



# Your Role in Athletics Planning: Understanding NIL Contracting and Beyond

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# Speakers



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# Disclaimer

***This presentation is not legal advice.***

*It is provided solely for informational and educational purposes and does not fully address the complexity of NIL issues or steps institutions must take under NCAA/CSC rules or applicable laws.*

# Agenda

## Where are we? How did we get here?

- Athletics after *House*
- Revenue sharing NIL Agreements

## What can/should institutions do now?

- NIL license grant and services structure
- Common NIL contracting issues

## What should institutions anticipate?

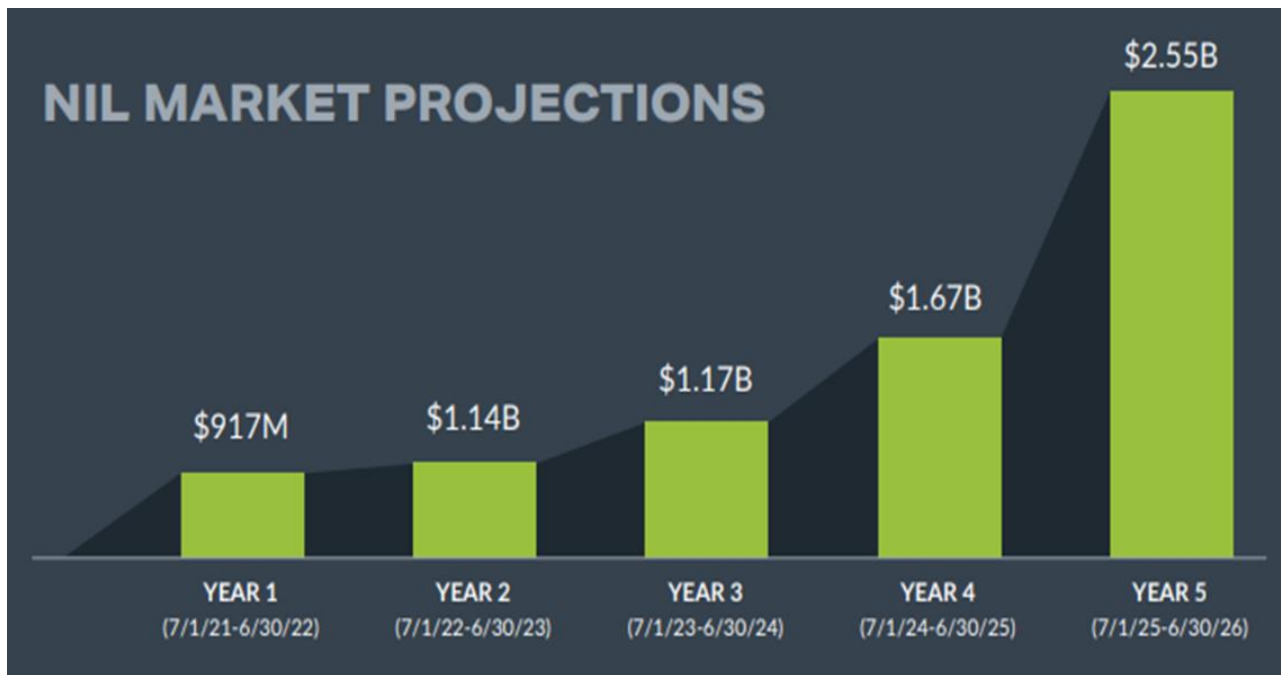
- Future issues
- Institutional risk management, counsel, and athletics relationship

