

# Interim NIL Policy

The NCAA is committed to ensuring that its rules, and its enforcement of those rules, protect and enhance student-athlete well-being and maintain national standards for recruiting. Those goals are consistent with the NCAA's foundational prohibitions on pay-for-play and impermissible recruiting inducements, which remain essential to collegiate athletics.

As the NCAA continues to work with Congress to adopt federal legislation to support student-athlete use of NIL, it is necessary to take specific, short-term action with respect to applicable NCAA rules. Accordingly, effective July 1, 2021, and until such time that either federal legislation or new NCAA rules are adopted, member institutions and their student-athletes should adhere to the guidance below:

**1.** NCAA Bylaws, including prohibitions on pay-for-play and improper recruiting inducements, remain in effect, subject to the following:

- **For institutions in states without NIL laws or executive actions or with NIL laws or executive actions that have not yet taken effect**, if an individual elects to engage in an NIL activity, the individual's eligibility for intercollegiate athletics will not be impacted by application of Bylaw 12 (Amateurism and Athletics Eligibility).
- **For institutions in states with NIL laws or executive actions with the force of law in effect**, if an individual or member institution elects to engage in an NIL activity that is protected by law or executive order, the individual's eligibility for and/or the membership institution's full participation in NCAA athletics will not be impacted by application of NCAA Bylaws unless the state law is invalidated or rendered unenforceable by operation of law.
- Use of a professional services provider is also permissible for NIL activities, except as otherwise provided by a state law or executive action with the force of law that has not been invalidated or rendered unenforceable by operation of law.

**2.** The NCAA will continue its normal regulatory operations but will not monitor for compliance with state law.

**3.** Individuals should report NIL activities consistent with state law and/or institutional requirements.





## NCAA Division I Institutional Involvement in a Student-Athlete's Name, Image and Likeness Activities

### Background:

Effective July 1, 2021, the NCAA adopted the Interim Name, Image and Likeness (NIL) Policy allowing NCAA student-athletes the opportunity to benefit from their NIL without jeopardizing their NCAA eligibility. A November 2021 question-and-answer document clarifies that schools may not use NIL transactions to compensate student-athletes for athletics participation or achievement or as an improper inducement. Further, the Q&A states that schools should not dictate how student-athletes use their compensation (e.g., should not require student-athletes to use compensation for financial aid). Although not under the NCAA's purview, it also raised other potential issues, such as claims for contractual nonperformance, Title IX issues and employment issues to which campus compliance, Title IX and general counsel staff should be consulted. Finally, the Q&A states that institutions should not provide compensation in exchange for the use of a student-athlete's name, image or likeness.

In May 2022, the NCAA Division I Board of Directors released additional guidance related to the NIL interim policy stating that institutional coaches and staff may not organize, facilitate or arrange a meeting between a booster/NIL entity and a prospective student-athlete or communicate directly or indirectly with a prospective student-athlete on behalf of a booster/NIL entity. However, the guidance did not specifically extend this prohibition to involvement with NIL activities for currently enrolled student-athletes. Further, a July 2022 Q&A provides more clarification surrounding the prohibition of institutional involvement with boosters, NIL Collectives and prospective student-athletes; however, it does not specifically address institutional involvement with NIL activities for currently enrolled student-athletes.

In order to maintain key principles of fairness and integrity across the NCAA and reinforce rules prohibiting improper institutional involvement and pay-for-play, the NCAA Division I Board of Directors issued the following guidance to clarify the application of existing NCAA legislation and the NIL policy in the current NIL environment, specifically addressing institutional involvement in enrolled student-athletes' NIL activities.

### Applicable Legislation:

Per NCAA Division I Bylaw 11.1.3, athletics department staff members are prohibited from representing a prospective student-athlete or enrolled student-athlete in marketing their athletics ability or reputation. Further, per Bylaw 12.1.2-(a), a student-athlete may not use athletics skill (directly or indirectly) for pay in any form. Additionally, per Bylaw 12.5.1.1-(f), institutions may not compensate a student-athlete in exchange for the use of their NIL. Finally, while Bylaw 16.02.3 generally prohibits an institutional staff member or booster from providing a student-athlete with a special arrangement or benefit, Bylaw 16.3 permits institutions to finance and assist student-athletes with personal development services.

