



The NIL Arena: Change is Expected

Articles

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In the ever-changing world of Name Image and Likeness (“NIL”) payments to collegiate athletes, the inevitable question has gotten the attention of the entire college sports ecosystem – how much constant pressure can the NCAA’s current structure withstand in an environment their system once dominated? Legal issues involving college athletes and the NCAA have taken center stage in courts around the country. Conferences and universities have spoken about the financial, institutional, and athletic pressures they now face. Lobbying efforts have reached the ears of Congress and State Legislatures, as mounting pressure for congressional regulation of the industry rises. And now recently, even the President of the United States has weighed in on what he wants the future of the NCAA to look like. Regardless of any one opinion on how college sports should look moving forward, the only certainty that remains is that major change is guaranteed. The real question is from where?

Influence from the Judiciary

The judicial system has been the primary engine for recent landmark changes that have altered collegiate sports. Since the 2021 Supreme Court ruling in *Alston* broke open the flood gates for college athletes getting paid for their NIL, many other cases have fundamentally shaped how college sports have progressed forward.^[1] Most notably, last summer the implementation of *House* settlement, which stemmed from years of a class action anti-trust litigation, changed the entire economic calculus for collegiate athletics. On June 6, 2025 the NCAA, former NCAA athletes, and the Power Five Conferences (comprised of member schools in the ACC, SEC, Pac-12, Big XII, and Big-Ten athletic conferences) promulgated rules permitting athletes to negotiate revenue-sharing deals directly with certain agreeing member schools pursuant to the approved settlement in *NCAA v. House*, No.4:20-cv-03919 (N.D. Cal. June 6, 2025) (final approval order). In the *House* Settlement, NCAA member institutions established specific rules aimed at securing a more competitive market for the labor of Division I student athletes in aftermath of *Alston*, mitigating potential anti-trust violations, and rectifying previous loss of compensation opportunities for former athletes within the damage classes. Importantly, the settlement allowed schools to make direct payments to student athletes by way of revenue sharing agreements. The agreement capped each institutions’ revenue sharing limit at \$20.5 million. However, players are still able to capitalize off their NIL by way of independent third-party agreements. Off of the heels of the *House* Settlement, we now are

regularly seeing players maximize their NIL opportunities, signing contracts valuing well into 7 figures and resetting the market every offseason.

Additionally, individual athletes have started using courts to challenge the NCAA in their own right. Most notably in challenging eligibility, players have increasingly exercised their individual agency to push back against standards that were rarely challenged pre-*Alston*. For example, The District Court of New Jersey in *Elad v. NCAA* granted a preliminary injunction for Rutgers Football player Jett Elad, finding that within the new commercial NIL market of collegiate athletics, the NCAA's restriction on the eligibility of former junior college student-athletes transferring to four-year institutions has a substantial effect on the labor market for college football and violates the Sherman Act.^[2] Similarly, in *Pavia v. NCAA*, the Middle District of Tennessee held that the disparate treatment of the JUCO athletes and four-year Division I athletes distorts the labor market by forcing athletes to choose four-year NCAA member institutions to maximize their four seasons, even when JUCO may be a better option academically or athletically.^[3] In granting these preliminary injunctions, both district courts determined that the rules on former JUCO athletes' eligibility unfairly penalizes athletes who do not start at four-year NCAA institutions by limiting their opportunities. However, notably circuit courts have pushed back hard against district courts' analyses of athlete plaintiffs pursuing identical anti-trust claims noting that many plaintiffs fail to succeed on the merits where they must define a relevant market of NCAA sports required to succeed in an injunction action.^[4]

Separately, in one of the most highly publicized recent lawsuits, Ole Miss quarterback Trinidad Chambliss filed an injunction claiming the NCAA breached its contractual duty of good faith and fair dealing to him as a third-party beneficiary when it denied his eligibility waiver preventing him from playing another season at Ole Miss.^[5] Straying from anti-trust arguments and instead pursuing an intended third-party beneficiary contract based argument, the Chambliss injunction illustrates the extent to which all athletes are pursuing challenges against the NCAA eligibility restrictions. Chambliss successfully argued against the NCAA in his case in Mississippi State Court and was awarded additional eligibility to which the Supreme Court of Mississippi affirmed.