## Q&A



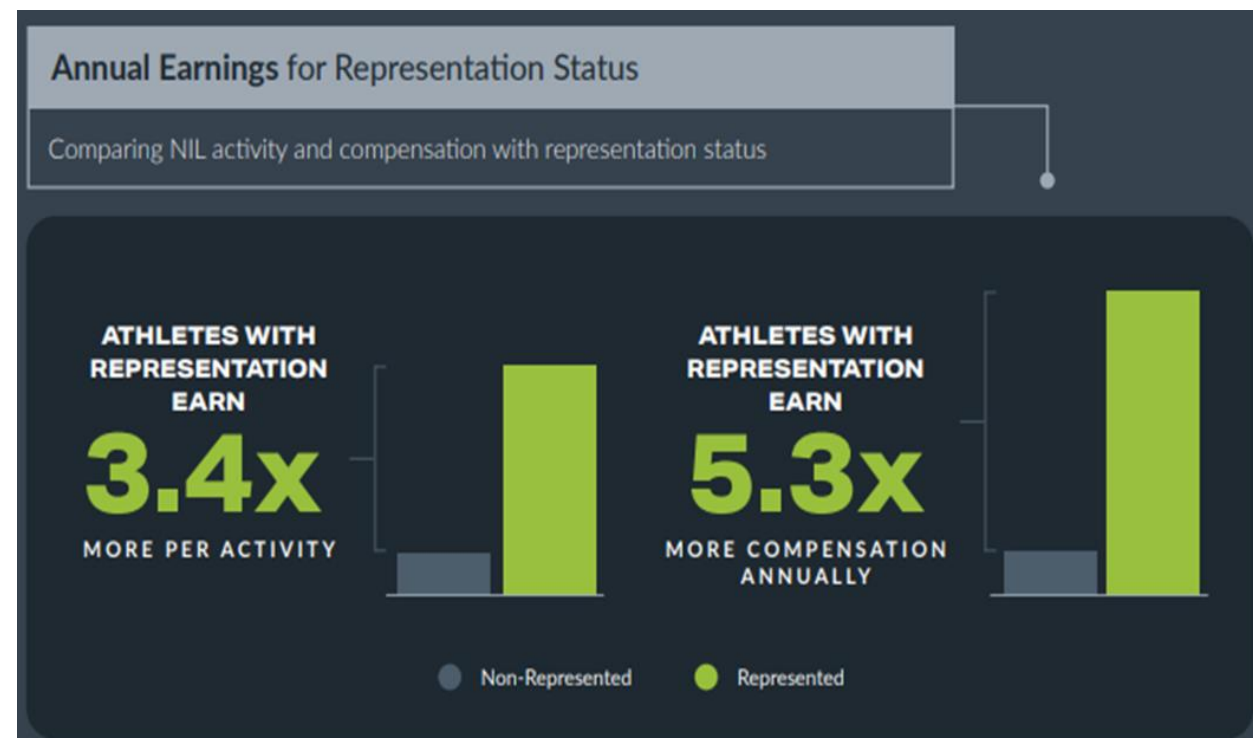
