



# THE DRAKE GROUP

Advancing Positive Legislative Change  
In College Athletics



**TO:** **Hannah Zack, Alice Yao, Suzanne Goldberg**

**FROM:** **Andrew Zimbalist, President, The Drake Group**  
[AZimbalist@realizingthepromise.org](mailto:AZimbalist@realizingthepromise.org) **413-320-1810**

**RE:** **ED-OCR Listening Session – March 9, 2023 – 2:30 pm EDT**  
**Title IX-Athletics – Need for Guidance on NIL Circumstances**

First, many thanks for this opportunity to discuss the new Name, image and Likeness (NIL) arena in school sports. We believe that the assistance of DOE/OCR is necessary to ensure gender equity and compliance with Title IX in this new environment. Accordingly, we request that the OCR explicitly apply its existing guidance to the new NIL fact situations. Please find herein a suggested structure for this session. Rather than make a formal presentation, the following is an executive summary of the new NIL circumstances and the questions we believe DOE/OCR should consider regarding issuing guidance to the school/college community. Respectfully, and for the purpose of wise use of our limited time, we suggest answers to these questions and look forward to discussing whether these answers are correct. Also, I've attached brief bios of our Drake Title IX-athletics team who will be on the call.

## **NIL Facts and NCAA Enforcement – New Circumstances Which Require the Application of Previous OCR Guidance and Title IX Rules and Requirements**

### **A. BACKGROUND: HOW ATHLETICS PROGRAMS OPERATE IN TITLE IX COVERED AREAS.**

Athletics governance associations consisting of member institutions, all of which must comply with Title IX, promulgate rules by vote of education institution members that limit scholarship support of athletes to educationally-tethered expenses; set limits on the number of scholarships that can be awarded in each sport; designate a limited number of individuals who can be supported to recruit athletes; prohibit alumni, fans or other third parties from participating in such recruiting or providing financial or other incentives to athletes to attend or remain at their institutions; limit the number of individuals permitted to coach or provide instructional benefits and set limits that allow institutions to fulfill their obligations under federal law to equally provide male and female athletes with athletics participation opportunities, financial aid, admissions, recruiting and other treatment and benefits as required by federal law. These rules allow representatives of athletics interest (“boosters”) to advance the institution’s recruiting function by contributing donations to the institution

and federal law supports such purpose by permitting tax deductions for such purposes. The institution then ensures that such donations equally benefit male and female athletes.

**A.1. New circumstance: The NCAA has stopped enforcing rules limiting boosters from being involved in recruiting or offering anything of value as an inducement to attend or remain at an institution regarding NIL employment (as opposed to improper benefits or rules unrelated to employment).**

**A.2. New circumstance: Boosters have formed external organizations (NIL collectives) for the express purpose of providing NIL employment to prospective and current athletes to assist the institution in athletics recruiting, publicity, and promotion. While institutions are arguing that they do not control these collectives, the institutions, in fact, are significantly involved in the collectives' activities in terms of allowing use of their facilities, encouraging institutional donors to support the collective, sharing institutional assets such as ticket lists or seating privileges, appearing at collective events, and much more.**

**B. BACKGROUND: HOW ATHLETICS PROGRAMS OPERATE WITH REGARD TO OUTSIDE EMPLOYMENT.**

In order to ensure that athletes' outside employment is not for the purpose of recruiting or retention, NCAA rules promulgated by vote of institutions to which Title IX applies, allow outside employment conditioned on such employment being (1) for work actually performed, (2) in return for compensation commensurate with going rates in the locale, and (3) not offered as an inducement to attend or remain at an institution. Previous rules prohibiting employment based on athletic skill or notoriety are still in the NCAA Rules Manual but are directly in conflict with new rules issued.

**B.1. New circumstance: New NCAA rules passed in July 2021 permit athletes to monetize their NILs as long as the payments came from third parties. However, these rules did not include any requirement that the rates be commensurate with going rates in the locale. The new rules provided that (1) the work be performed (quid pro quo); (2) not be pay for play, and (3) not be an inducement to recruit or retain an athlete.**

**B.2. New circumstance: The NCAA has stopped enforcing its longstanding employment rules that rates be commensurate at going rates in the locale.**