In the new ecosystem of NIL where athletes are gaining more independence, leverage, and financial capital, challenges to established NCAA rules and practices are becoming more common, setting the stage for novel legal theories and influential court rulings. It is clear that long-standing NCAA practices may no longer be immune from judicial scrutiny. In this new era of college sports, it has become clear that the field of play now includes the courtroom.

New Challenges to Universities

In addition to the volatility college sports is experiencing at the hands of the judicial system, universities are beginning to show that the changes in college sports are pushing them to their limit. Last month, University of Louisville President Dr. Gerry Bradley, along with Louisville Vice President and Director of Athletics Josh Heird, and Chairman of the Louisville Board of Trustees Laurence N. Benz., penned an open essay issuing a dire warning regarding the financial sustainability of intercollegiate athletics, calling for urgent, structural reform, including federal intervention and spending caps. The essay highlights the extreme struggles that the University, and others, are facing in the new chapter of college sports. It warns that while attempting to stay in the game,



“Louisville—a program that generates \$1.28 billion annually in economic impact for our city and Commonwealth—is running a \$12.5 million deficit with reserves drawn down from \$34 million to \$3.4 million.” [6] The essay stresses that the current model of college sports is disturbingly unsustainable and notes that even the most profitable and successful schools are still operating at an extreme loss. For example, schools like Ohio State maintain \$37.7 million deficit despite tremendous on the field success and generating nearly \$255 million in revenue.[7] Similarly, Rutgers expressed its own challenges corroborating the dire picture Louisville’s President painted. Recently, Rutgers University unearthed that its athletic department has exacerbated the financial chokehold it finds itself in despite trying to operate so that they can maintain competitive athletics at the university.[8] Rutgers states that in the 2025 fiscal year, its athletics hit a \$78 million shortfall. Meanwhile, since joining the Big Ten, Rutgers has accrued a \$500 million deficit accrued by the athletic department in that time.[9] In total, Rutgers has spent \$1.35 billion on athletics since it was added to the conference. This number should worry many schools in a similar position to Rutgers.

While institutions are economic engines for their communities, and sometimes even the lifeblood of an entire state’s economy, the threat and burden that the new nature of college sports puts on universities should not be ignored. Furthermore, the extent of the effects of such financial burdens of major revenue generating sports reverberate through the entire collegiate athletic ecosystem. Every additional dollar directed toward football and men’s basketball is a dollar that is not available for the swimmer, the field hockey player, the track athlete, or the rower.[10] Olympic sport student-athletes face reduced cost-of-attendance stipends, diminished Alston payments, and the very real threat of scholarship reductions or even program elimination. The consequences participating in college sports as it exists now is real. Athletic departments, and entire athletic conferences, are desperate to fund the revenue sports that keep their enterprise afloat looking even to private equity, jersey patches, siloing their athletic department, and other drastic measures just to keep their heads above water.[11] Whether or not this financial crisis is one of college athletics’ own making, the reality of the situation suggests that there may be no return to the old way of college sports.

Pushes for Legislation to Bring Peace to the Madness

Amid accelerating litigation, conference realignment, financial instability, and policy uncertainty, both institutions and student athletes are pushing for congressional relief from the instability in collegiate athletics. However, not all parties seeking congressional relief are in it for the same reasons. Institutions, and the NCAA in particular, would like to reestablish its centralized authority and obtain antitrust protection to implement uniform rules, while student athletes seek expanded rights, enforceable protections, and clarity around compensation and mobility. Two pending proposals reflect these cross-cutting priorities. The SAFE Act, introduced by Senators Maria Cantwell, Cory Booker, and Richard Blumenthal, would amend the Sports Broadcasting Act to allow schools and conferences to pool media rights; codify revenue sharing and name, image, and likeness provisions; provide protections related to scholarships, roster spots, and transfer abilities; guarantee medical coverage after a student athlete’s eligibility ends; and maintain Olympic sport roster spots and scholarship levels.



Similarly oriented toward national standards but with distinct governance features, the College Athletics Reform Act, introduced by Representative Lori Trahan, would establish federal standards for NIL rights, codify rules for athlete agents, create a bipartisan Commission to Stabilize College Sports, amend the Sports Broadcasting Act to permit media rights pooling, and enhance Title IX reporting requirements, including reporting on revenue sharing. Together, these bills underscore the shared call for congressional intervention while highlighting the core tension: the NCAA's bid to restore regulatory coherence and shield core rules from antitrust exposure, and student athletes' pursuit of durable rights, protections, and transparency across the collegiate sports landscape.