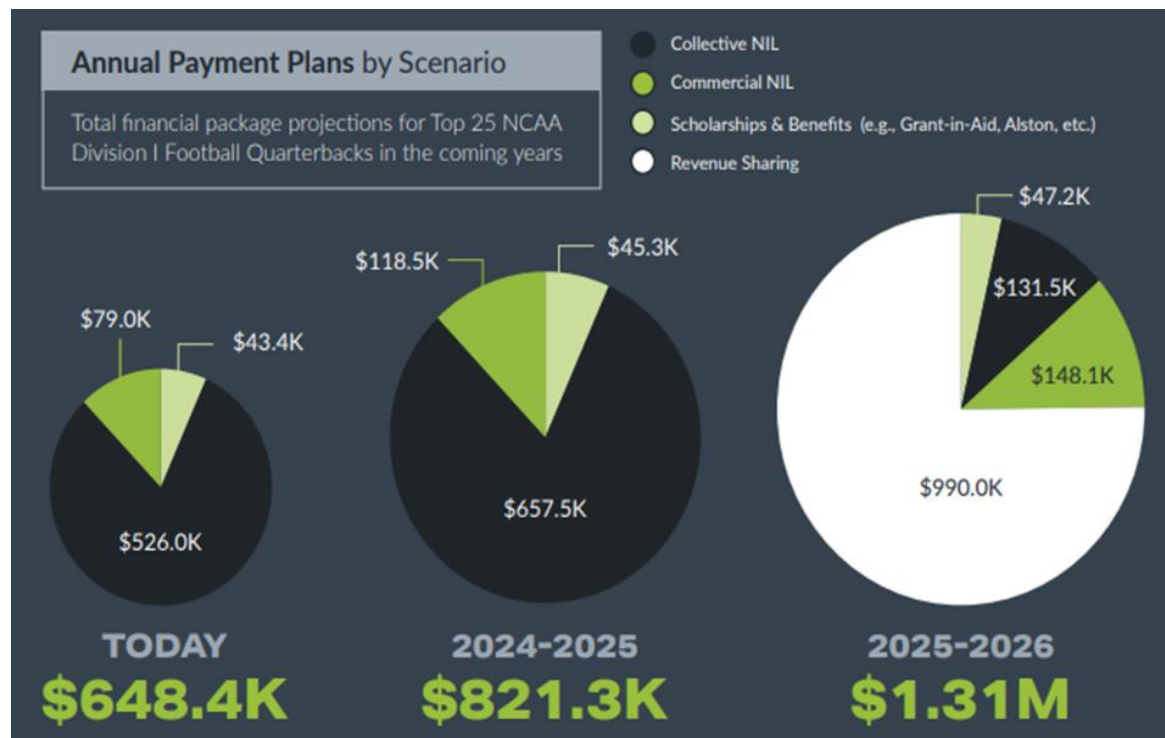
**Where Are We? How Did We Get Here?**