**B.3. New circumstance: NIL collectives, many now with non-profit 501(c)(3) status, exist for the purpose of providing NIL employment opportunities to athletes. To our knowledge, all NIL collectives have been formed to benefit athletes from a single institution. Some collectives are organized to benefit single sex sports, others serve multiple sports but**

benefit more athletes of one sex, and some indicate they exist to benefit all sports.<sup>1</sup> However, data indicates that male athletes are favored with regard to numbers of NIL deals and the compensation values of those agreements.<sup>2</sup> NIL collectives are paying large sums of money unrelated to the marketplace value of the service rendered by the athlete (i.e., the collective paying all offensive linemen \$50,000 per year), especially in revenue sports. Rather, these sums reflect “roster values” based on the collective’s estimate of recruiting or retention value to the institution, especially in revenue producing sports. Collectives’ NIL payments represent compensation and/or benefits (cars, free merchandise, etc.) in excess of the institution’s financial aid limitations: (1) scholarship compensation limited to educational expenses and benefits and cost of attendance stipends, (2) other compensation or benefits as long as they are “tethered to education” per the SCOTUS Alston decision, and (3) NCAA rules prohibiting “pay to play.” The collectives recruiting activities also exceed NCAA rules that limit recruiting to designated numbers of institutional coaches who are allowed to recruit. Collectives recruiting activities ignore the institution’s Title IX obligation to treat males and females equally regarding transporting or entertaining prospective athletes. Recruiting is a specified item in the Title IX “laundry list.” The collectives are engaged in recruiting, promotion, and publicity (billboards, programs, ads in the paper) on the institution’s behalf. The institution is aiding, delegating, or otherwise supporting the collectives’ activities.

**B.4. New circumstance:** Many NIL collectives have received 501(c)(3) non-profit status from the IRS under the guise of providing NIL opportunities to benefit charitable organizations, contending that the offer of employment benefits designated charities. Even if the employment is of value to a charity, such deals are also intended to benefit the recruiting or retention interests of the institution.<sup>3</sup>

**C. BACKGROUND: HOW ATHLETICS PROGRAMS OPERATE WITH REGARD TO OUTSIDE BOOSTER CLUBS OR FOUNDATIONS ESTABLISHED SPECIFICALLY TO SUPPORT ATHLETICS OR THE INSTITUTION.**

Institutions have long been obligated to comply with Title IX where they assist external athletics booster organizations that contribute funds to the institution. The institutions

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<sup>1</sup> On3.com tracks the existence of NIL collectives and their stated purposes. See: <https://www.on3.com/nil/collectives/>

<sup>2</sup> There is no central repository of NIL data. However, Opendorse, the largest third-party provider providing services regarding such agreements, has produced a January 2023 report disaggregating the male versus female deals and compensation values of the deals of which they are aware. See: <https://biz.opendorse.com/nil-insights/>

<sup>3</sup> As a result, it is reasonable to expect boosters to donate less to athletic departments with a likely consequence that schools will maintain funding levels of revenue sports and cut non-revenue producing teams—with obvious impacts on women’s sports, including more attempts to manipulate numbers so that it appears that a school is Title IX compliant.

receive contributions from such entities and must apportion such contributions in a manner that permits equal treatment of males and female athletes.

**C.1. New Circumstance: The outside NIL collective collects money on behalf of advancing the recruiting interest of the institution but does not contribute those funds to the institution. Instead, the money flows to athletes in the form of NIL employment. Institutions, who long have been obligated to comply with Title IX, are aiding, delegating, or otherwise supporting NIL collectives for the purpose of advancing their recruiting or retention interests, with full knowledge that the collectives are not providing equal treatment of male and female athletes.**

**C.2. Moreover, collectives are providing publicity and promotion to athletes with whom they have provided NIL deals and, as cited above, the amount of compensation and numbers of NIL deals favor male athletes.**

**C.3. Institutions are promoting the NIL collective deals provided by their respective NIL collectives to advance their recruiting interests.**

#### **SUGGESTED GUIDANCE REITERATING INSTITUTIONS' TITLE IX OBLIGATIONS**

##### **Institutional Obligations to Treat Male and Female Athletes Equally in Publicity, Promotion, Recruiting and Financial Aid**

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**Q1: Does Title IX require institutions to equally support male and female athletes in publicity, promotion, recruiting and the provision of athletics-related financial aid?**

A: Yes.

Publicity, promotions, and recruiting: Institutions must provide equitable benefits with regard to publicity, promotion and recruiting. They must actively assess whether they are providing an equal percentage of male and female athletes (not teams) with such benefits and treatment. OCR has always examined factors such as:

- NCAA member annual financial reports of expenditures disaggregated by team to determine whether equal proportions of recruiting dollars are provided to male and female coaches.
- NCAA member annual financial reports of expenditures disaggregated by team to determine whether equal proportions of fundraising, marketing and promotional dollars are provided to male and female coaches.
- Whether men's and women's teams are permitted to recruit the same quality athletes
- Whether male and female prospective athletes visiting campus are provided with the same treatment and benefits.
- Whether the number of campus visits provided to male and female athletes are proportional to their athletic participation.