### Disclaimer:

This document addresses the application of **NCAA Division I Bylaws and the NCAA Interim Policy** to institutional involvement in a **currently enrolled** student-athlete's **NIL Activities**. The guidance in this document is subject to state laws or executive actions with the force of law in effect. Further, institutions should consult legal counsel regarding other issues that may stem from institutional involvement in NIL activities, such as the potential for contractual nonperformance, Title IX and employment related matters.

### Effective Date:

The guidance is effective immediately. For violations that occurred prior to the publication date of this document, the Board of Directors directed the NCAA enforcement staff to review the facts of individual cases but to pursue only those actions that clearly are contrary to the published interim policy, including the most severe violations of institutional involvement or pay for play. Further, the emphasis of this NIL guidance is on institutions involved in student-athletes' NIL activities and is not intended to question the eligibility of enrolled student-athletes.

**Categories of Institutional Involvement in Student-Athletes' NIL Activities.**

**INSTITUTIONAL EDUCATION AND MONITORING**

<b><i>Permissible under Interim Policy/NCAA rules</i></b>
<ul style="list-style-type: none"> <li>• Educational sessions for SAs: Financial literacy, taxes, entrepreneurship, social media, etc.</li> <li>• Educational sessions for NIL entity (e.g., Collectives).</li> <li>• Educational sessions for boosters.</li> <li>• Educational sessions for PSAs.</li> <li>• Required reporting of NIL activity by SAs.</li> </ul> <p>*No impermissible activities identified at this time; additional circumstances to be considered, as appropriate.</p>

**INSTITUTIONAL SUPPORT FOR STUDENT-ATHLETE NIL ACTIVITY**

<b><i>Permissible under Interim Policy/NCAA Rules</i></b>	<b><i>Impermissible under Interim Policy/NCAA Rules</i></b>
<ul style="list-style-type: none"> <li>• Engage NIL entity to inform SAs of NIL opportunities.</li> <li>• Engage NIL entity to administer a marketplace that matches SAs with NIL opportunities without involvement of institution.</li> <li>• Provide information to SAs about opportunities that institution has become aware of (transmit information without further involvement).</li> <li>• Provide SA contact information and other directory information to NIL entity (e.g., Collectives and others seeking to engage SAs).</li> <li>• Provide stock, stored photo/video/graphics to a SA or NIL entity.</li> <li>• Introduce SA to representatives of NIL entity.</li> <li>• Arrange space for NIL entity and SA to meet on campus or in institution's facilities.</li> <li>• Promote SA's NIL activity, provided there is no value or cost to the institution (e.g., retweeting or liking a social media post).</li> <li>• Promote SA's NIL activity on paid platform provided SA or NIL entity is paying going rate for advertisement (e.g., NIL entity pays for advertisement on video board).</li> <li>• Purchase items related to a SA's NIL deal that are de minimis in value and for the same rate available for the general public.</li> </ul>	<ul style="list-style-type: none"> <li>• Communicate with NIL entity regarding specific SA request/demand for compensation (e.g., SA needs X dollars in NIL money) or encouragement for NIL entity to fulfill SA's request.</li> <li>• Proactively assist in the development/creation, execution or implementation of a SA's NIL activity (e.g., develop product, develop promotional materials, ensure SA performance of contractual NIL activities) unless the same benefit is generally available to the institution's students.</li> <li>• Provide services (other than education) to support NIL activity (e.g., graphics designer, tax preparation, contract review, etc.) unless the same benefit is generally available to the institution's students.</li> <li>• Provide access to equipment to support NIL activity (e.g., cameras, graphics software, computers, etc.) unless the same benefit is generally available to the institution's students.</li> <li>• Allow SA to promote their NIL activity while on call for required athletically related activities (e.g., practice, pre- and postgame activities, celebrations on the court, press conferences).</li> </ul>