Presidential Executive Order

On Friday April 3, 2026, the President signed an executive order on collegiate athletics in an effort to restore a regulatory posture on college sports to resemble, in essence, a pre-name, image, and likeness power structure of college sports.^[12] Despite the clear enforceability and legal questions presented by this order, the NCAA has already presented its intentions to implement rules establishing the executive orders' demands.^[13] The order's framework sets forth guidelines which favor institutional stability for the sake of athlete freedom. The guidelines reflect substantial deference to the NCAA and its historical compliance architecture, signaling a policy preference for centralized governance over athlete-driven market dynamics. In practical terms, the order narrows the scope of student-athlete discretion by circumscribing pathways that have recently expanded under NIL and an open market, by prioritizing uniformity and institutional control. It is too early to tell what the exact ramifications of this executive order will be; however, its existence only further emphasizes that change in the collegiate sports industry is coming.

At the end of the day, the only certainty in this period of college sports is that no one participant will be able to predict, let alone dictate, the future. However, for those that are forced to participate in the arena, awareness of what is at stake, what is possible, and what is on the horizon is necessary in order to best prepare for that change. Eventually something will come to shake up the college sports ecosystem. Awareness about the nature of the NIL landscape and how different players coexist may be the difference between playing to win or being left on the sidelines.

^[1] *NCAA v. Alston*, 594 U.S. 69 (2021).

^[2] See *Elad v. Nat'l Collegiate Athletic Ass'n*, No. CV 25-1981 (ZNQ) (JTQ), 2025 WL 1202014 (D.N.J. Apr. 25, 2025), vacated and remanded, 160 F.4th 407 (3d Cir. 2025).

^[3] See *Pavia v. NCAA*, 760 F. Supp. 3d 527 (M.D. Tenn. 2024).

^[4] *Elad v. Nat'l Collegiate Athletic Ass'n*, 160 F.4th 407 (3d Cir. 2025); *Fourqurean v. Nat'l Collegiate Athletic Ass'n*, 143 F.4th 859 (7th Cir. 2025); *Robinson v. Nat'l Collegiate Athletic Ass'n*, No. 25-2003, 2026 WL 914055 (4th Cir. Apr. 3, 2026).

^[5] *Nat'l Collegiate Athletic Ass'n v. Chambliss*, No. 2026-M-00237-SCT (Miss. Mar. 27, 2026).



[6] Dr. Gerry Bradley; Josh Heird; Dr. Laurence N. Benz, From the Arena, Not the Sidelines: College Athletics is Running Out of Time, <https://mail.uofl.me/t/r-e-tkujjiid-l-y/>, at 1.

[7] *Id.* at 6.

[8] Joanna Gaxis, Rutgers Athletics in \$500 Million Hole That Dates to Big Ten Move, NJ Spotlight News (Apr. 2026), <https://www.njspotlightnews.org/video/rutgers-athletics-in-500-million-hole-that-dates-to-big-ten-move/>.

[9] *Id.*

[10] Dr. Gerry Bradley; Josh Heird; Dr. Laurence N. Benz, From the Arena, Not the Sidelines: College Athletics is Running Out of Time, <https://mail.uofl.me/t/r-e-tkujjiid-l-y/>, at 8.

[11] Office of the President, What Champions Blue, Univ. of Ky. (Apr. 2026), <https://pres.uky.edu/what-champions-blue>; Dan Wetzel, Wetzel: Beware, college sports, private equity has arrived, ESPN (Apr. 2026), https://www.espn.com/college-sports/story/_/id/47267088/utah-private-equity-college-sports-otro-capital; Associated Press, NCAA approves uniform patches, opening up new revenue streams, ESPN (Apr. 2026), https://www.espn.com/college-football/story/_/id/47707398/ncaa-approves-uniform-patches-opening-new-revenue-streams.

[12] Exec. Order No. 14,400, 91 Fed. Reg. 18,267 (Apr. 9, 2026).

[13] Michael McDaniel, NCAA proposing Major Eligibility Changes to College Athletics on Heels of Presidential Executive Order, Sports Illustrated, (Apr. 2026), <https://www.si.com/college/ncaa-proposing-major-eligibility-changes-athletics-presidential-executive-order>.

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