- Whether male and female athletes are provided with the same television exposure.
- Whether male and female athletes are provided with the same radio, print, television, and social media promotion.

**Financial aid:** Institutions must provide equitable athletics-related financial aid. The aid provided to male and female athletes must be proportional to their participation in athletics. If the institution is complying with the Prong One participation option, the percentage of male and female athletes must be proportional to male and female undergraduate enrollment.

If inequities are identified in any of these categories, OCR requires institutions to immediately act to remedy these inequities.

**Q2: Is there is a distinction between the *valuation* of media rights or NIL agreements that are dictated by the marketplace and not controlled by the institution and the institution's effort to provide equal publicity, promotion, and recruiting?**

A: Yes, the institution's Title IX obligation is to demonstrably seek equal television exposure at fair market value and provide equal promotion, publicity, and recruiting support for its male and female athletes. Similarly, institutions must make the same effort to support NIL opportunities for male and female athletes, as opposed to generating the same compensation that is dictated by marketplace.

**Q3: May institutions enter into a group licensing program that does not benefit men and women equally? (Example: group licensing programs may involve a video game manufacturer that separately enters into NIL agreements with the institution and one or more current former or current athletes respectively, providing each with royalties.)**

A: No...unless multiple separate sex sport group licensing agreements are entered into which benefit an equal proportion of male and female athletes (recognizing that the market value may differ). Institutions may not permit a larger proportion of male athletes to use institutional assets for private gain.

**Q4: May an institution enter into co-licensing, group-licensing, revenue-sharing, or other athlete compensation agreements which benefit a larger proportion of male than female athletes? (Example: co-licensing agreement that involves an institution that enters into an agreement with a third party to produce game jerseys for sale with the name and/or number of an athlete on the back and school logos on the front, group-licensing agreement that involves an institution that enters into an agreement with a third party video game manufacturer to use the name or image of the institution and the third party separately contracts with the institution's athletes to use their NILs in the game, etc.)**

A: No, unless multiple separate sex sport group licensing agreements are entered into which benefit an equal proportion of male and female athletes (recognizing that the market value may

differ). Institutions may not permit a larger proportion of male athletes to use institutional assets for private gain.

**Q5: May an institution provide educational sessions on branding, financial literacy, taxes, entrepreneurship, and social media requirements to male but not female athletes?**

A: No, general education on any of these topics or similar topics must be equally provided to male and female athletes whether delivered by the athletic department, another department within the institution, or a third-party provider hired for that purpose. OCR will examine such factors as the number and length of educational sessions and the number of male and female athletes attending each session.

**Institutional control of external programs and activities by third party individuals or businesses**

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**Q6. Can an institution be held responsible under Title IX for the activities of a third party that discriminates on the basis of sex?**

A. Yes, OCR will assess whether the institution has been sufficiently involved in assisting, delegating, or otherwise supporting third parties such as individuals or collectives that engage in sex discrimination then the institution will be found responsible under Title IX.

With respect to assessing what is “sufficiently involved,” any one of the following practices shall suffice to show significant involvement between the institution and the third-party individual or collective’s activities, and shall be attributed to the institution:

- Athletics department staff member (or company owned by staff member) representing enrolled athletes for NIL deals, including securing and negotiating deals on behalf of the athlete.
- Any individual or entity acting on behalf of the athletics department (e.g., third-party rights holders, third-party agents) representing enrolled athlete for NIL deals, including securing and negotiating deals on behalf of the athlete.
- Institution entering into a contract with an athlete for the sale of product related to the athlete’s NIL (co-licensing, group licensing, etc.).
- Conference and institution athlete revenue sharing: broadcast revenue, NIL revenue, etc.
- Institutional staff members who own businesses separate from the institution, providing NIL deals with an athlete.
- Institutional coach compensating athlete to promote the coach’s camp.
- Athlete receiving compensation from institution directly or indirectly for promoting an athletics competition in which they participate.

When the institution has not engaged in any of the NIL activities described above, the OCR will examine the totality of the following circumstances to determine if the institution’s involvement in obtaining NIL opportunities for the athlete is sufficient to hold the institution responsible under Title IX. The following factors related to institutional involvement will be considered:

- Engages the NIL third party to inform athletes of NIL opportunities.