# The State of NIL

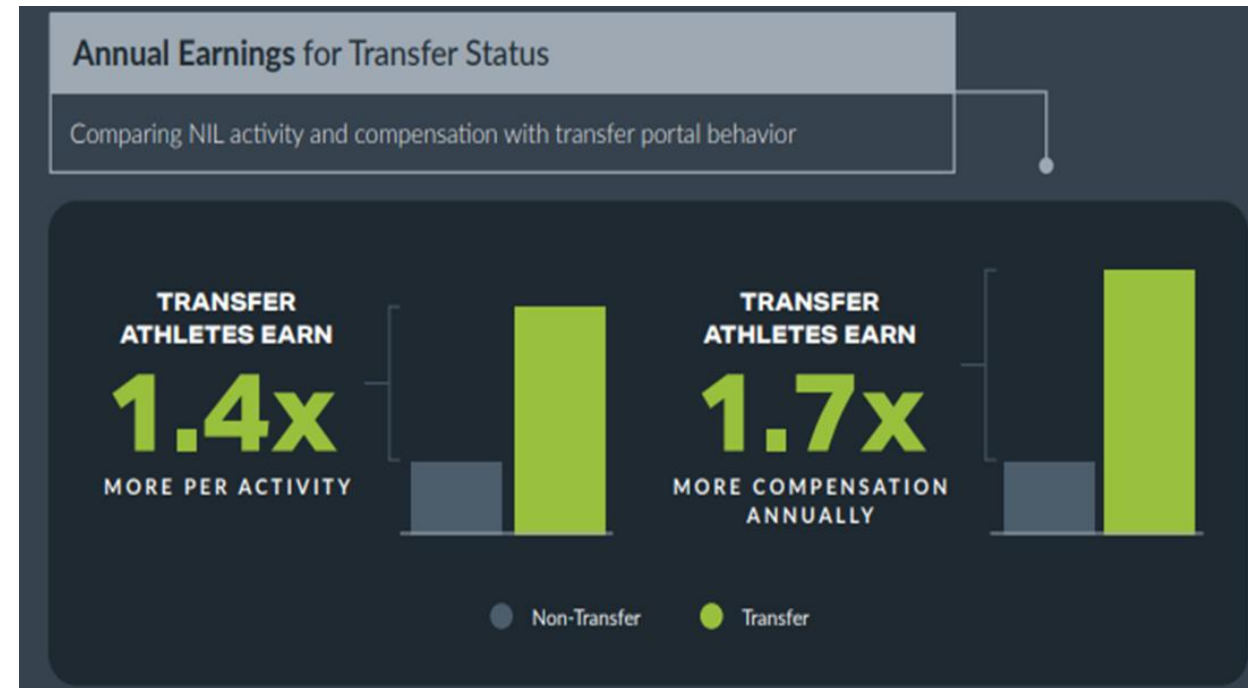
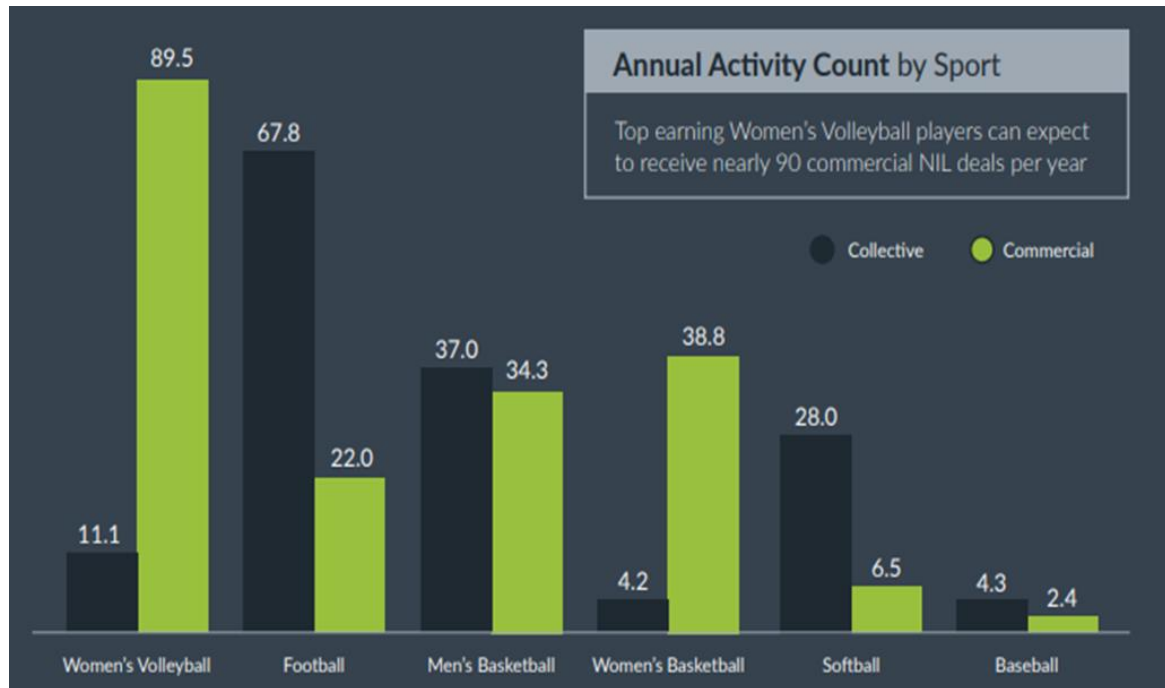




