling	4.6%	Women's Cheer & Dance	1.6%
Women's Swimming & Diving	4.5%	Women's Tennis	1.5%
Women's Gymnastics	4.1%	Women's Basketball	1.3%
Women's Softball	3.8%	Women's Ice Hockey	1.2%
Women's Rowing	3.7%	Women's Track & Field	0.9%
Men's Swimming & Diving	3.3%	Women's Soccer	0.9%
Women's Lacrosse	3.0%	Women's Field Hockey	0.7%
Men's Ice Hockey	2.9%		



# By the Numbers

## Average NIL Compensation per Social Media post by Sport

SPORT	INSTAGRAM POST 📷		INSTAGRAM STORY 📷		TWITTER POST 🐦	
	OHIO STATE	NATIONALLY	OHIO STATE	NATIONALLY	OHIO STATE	NATIONALLY
Men's Football	\$5,968	\$1,002	\$553	\$389	\$569	\$121
Men's Basketball	\$9,508	\$855	\$124	\$298	\$410	\$100
Women's Basketball	\$56	\$579	\$50	\$386	\$34	\$61
Women's Volleyball	\$20	\$320	\$86	\$168	\$30	\$76
Women's Gymnastics	\$30	\$253	\$84	\$202	\$30	\$36
Men's Baseball	\$13	\$228	\$30	\$119	\$30	\$42
Other Men's Sports	\$206	\$148	\$161	\$75	\$52	\$43
Other Women's Sports	\$100	\$117	\$51	\$422	\$26	\$31

## Ohio State's National NIL Rankings

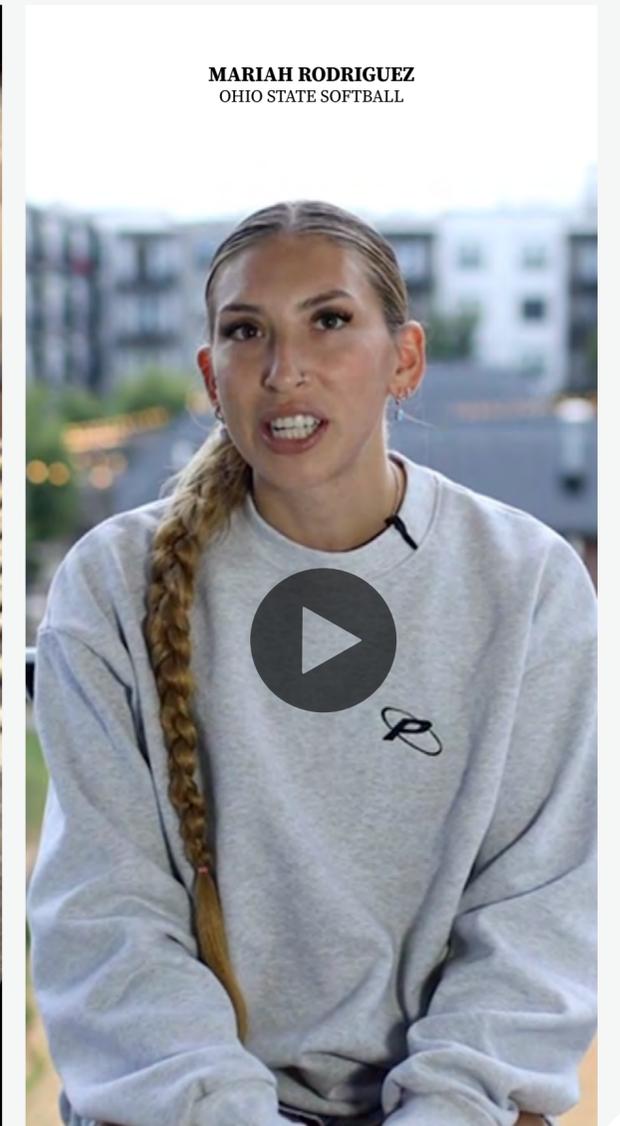
- #1 in NIL compensation
- #1 in number of student-athletes with at least one NIL activity
- #2 in NIL activities
- #2 in NIL compensation per activity
- #2 in % of student-athletes with at least one NIL activity
- #3 in NIL compensation per student-athlete



# Brands Engaging in NIL



# Examples

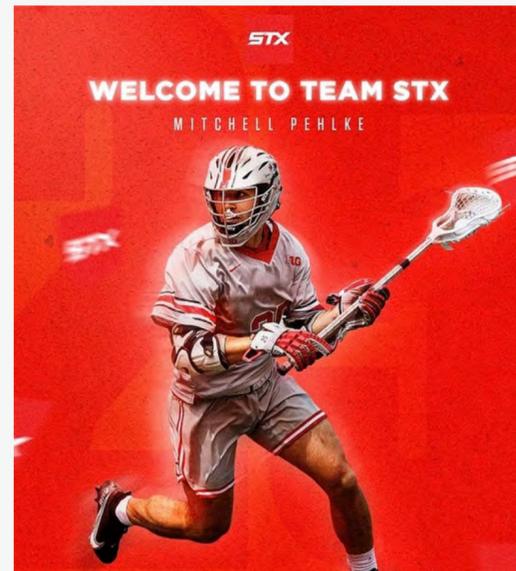


# Examples



**Mitchell Pehlke**  
MEN'S LACROSSE

- Out-of-state tuition scholarship
- YouTube, Tik-Tok, Instagram, Twitter, Facebook, etc.
- Agreement with Degree deodorant
- Agreement with STX