- Engages the NIL third party to administer a marketplace that matches athletes with NIL opportunities without involvement of institution.
- Provides information to athletes about opportunities of which the institution has become aware or transmits information without further involvement.
- Provides athlete contact information and other directory information to the NIL entity (e.g., collectives and others seeking to engage athletes).
- Provides stock and/or stored photo/video/graphics to an athlete or the NIL entity to utilize in athlete promotions or NIL employment.
- Introduces athletes to representatives of the NIL entity.
- Arranges space for the NIL entity and athlete to meet on campus or in the institution's facilities.
- Promotes the athlete's NIL activity, whether or not such promotion requires value or cost to the institution (e.g., retweeting or liking a social media post).
- Promotes the athletes' NIL activity on a paid platform unless the athlete or NIL entity is paying going rate for such advertisement (e.g., NIL entity pays for advertisement on video board).
- Purchases items related to an athlete's NIL deal that are de minimis in value or for the same rate available for the general public.
- Staff member assists the NIL entity in raising money for the NIL entity (e.g., appearances at fundraisers, donates autographed item, urges support through written or electronic communications, media interviews or public appearances).
- Provides institutional assets (e.g., tickets, suite) to the NIL entity under a sponsorship agreement unless such access to assets are available to and on the same terms, as other sponsors.
- Requests donor to provide funds to the NIL entity with or without such funds being used for a specific sport or athlete.
- Provides institutional donor or ticket purchaser information or facilitates meetings between donors and the NIL entity.

**Q7: Are there any gender equity restrictions on individuals or individual businesses that enter into NIL agreements with individual athletes or groups of athletes without the involvement of the institution?**

A: No.

**Institutional Control of External Programs and Activities by Third-party Organizations Consisting of Boosters that Support NIL Employment of Athletes from a Single Institution**

**Q8: If a school is out of compliance with Title IX with regard to promotions, publicity, recruiting, or athletics related financial aid, can it provide any assistance to a third-party organization such as a NIL collective that provides financial assistance to the school's students and over which it has no control with regard to the provision of amounts of financial assistance?**

A: No. A school cannot provide significant assistance to a third party that discriminates on the basis of sex without violating Title IX. As stated in OCR's January 14, 2021, guidance regarding single-sex scholarships whether schools are providing significant assistance to third parties "will turn on the facts and circumstances of specific situations." (40 Fed. Reg. at 24132). See also 34 C.F.R. § 106.31(b)(6) ("A school may not aid or perpetuate discrimination by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees."). See 40 Fed. Reg. at 24132. designation of faculty sponsors, or the use of campus facilities at less than fair market value if a club is not officially recognized or sponsored by a school, Title IX is implicated only when the school's involvement is "so significant that the activities of the [club] are fairly imputable to the [school] itself." Brief for Respondent Secretary of Education, at 6-7, sub nom. Iron Arrow Honor Society v. Schweiker, 458 U.S. 1102 (1982) (No. 81-835) (explaining 34 C.F.R. § 106.31(b)(6)). "Schools must not solicit, list, approve, provide facilities or services for, or assist any third party providing financial assistance to the school's students in a manner that discriminates on the basis of sex. " See also 34 C.F.R. § 106.37(a)(2).

**Q9: If a school is not out of compliance with Title IX, can it provide assistance to any third party that discriminates on the basis of sex in providing any aid, benefit, or service to students or employees or that is recruiting on its behalf and over which it does not have control with regard to recruiting, promotion, publicity, or financial aid?**

A. Same answer as above. See also letter from OCR to Ricky Volante (Exhibit A attached) in response to his letter date July 3, 2012, where the OCR stated that it prohibits schools "from aiding or perpetuating discrimination by providing significant assistance to any outside organization that discriminates on the basis of sex in providing any aid, benefit or service to students or employees.\*\*\* The Title IX regulations prohibit recipients from aiding or perpetuating discrimination by providing significant assistance to any outside organization that discriminate on the basis of sex in providing any aid, benefit or service. The letter further states that an institution that assists an outside organization in making employment available to any of its students must assure itself that such employment is made available without discrimination of the basis of sex and not render such services to any agency, organization or person which discriminates on the basis of sex in its employment practices."