# The State of NIL (Cont'd)



# The State of NIL (Cont'd)





# House Settlement

- Back damage calculations

Football Players

75%

Men's and Women's  
Basketball Players

20%

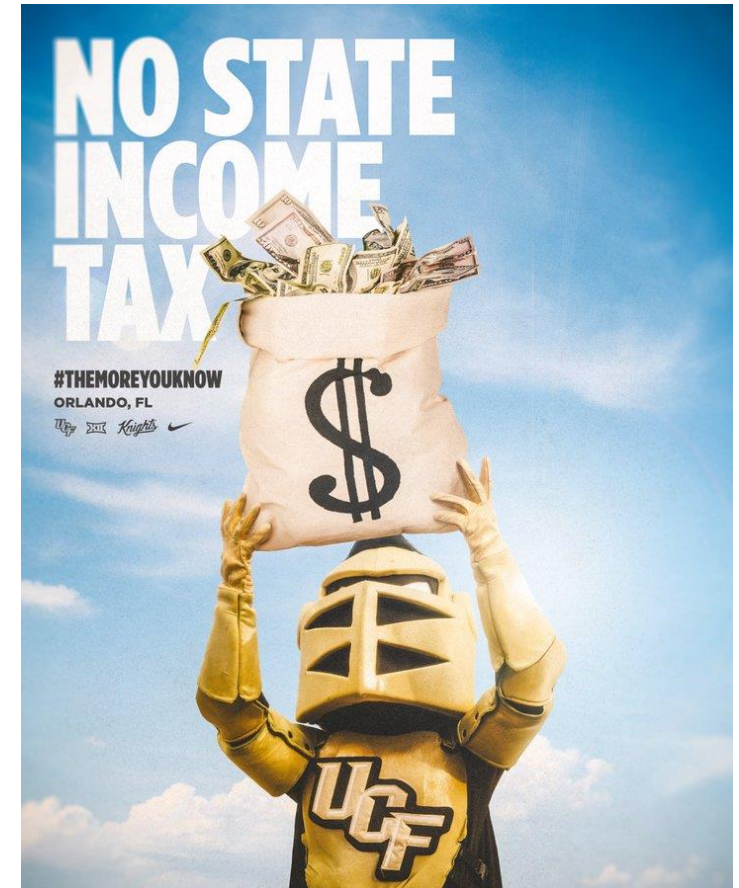
Other Athletes

5%

- 10-year injunction
  - 22% of sports revenue shared with athletes starting in 2025-26, with schools able to pay players for their NIL pursuant to an exclusive or non-exclusive license and/or endorsement agreement, up to \$20.5 million initially
  - Schools have discretion on how to allocate payments
- Shift from scholarship limits to roster limits
- Only NIL deals for a valid business purpose and within the range of compensation going forward
- Settlement's terms and conditions are **fundamentally fair, reasonable, adequate**, and in the best interests of DI college athletes

# Key State Law Updates

- Prohibiting the NCAA and conferences from enforcing NIL compensation limits against student-athletes and punishing colleges and universities
- Allowing colleges and universities to pay student-athletes directly
- Certain prohibited businesses (Texas, Utah, Missouri, etc.)
  - State law precludes NIL deals with student-athletes involving alcohol, gambling, adult entertainment, cannabis
- Exempting student-athletes from state income tax for NIL activity (Arkansas)



# Third-Party NIL and College Sports Commission

## Valid Business Purpose

Deals must demonstrate a legitimate commercial rationale, including:

- Evidence of using the student-athlete's NIL to promote a good or service being offered to the public for profit

## Range of Compensation (RoC)

RoC is anchored in valuation principles to determine if a student-athlete's third-party NIL compensation is commensurate with compensation paid to similarly-situated individuals with comparable NIL value.

- ROCs are informed by the deal's performance obligations, the student-athlete's athletic performance and social media reach, the local market, and the market reach of his or her institution and program. The RoC will also be informed by external benchmarks.

# NIL Deal Flow Report

## NIL Go Deal Activity Since Platform Launch

All data below current as of Jan 1, 2026 12:01am Eastern

✓ <b>CLEARED</b>	✗ <b>NOT CLEARED</b> *
<b>17,321</b>	<b>524</b>
total deals	total deals
<b>\$127.21M</b>	<b>\$14.94M</b>
total deals	total deals

\*These figures do not include Not Cleared deals that have been resubmitted or for which the time period for revision remained open on January 1, 2026.

Total Deals in Arbitration as of 12/31/25: 10

## NIL Go Platform Activity

 <b>35,306</b>	 <b>1,263</b>	 <b>4,202</b>
Student-Athlete Users	Institution Users	Representative Users
Total Registered	Total Registered	Total Registered

## College Sports Commission Remarks

Since the NIL Go platform launched on June 11, 2025, and through December 31, 2025:

- 52% of deals submitted to NIL Go were resolved within 24 hours
- 73% of deals reached resolution within seven days following submission of all required information
- 10,848 unique student-athletes have had at least one cleared deal, 44% of whom play a sport other than Football or Men's Basketball
- Student-athletes playing more than 40 unique NCAA sports have at least one cleared deal

Between November 1 and December 31, 2025 (since the last NIL Deal Flow Report was issued):

- 5,146 NIL deals were cleared with an aggregate value of \$39.71M

Primary Reasons for "Not Cleared" Determinations:

- Lack of a valid business purpose
- No direct activation of NIL rights (i.e., warehousing)
- Compensation not at rates and terms commensurate with similarly situated individuals

This report provides a recurring snapshot of activity on the NIL Go platform. These reports will continue to be produced and distributed periodically by the College Sports Commission. For additional information, visit [collegesportscommission.org](https://collegesportscommission.org).