**INSTITUTIONAL SUPPORT FOR NIL ENTITY/COLLECTIVE**

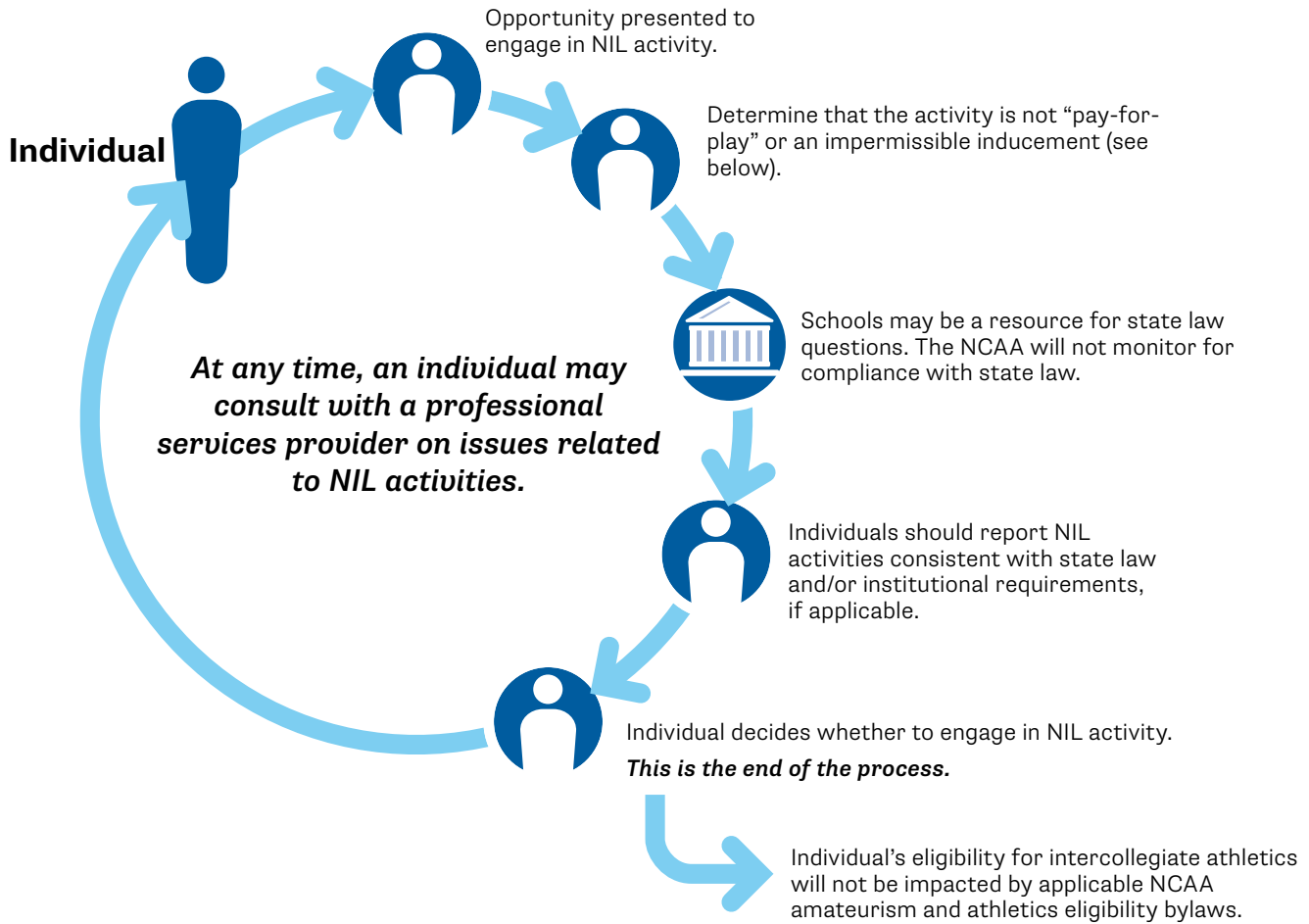
<b><i>Permissible under Interim Policy/NCAA Rules</i></b>	<b><i>Impermissible under Interim Policy /NCAA Rules</i></b>
<ul style="list-style-type: none"> <li>• Staff member assists NIL entity in raising money for NIL entity (e.g., appearances at fundraisers, donates autographed item).</li> <li>• Provide assets (e.g., tickets, suite) to NIL entity under sponsorship agreement provided access to assets are available to and on the same terms, as other sponsors.</li> <li>• Request donor to provide funds to NIL entity (without directing funds be used for a specific sport or SA).</li> <li>• Provide donor information or facilitate meetings between donors and NIL entity.</li> </ul>	<ul style="list-style-type: none"> <li>• Subscribes to the entity and donates cash to the entity (regardless of whether funds are earmarked for a specific sport or SA).</li> <li>• Provide assets (e.g., tickets, suite) to a donor as an incentive for providing funds to the NIL entity.</li> <li>• Athletics department staff member employed by NIL entity.</li> </ul>