**Q10: Does designation of an NIL Collective as "the official collective" of an institution, automatically result in a determination of providing "significant assistance"?**

A: Yes, OCR has long interpreted "significant assistance" to include a school's "giving an organization special status or privileges that it does not offer to all community organizations," including "official recognition of the organization, the designation of faculty sponsors, or the use of campus facilities at less than fair market value."

**Q11. How does the institution determine whether an NIL collective or other organization discriminates on the basis of sex?**

A. OCR shall consider the following factors as demonstrating that the collective engages in discrimination on the basis of sex if it is:

- Formed just for male athletes or male sport teams.
- Formed for selected men's and women's sports that do not represent an equal proportion of male v. female athletes.
- Includes all sports but the promotional and publicity activities of the collective or organization favors one sex over the other.
- Includes all sports but the number of deals and dollar amounts favors men's vs. women's sports based on proportion of males v. female athletes or Prong 1 compliance (proportional to enrollment)
- Makes representations that a specific value of NIL deals will be provided to athletes of one sex but not the other.
- The donor/NIL employer solicitation material specifically promotes recruiting benefits or purposes that it will favor men's vs. women's sports.

**Q12: Is an institution permitted to assist any outside third party that is recruiting on its behalf and over which it does not have control with regard to recruiting, promotion, publicity, financial aid, treatment or benefits?**

A: No. See above. See also letter from OCR to Ricky Volante (Exhibit A attached) in response to his letter date July 3, 2012, where the OCR stated that it prohibits schools "from aiding or perpetuating discrimination by providing significant assistance to any outside organization that discriminates on the basis of sex in providing any aid, benefit or service to students or employees.\*\*\* The Title IX regulations prohibit recipients from aiding or perpetuating discrimination by providing significant assistance to any outside organization that discriminates on the basis of sex in providing any aid, benefit or service. The letter further states that an institution that assists an outside organization in making employment available to any of its students must assure itself that such employment is made available without discrimination of the basis of sex and not render such services to any agency, organization or person which discriminates on the basis of sex in its employment practices."

#### **Obligations of Governance Organizations That Consist of Members to Which Title IX Applies**

**Q13: Does Title IX apply to rules or policies of conferences and national governing organizations that consist of members to which Title IX applies, that result in discriminatory treatment of males v. female athletes, including, but not limited to, the treatment of the institutions' athletes at conference and national championship post-season or other events?**

A: Yes. See the Civil Rights Restoration Act of 1987. 20 USC 1687(4). Institutions that are subject to Title IX cannot avoid being responsible under Title IX by combining to form a third entity. There is a compelling legal argument that Title IX applies to intercollegiate conferences and national governing organizations, including the NCAA. The only Supreme Court case to address the issue

is *NCAA v. Smith*, 525 U.S. 459 (1999). There the Supreme Court held that membership dues from educational institutions were not a sufficient basis upon which to hold the NCAA subject to Title IX. However, the Court indicated that a different theory – the controlling authority theory – might be a sufficient basis upon which to hold that Title IX applies to the NCAA. The Court explained that the controlling authority theory – “when a recipient of federal funds cedes controlling authority over a federally funded program to another entity, the controlling authority is covered by Title IX regardless of whether it is itself a recipient”. This argument was not asserted in the lower courts in the case and therefore was not decided by the Supreme Court. Further, the Supreme Court admonished that “entities that receive federal assistance, whether directly or indirectly through an intermediary, are recipients within the meaning of Title IX.”<sup>4</sup>

**Q14: May the conferences and national governing organizations that consist of members to which Title IX applies conduct pre- or post-season championships, programs, promotions, or other events that results in the more favorable treatment of male v. female athletes?**

A: No. See answer above.

**Q15: Is the failure of conferences and national governing organizations (that consist of members to which Title IX applies) to enforce rules which permit member institutions to comply with Title IX tantamount to promulgating rules that result in sex discrimination?**

A: Yes.

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<sup>4</sup> See also *Communities for Equity v. Michigan High School Athletic Ass'n.*, 80 F. Supp. 2d 729 (W.D. Mich. 2000), the court explained: "any entity that exercises controlling authority over a federally funded program is subject to Title IX, regardless of whether that entity is itself a recipient of federal aid.... Because the plain meaning of Section 902 of Title IX does not limit the class of defendants to recipients of federal funds... and because holding otherwise would be nothing more than empty formalism, the court concluded that any entity that exercises controlling authority over a federally funded program is subject to Title IX, regardless of whether that entity is itself a recipient of federal aid." *Id.* at 930

## EXHIBIT A – VOLANTE LETTER

← **Tweet**



**Ricky Volante**

@RickyVolante13

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Replying to @RickyVolante13 @achristovichh and @andyhre

Here is the reply from OCR. Seems to directly address what is now an NIL collective in Paragraph 4.