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# **NIL License Grant and Services**

# NIL License Grant

- Exclusive grant
  - Amateur athletics, apparel (including shoes), athletic equipment, health care, beverages, travel, financial institutions, and wireless communications
- Non-exclusive grant
- Merchandise grant
- Not to compete with institution's sponsors
- Rights after term
- "Passive license"



# NIL Services



Appearances



Social Posts



Autographs



Endorsements



Content creation



**International student-athletes**

# Team Activities vs. Non-Team Activities

- What do sponsors think?
- What do athletes think?
- What is in your documents?

Promotion	Conditions
[_____] (_____) Production days for Institution during each year of the Term	Not to exceed approximately [four (4)] hours in total length for each Production day, exclusive of travel
[_____] (_____) personal appearance Promotions for Institution during each year of the Term	Not to exceed approximately [two (2)] hours in total length for each personal appearance Promotion day, exclusive of travel
Conference/NCAA appearances (e.g. awards banquets, media days, photo shoots, pre- and post-game press conferences, media obligations, etc.)	As requested by the Conference or the NCAA
Institution Support	Be reasonably available for fan/alumni/donor days, calls, meetings, meals and other activities designed to attract, obtain and maintain Institution sponsors and donors or other activities reasonably requested by Institution



# **Common NIL Contracting Issues**

# Term and Termination

## Term

- Single Year vs. Multi-Year
- (i) End of the Eligibility Period;
- (ii) End of the “Term End Date”;
- (iii) the date the Student-Athlete signs a contract to play professional athletics rendering the Student-Athlete “ineligible” under NCAA Rules (“Turns Pro”); or
- (iv) the date the Agreement is terminated.

## Termination

- Breach;
- Criminal, Civil, or University Conduct Issues;
- Transfer Portal and Leaving School;
- Violation of Team Rules and Morals Clause (e.g., engaged in any conduct that is likely to tarnish the reputation or goodwill of the institution, conference, or NCAA);
- Buyout Amount;
- Change of Law.

# Remedies and Buyout

- No more compensation
- Liquidated damages/buyout amount
- Restriction from licensing NIL rights
- Reimbursement/clawback of compensation
- Breach or anticipatory breach
  - **Hold or delay all consideration payments** until student-athlete is in compliance

# The End of Deference?

## Oversight and litigation of institutional decisions

- Attorneys in your processes in real time and more litigation over coaching, conduct, or academic decisions impacting student-athlete enrollment or playing time
- Higher damages claims reflecting less speculative income (NIL vs. NBA)

## More court intervention, TROs, and writs of review

- In *Terrence Shannon Jr. v. Board of Trustees of the University of Illinois*, the District Court granted a student-athlete a preliminary injunction and expressly considered that the plaintiff student-athlete received NIL compensation “due to his status on the team” and concluded that the “potential loss of NIL opportunities [due to an interim suspension] can constitute irreparable harm.” 2024 WL 218103 (C.D. Ill. Jan. 19, 2024)



# Confidentiality

## Confidentiality terms in NIL agreements

- Student-athlete will be responsible for any breach of confidentiality obligations by the representatives (agents, for example)
- Right for institution to disclose to third parties, including the CSC and reporting system

## Family Educational Rights and Privacy Act/public records laws

## State law exemptions from public disclosure laws (Oregon, for example)

- “Any contract, proposed contract or related documentation in the possession of a post-secondary institution of education that relates to a student athlete’s exercise of economic rights is confidential and exempt from public disclosure under ORS 192.311 to 192.478”