**NEGOTIATING, REVENUE SHARING AND COMPENSATING**

<b><i>Impermissible under Interim Policy/NCAA Rules</i></b>
<ul style="list-style-type: none"> <li>• Athletics department staff member (or company owned by staff member) representing enrolled SAs for NIL deals, including securing and negotiating deals on behalf of the SA.</li> <li>• Any individual or entity acting on behalf of the athletics department (e.g., third party rights holders, third party agents) representing enrolled SAs for NIL deals, including securing and negotiating deals on behalf of the SA.</li> <li>• Institution entering into a contract with SA for the sale of product related to SA’s NIL.</li> <li>• Conference and SA revenue sharing: Broadcast revenue, NIL revenue.</li> <li>• Staff members who own businesses separate from the institution, providing NIL deal with a SA.</li> <li>• Institutional coach compensating SA to promote coach’s camp.</li> <li>• SAs receiving compensation directly or indirectly for promoting an athletics competition in which they participate.</li> </ul>

***\* This is a nonexhaustive list of permissible and impermissible institutional involvement in a current student-athlete’s NIL activities.***

# Cycle of Individual Engaged in NIL Activities



## ~~PAY FOR PLAY~~

Does not allow compensation for athletic participation or achievement (e.g., financial incentive based on points scored). Athletic performance may enhance a student-athlete’s NIL value, but athletic performance may not be the “consideration” for NIL compensation.

## ~~IMPERMISSIBLE INDUCEMENTS~~

NIL compensation can not be contingent on enrollment at a particular school.

# Question and Answer

## **1. What is a name, image and likeness activity?**

It is an activity that involves the use of an individual's name, image and likeness for commercial or promotional purposes.

## **2. What is the effective date of the interim NIL policy?**

The effective date is July 1, 2021.

## **3. How long will the interim NIL policy remain in effect?**

Until such time that either federal legislation or new NCAA rules are adopted.

## **4. What is the impact of the interim NIL policy on prospective student-athletes?**

Prospective student-athletes may engage in the same types of NIL opportunities available to current student-athletes under the interim NIL policy without impacting their NCAA eligibility. NIL opportunities may not be used as a recruiting inducement or as a substitute for pay-for-play. Individuals are encouraged to consider state laws, if applicable, and the rules of any relevant amateur governing bodies.

## **5. Will compensation for NIL activities jeopardize a prospective student-athlete's high school eligibility?**

Given that rules vary by state, prospective student-athletes should consult their state high school athletics association regarding questions pertaining to high school eligibility.

## **6. Who is a professional service provider?**

A professional service provider is an individual who provides third-party services to a prospective or current student-athlete. It includes, but is not limited to, an agent, tax advisor, marketing consultant, attorney, brand management company or anyone who is employed or associated with such persons.

## **7. Does the NIL interim policy permit individuals to use professional service providers in connection with their name, image and likeness activities?**

Use of a professional services provider for NIL activities is permissible.

## **8. Are institutions permitted to arrange NIL opportunities for student-athletes?**

A number of factors are relevant when institutions consider their possible involvement in arranging NIL transactions. During the interim NIL policy, the expectation is that schools and student-athletes will not use NIL transactions to compensate for athletic participation or achievement or as an improper inducement. In addition, institutions should not dictate how student-athletes use their compensation (e.g., should not require student-athletes to use compensation for financial aid). Beyond NCAA principles related to pay-for-play and impermissible inducements, such involvement may also raise other issues—including potential claims for contractual non-performance, Title IX issues, and employment issues—as to which campus compliance, Title IX, and general counsel staff can be consulted. Institutions should also be aware of and comply with all applicable state and federal laws, including gender equity requirements. Finally, institutions may consider how their legal counsel should be involved with the negotiation, review, and storage of NIL documents.



# Question and Answer

## **9. May an individual enter into an agreement regarding NIL with a professional service provider prior to July 1, 2021?**

No. If an individual enters into an agreement regarding NIL with a professional service provider prior to July 1, 2021, they will jeopardize their amateur status and eligibility for intercollegiate participation in a particular sport and will be subject to student-athlete reinstatement.