# Examples



**Sarah Morbitzer**  
WOMEN'S VOLLEYBALL

## Sarah Sue Morbitzer

- Sophomore Defensive Specialist for The Ohio State University
- 2019 AAU National Champion
- 2019 1st Team All-Ohio
- Three Time Mid-State League Player of the Year
- Four Time 1st Team Mid-State League

Training Sessions will be held at  
Hamilton Township High School  
1105 Rathmell Road  
Columbus, Ohio 43207  
(Enter the school through door #13 located at the  
back of the building.)

## TRAINING DATES

July 14 12:00 - 1:00  
July 15 3:00 - 4:00  
July 19 12:00 - 1:00  
July 20 12:00 - 1:00  
July 21 12:00 - 1:00  
July 22 3:30 - 4:30  
July 23 12:00 - 1:00

## TRAINING COST

\$25 Per Session  
(check, cash or Venmo)

## TRAINING FOCUS

Defense, Serve Receive  
and Ball Control

## SIGN-UP LINK

<https://bit.ly/3dT9QAK>

MORBITZER  
TRAINING  
SESSIONS



# Examples



Treveyon Henderson  
FOOTBALL



**Thank You.**



**SUMMARY OF ACTIONS TAKEN**

*November 18, 2021 – Legal, Risk & Compliance Committee Meeting*

**Voting Members Present:**

Elizabeth P. Kessler  
Alan A. Stockmeister  
Jeff M.S. Kaplan

Elizabeth A. Harsh  
Tom B. Mitevski  
Tanner R. Hunt

Gary R. Heminger (ex officio)

**Members Present via Zoom:**

Michael Kiggin

**Members Absent:**

N/A

**PUBLIC SESSION**

The Legal, Risk & Compliance Committee of The Ohio State University Board of Trustees convened on Thursday, November 18, 2021, in person at Longaberger Alumni House on the Columbus campus and virtually over Zoom. Committee Chair Elizabeth Kessler called the meeting to order at 1:29 p.m.

***Items for Discussion***

1. **Annual Affiliated Entities Report:** Senior Associate Vice President and Deputy General Counsel Matt Albers and Senior Assistant Vice President and Senior Associate General Counsel Heidi McCabe shared the annual report on Ohio State's affiliated entities. For background, in June 2008, the Board adopted a Policy on Affiliated Entities that focuses on preserving the separateness of these entities while also maintaining oversight of the valued relationships. The university currently has 29 affiliated entities, including OSU Physicians, which is led by Dr. Arick Forrest, President, and Kyle Sharp, Executive Director. Dr. Forrest and Mr. Sharp joined this presentation to offer an overview of OSU Physicians, its work and its connection to Ohio State.

*(See Attachment X for background information, page XX)*

2. **Conflict of Interest & Conflict of Commitment Policies:** Vice President and Chief Compliance Officer Gates Garrity-Rokous discussed critical areas of policy improvement, historical challenges and the overall strategy that has been in place since 2014 to align and simplify the university's conflict of interest and conflict of commitment policies and processes.

*(See Attachment X for background information, page XX)*

3. **Risk Management Leadership Introduction:** Senior Vice President for Business and Finance and CFO Michael Papadakis introduced Fitzroy Smith, who joined the Office of Enterprise Risk Management in September as the Associate Vice President and Chief Risk Officer. In this role, he will advise the Board of Trustees, University President, President's Cabinet, the university Risk Committee and other stakeholders related to the university's risk environment, insurance needs and business continuity processes. He most recently served as Assistant Vice President for Risk Management & Insurance for George Washington University and Medical Faculty Associates.

***Items for Action:***

1. Approval of Minutes: No changes were requested to the August 19, 2021, meeting minutes; therefore, a formal vote was not required, and the minutes were considered approved.

**EXECUTIVE SESSION**

It was moved by Ms. Kessler, and seconded by Mr. Stockmeister, that the committee recess into executive session to consult with legal counsel regarding pending or imminent litigation, to consider business-sensitive trade secrets required to be kept confidential by federal and state statutes, and to discuss personnel matters regarding the appointment, employment and compensation of public employees.

A roll call vote was taken, and the committee voted to go into executive session, with the following members present and voting: Ms. Kessler, Mr. Stockmeister, Mr. Kaplan, Mrs. Harsh, Mr. Kiggin, Mr. Mitevski, Mr. Hunt and Mr. Heminger.

The committee entered executive session at 1:50 p.m. and the meeting adjourned at 3:05 p.m.

DRAFT