# Dispute Resolution

- **Ombuds**
- **Mediation**
- **Arbitration**
  - AAA
  - JAMS
  - FAIR Sports
- **State and federal court**

- **Typical disputes (so far!)**

1. Liquidated damages – state-specific issues re: language
2. Transfer provision
3. Usage of NIL rights post-agreement
4. NIL agreement termination
  - Broadness of termination provisions such as moral clause and team rules (which can be updated at any time)
  - Coach trying to find a way to run off a student-athlete and terminate

# Miscellaneous

- Discretion to operate program
- Institution as marketing agent for student-athletes
- Ownership of SA's and institution's trademarks
- Third-party NIL agreements
  - Associated entity/individual fka boosters (aka collectives)
  - Non-associated entity/individual
  - Disclosure of all NIL deals from third parties above \$600



# Future Issues

# Student-Athletes as Employees

*Johnson et. al. v. NCAA*, No. 22-1223, 2024 U.S. App. LEXIS 16953  
(3rd Cir. 2024)

- The Third Circuit addressed whether student-athletes' amateur status precludes them from bringing a claim under the Fair Labor Standards Act (FLSA), holding that student-athletes may bring such a claim and offering a new test for the district court to apply in assessing whether they are in fact FLSA employees.
- The court held that student-athletes may be employees under the FLSA when they, “(a) perform services for another party, (b) ‘necessarily and primarily for the [other party’s] benefit,’ *Tenn. Coal*, 321 U.S. at 598, (c) under that party’s control or right of control, *id.*, and (d) in return for ‘express’ or ‘implied’ compensation or ‘in-kind benefits.’

# Student-Athletes as Employees

## National Labor Relations Board

- USC, Pac-12, and NCAA
  - USC athletes argued that the NCAA, Pac-12, and USC are joint employers of athletes because the NCAA and Pac-12 had control over the athletes' working conditions and "administered a common labor policy" with USC regarding those conditions.
- Dartmouth men's basketball
  - On March 5, 2024, the Dartmouth College men's basketball team voted 13-2 to unionize. The vote took place exactly one month after an NLRB regional director ruled that Dartmouth men's basketball players are employees under the National Labor Relations Act.
  - In January 2025, the petition was withdrawn in anticipation of the Trump administration.
- 2025 rescission of memo on college athletes as employees under the NLRA



# Venture Capitalism Entering College Sports

- **Utah**

Utah has created a for-profit company, Utah Brand Initiatives LLC, that will manage the business side of the university brand building and commercialization, in partnership with Otro Capital, a private equity firm offering Utah more than \$400 million.

- **Michigan State**

MSU is entering a brand management agreement with Spartan Ventures, a nonprofit corporation, which is supposed to partner with for-profit entity Spartan Media Ventures. Spartan Media Ventures is set to receive a \$100 million investment from university benefactors.

- **Big Ten**

A failed deal would have brought the conference a \$2.5 billion cash infusion from UC Investments, the pension fund serving the University of California, in exchange for 10% of all revenue-generating ventures, including media rights contracts.

- **Big 12**

The conference is close to a multifaceted strategic partnership with two private equity firms, Redbird and Weatherford Capital, that involves an investment of up to \$500 million.

# Agent Regulation

## Federal Trade Commission (FTC)

The FTC regulates sports agents primarily through the Sports Agent Responsibility and Trust Act (SPARTA), treating violations of the Act as unfair or deceptive trade practices.

## SPARTA

SPARTA is a federal law enforced by the FTC, modeled after the Uniform Athlete Agents Act (UAAA), and directed to college sports and agents. SPARTA is a backstop for states without agent regulation and prohibits certain conduct by sports agents such as giving false or misleading information or providing anything of value before the student-athlete has entered an agency contract. SPARTA endorses the adoption of the UAAA by each state.

## UAAA

Adopted by 42 states, the UAAA provides a template for states to regulate sports agents, providing for registration of sports agents, form agency contract terms, certain prohibited conduct, etc.