## **10. Which state law is applicable to prospective student-athletes prior to enrollment?**

The NCAA cannot provide guidance on issues of state law. The state you live in and the states where a prospective student-athlete may wish to enroll may have NIL laws with which you will want to be familiar. A prospective student-athlete may consult a professional services provider, contact the athletics compliance office of NCAA schools they may choose to attend, or research state law compliance requirements where they may wish to enroll. NCAA schools may also have specific NIL policies that should be considered.

## **11. What is prohibited under the new policy?**

Subject to state law, the following is prohibited under the new interim policy:

- NIL agreement without quid pro quo (e.g., compensation for work not performed). Student-athlete NIL agreements should include the expected NIL deliverables by a student-athlete in exchange for the agreed upon compensation and student-athletes must be compensated only for work actually performed.
- NIL compensation contingent upon enrollment at a particular school. For example, institutions should not use NIL arrangements to improperly induce matriculation (e.g., guaranteeing a particular NIL opportunity upon enrollment);
- Compensation for athletic participation or achievement. Athletic performance may enhance a student-athlete's NIL value, but athletic performance may not be the "consideration" for NIL compensation.
- Institutions providing compensation in exchange for the use of a student-athlete's name, image or likeness.

## **12. Can individuals enter into NIL agreements with boosters?**

Yes, provided the activity is in accordance with state laws and school policy, is not an impermissible inducement and it does not constitute pay-for-play.

## **13. Do other sections of NCAA Bylaw 12 outside of NIL still apply under the interim policy?**

Individuals and institutions in states with NIL laws or executive actions with the force of law in effect: NCAA rules, including prohibitions on pay-for-play and improper recruiting inducements, remain in effect, but NIL activities protected by state law will not impact eligibility.

Individuals where there is no state law or executive actions: If an individual chooses to engage in an NIL activity, eligibility will not be impacted by NCAA amateurism and athletics eligibility bylaws, but other NCAA rules, including prohibitions on pay-for-play and improper recruiting inducements remain in effect.



# Question and Answer

## **14. Will an individual be required to report name, image and likeness activities to their school?**

The NCAA's interim policy does not address this issue, but state laws and institutional policies may impose reporting requirements.

## **15. Can international student-athletes benefit from name, image and likeness activities?**

Yes. International individuals are covered by the interim NIL policy; however, they may consider consulting with the Designated School Official at the institution they are attending for guidance related to maintaining their immigration status and tax implications. Specifically, student-athletes, prospective student-athletes, schools or school officials who have questions may write to the U.S. Student and Exchange Visitor Program at [SEVP@ice.dhs.gov](mailto:SEVP@ice.dhs.gov).

## **16. How do I report NIL compensation for tax purposes?**

Individuals should follow all applicable tax laws for reporting NIL compensation. Requirements may vary based on state and/or country.

## **17. How does the interim NIL policy impact a SAs athletic financial aid?**

The interim NIL policy does not impact a student-athlete's financial aid. Compensation, including NIL compensation, remains excluded from NCAA financial aid limitations.

## **18. Where can I go for questions regarding a specific NIL activity?**

General information regarding NIL can be found [here](#). Prospective and current student-athletes with additional questions should consult with the athletics compliance department at the NCAA school they attend or plan to attend. NCAA member schools with additional questions should submit an interpretation request in Requests/Self-Reports Online. Note: NCAA prohibitions on pay-for-play and improper recruiting inducements remain in effect; however, the national office will not interpret state or federal laws or institutional policies.

Select Year:  

## The 2022 Florida Statutes

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[Title XLVIII](#)[EARLY LEARNING-20 EDUCATION CODE](#)[Chapter 1006](#)[SUPPORT FOR LEARNING](#)[View Entire Chapter](#)

**1006.74 Intercollegiate athlete compensation and rights.**—The Legislature finds that intercollegiate athletics provide intercollegiate athletes with significant educational opportunities. However, participation in intercollegiate athletics should not infringe upon an intercollegiate athlete’s ability to earn compensation for her or his name, image, or likeness. An intercollegiate athlete must have an equal opportunity to control and profit from the commercial use of her or his name, image, or likeness, and be protected from unauthorized appropriation and commercial exploitation of her or his right to publicity, including her or his name, image, or likeness.