Dear Ricky Volante:

Thank you for your July 3, 2017, letter to the U.S. Department of Education's Office for Civil Rights (OCR) regarding the HBCU League's plan to form and operate a men's collegiate basketball league and to "provide payment to players above and beyond cost of attendance (COA) scholarships in the form of a salary."

As you know, OCR is responsible for enforcing, among other civil rights statutes, Title IX of the Education Amendments of 1972, which prohibits sex discrimination in all educational programs and activities, including athletic programs, receiving Federal financial assistance from the Department. Although OCR does not give legal advisory opinions or offer opinions or guidance about specific facts without first conducting an investigation, we are happy to provide information about the laws that OCR enforces.

Title IX requires recipient institutions to provide equal athletic opportunities for members of both sexes. 34 C.F.R. § 106.41(c). And if a recipient awards athletic financial assistance, it must provide reasonable opportunities for such awards for members of each sex in proportion to the participation rates of student-athletes of each sex. 34 C.F.R. § 106.37(c).

Title IX obligations are not obviated or alleviated by a rule or regulation of an outside organization or league. 34 C.F.R. § 106.6(c). Indeed, a recipient institution may violate Title IX when it assists an outside organization that engages in sex discrimination. As part of its broad prohibition on sex discrimination, the Title IX regulations prohibit recipients from aiding or perpetuating discrimination by providing significant assistance to any outside organization that discriminates on the basis of sex in providing any aid, benefit or service to students or employees. 34 C.F.R. § 106.31(b)(6). Similarly, a recipient that assists an outside organization in making employment available to any of its students must "assure itself that such employment is made available without discrimination on the basis of sex" and "not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices." 34 C.F.R. § 106.38(a). Additional resources are available on OCR's website at [www.ed.gov/ocr/frontpage/fas/readingroom.html](http://www.ed.gov/ocr/frontpage/fas/readingroom.html).

Correspondence issued by OCR in response to an inquiry from the public does not constitute a formal statement of OCR policy and should not be construed as creating or articulating new policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Sincerely,

Program Legal Group  
Office for Civil Rights  
U.S. Department of Education

10:45 AM · Jan 20, 2023 · 1,085 Views

Thought you all might be interested in a copy of the response Ricky Volante got from OCR in 2017 when the HBL was initially created. (He posted it on twitter so it isn't confidential).

<https://twitter.com/RickyVolante13/status/1616461833396981760?t=yBk9DJxdvq0ti0CW-w70Q&s=19>

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## MARCH 9, 2023 MEETING -- ATTENDEES FROM THE DRAKE GROUP

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**ANDREW ZIMBALIST, Ph.D., Robert A. Woods Professor Emeritus of Economics, Smith College, The Drake Group President;** President, The Drake Group and Vice Chair of The Drake Group Education Fund. Dr. Zimbalist has consulted in Latin America for the United Nations Development Program, the U.S. Agency for International Development, and numerous companies and, in the sports industry, for players' associations, cities, companies, citizens groups, teams and leagues. He has published several dozen articles and twenty-seven books, including *Unpaid Professionals: Commercialism and Conflict in Big-time College Sports* (1999), *The Economics of Sport, I & II* (2001), *Unwinding Madness: What Went Wrong with College Sports and How to Fix It* (2017) with Gerry Gurney and Donna Lopiano, and *Whither College Sports* (2021).

**DONNA A. LOPIANO, Ph.D. Adjunct Professor of Sports Management, Southern Connecticut State University, The Drake Group Past-President;** President of Sports Management Resources, a consulting firm; Past-President of The Drake Group; member of The Drake Group Education Fund Board of Directors; former CEO of the Women's Sports Foundation (1992-2007) and Director of Women's Athletics, University of Texas at Austin (1975-1992). Author, *Athletic Director's Desk Reference* with Connee Zotos.

**JULIE SOMMER, Attorney, The Drake Group President-Elect;** expert on the status of state NIL bills, The Drake Group liaison to the Uniform Law Commission that developed a model NIL statute, and author of a comparative analysis of current federal NIL bills. Julie is a member of the Washington State Bar Association, King County Bar Association and Sports Lawyers Association; former NCAA All-American swimmer at the University of Texas at Austin, member of an NCAA National Championship team, USA Swimming National Team member and listed among the top ten in World Swim Rankings.