(1) **DEFINITIONS.**—As used in this section, the term:

- (a) “Athletic program” means an intercollegiate athletic program at a postsecondary educational institution.
- (b) “Intercollegiate athlete” means a student who participates in an athletic program.
- (c) “Postsecondary educational institution” means a state university, a Florida College System institution, or a private college or university receiving aid under chapter 1009.

(2) **INTERCOLLEGIATE ATHLETE COMPENSATION AND RIGHTS AND POSTSECONDARY EDUCATIONAL INSTITUTION RESPONSIBILITIES.**—

(a) An intercollegiate athlete at a postsecondary educational institution may earn compensation for the use of her or his name, image, or likeness. Such compensation must be commensurate with the market value of the authorized use of the athlete’s name, image, or likeness. To preserve the integrity, quality, character, and amateur nature of intercollegiate athletics and to maintain a clear separation between amateur intercollegiate athletics and professional sports, such compensation may not be provided in exchange for athletic performance or attendance at a particular institution and may only be provided by a third party unaffiliated with the intercollegiate athlete’s postsecondary educational institution.

(b) A postsecondary educational institution may not adopt or maintain a contract, rule, regulation, standard, or other requirement that prevents or unduly restricts an intercollegiate athlete from earning compensation for the use of her or his name, image, or likeness. Earning such compensation may not affect the intercollegiate athlete’s grant-in-aid or athletic eligibility.

(c) A postsecondary educational institution; an entity whose purpose includes supporting or benefiting the institution or its athletic programs; or an officer, director, or employee of such institution or entity may not compensate or cause compensation to be directed to a current or prospective intercollegiate athlete for her or his name, image, or likeness.

(d) A postsecondary educational institution may not prevent or unduly restrict an intercollegiate athlete from obtaining professional representation by an athlete agent or attorney engaged for the purpose of securing compensation for the use of her or his name, image, or likeness. Pursuant to s. [468.453\(8\)](#), an athlete agent representing an intercollegiate athlete for purposes of securing compensation for the use of her or his name, image, or likeness must be licensed under part IX of chapter 468. An attorney representing an intercollegiate athlete for purposes of securing compensation for the use of her or his name, image, or likeness must be a member in good standing of The Florida Bar.

(e) A grant-in-aid, including cost of attendance, awarded to an intercollegiate athlete by a postsecondary educational institution is not compensation for the purposes of this subsection and may not be revoked or reduced

as a result of an intercollegiate athlete earning compensation or obtaining professional representation under this subsection.

(f) An intercollegiate athlete under 18 years of age must have any contract for compensation for the use of her or his name, image, or likeness approved under ss. [743.08](#) and [743.09](#).

(g) An intercollegiate athlete's contract for compensation for the use of her or his name, image, or likeness may not violate this subsection.

(h) An intercollegiate athlete may not enter into a contract for compensation for the use of her or his name, image, or likeness if a term of the contract conflicts with a term of the intercollegiate athlete's team contract. A postsecondary educational institution asserting a conflict under this paragraph must disclose each relevant contract term that conflicts with the team contract to the intercollegiate athlete or her or his representative.

(i) An intercollegiate athlete who enters into a contract for compensation for the use of her or his name, image, or likeness shall disclose the contract to the postsecondary educational institution at which she or he is enrolled, in a manner designated by the institution.

(j) The duration of a contract for representation of an intercollegiate athlete or compensation for the use of an intercollegiate athlete's name, image, or likeness may not extend beyond her or his participation in an athletic program at a postsecondary educational institution.

(k) A postsecondary institution shall conduct a financial literacy and life skills workshop for a minimum of 5 hours at the beginning of the intercollegiate athlete's first and third academic years. The workshop shall, at a minimum, include information concerning financial aid, debt management, and a recommended budget for full and partial grant-in-aid intercollegiate athletes based on the current academic year's cost of attendance. The workshop shall also include information on time management skills necessary for success as an intercollegiate athlete and available academic resources. The workshop may not include any marketing, advertising, referral, or solicitation by providers of financial products or services.

(3) REGULATIONS AND RULES.—The Board of Governors and the State Board of Education shall adopt regulations and rules, respectively, to implement this section.

**History.**—s. 1, ch. 2020-28; s. 20, ch. 2021-35; ss. 1, 2, ch. 2021-217.