# July 24, 2025, Executive Order — Saving College Sports

1. Scholarship allocation
2. Revenue sharing
3. Student-athlete status as employees
4. Legal protections
5. Olympic development

# Title IX & NIL

- Application of Title IX to NIL “players” — institutions, conferences, and collectives, for example
  - Title IX obligations do not extend to organizations like the NCAA that are made up of federal funding recipients but are not themselves direct recipients. *Smith v. National Collegiate Athletic Association*, 525 US 459 (1999)
  - Title IX 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. 34 CFR § 106.31
- Application of Title IX to NIL payments?
  - House settlement approval and challenges
  - Contract drafting and other considerations
  - Expected litigation

# Federal Bills Under Consideration

## The SCORE Act

- Scheduled for a vote in early December 2025; the vote was later cancelled.
- Would enshrine the terms of the *House* settlement, afford NCAA member institutions antitrust exemption, bar student-athletes from employment status, and preempt a patch work of state laws.

## The SAFE Act

- Introduced in September 2025 but has not reached a vote.
- Would introduce a federal standard, health and safety protections for student-athletes, scholarship guarantees, media rights reform, transfer flexibility, privacy protections, FTC enforcement authority, and other measures.

# Future Business Ventures

- **Setting up for future success**
  - Rights now vs. rights needed later
- **Evolution of college sports sponsorships**
  - (Jersey patches, logos on field, etc.)
- **Neutral-site games**
- **Royalty deals**
- **Sports cards and memorabilia**
- **New types of sponsorships**
- **Entertainment**
  - Docuseries, YouTube & other types of monetization

COLLEGES

Univ. of Tennessee inks landmark NIL-powered Adidas deal

08.14.2025



Sponsor patches on college uniforms would raise millions but some ADs are in wait-and-see mode



**Nike announces NIL deal with LSU QB Garrett Nussmeier**

by Daniel Hager • 09/12/25 • DanielHagerOn3

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Kentucky changes its athletic department to an LLC, hoping to become more nimble in finding revenue





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# **Risk Management, General Counsel, and Athletics Relationship**

# Institutional Staff and Facilities

- Coaches' contracts in the NIL era
  - Buyouts, NIL provisions, and risks
- Facilities use/camps on campus
  - Importance of recruiting
  - How are your employees using your institutional "NIL"
- Minors on campus risks continue and new risks emerge
- The transfer portal and transfer student-athletes
  - Compliance with NCAA Sexual Misconduct Policy and liability risks

# Third-Party NIL Groups

- 501(c)(3)
  - No longer in use since IRS published a memo on May 23, 2023, concluding most organizations that develop paid NIL opportunities for student-athletes will, in many cases, be operating for a substantial nonexempt purpose — serving the private interests of student-athletes
- For-profit collectives
- Institution sponsors
- Independent third-party businesses
- Marketing agencies
- Learfield, Playfly, JMI Sports

# Institution Rules Re: Third-Party Deals

## NCAA Bylaws Related to Failure by School to Disclose Deal

- **22.2.2.2.1 Institutional Obligations Upon Discovery.** Upon discovery by an institution that a payment or contract involving one of its student-athletes may not have been reported, the institution shall have **two business days** to review whether a violation for failure to report has occurred and, if so, to notify the CSC of the violation. If, at the conclusion of the two-day period, the student-athlete has still not appropriately reported the deal, the CSC shall immediately render the student-athlete ineligible for practice and competition (see Bylaw 23.3) until the deal is reported. *(Adopted 10/28/25)*

## Requirements and Punishments Under the Not-Yet-Agreed-To Participation Agreement

- Would hold schools responsible for violations by any associated entity.
- If associated entities (including players) break rules, “schools could be subject to fines, penalties, or other sanctions.”
- Schools “will have an opportunity to present information to the CSC in a timely manner prior to any final decision on penalties (a) to mitigate [the School]’s responsibility for such violations or (b) that otherwise is relevant in determining whether violations occurred and whether to impose fines, penalties, or other sanctions for such violations.”
- Schools “shall monitor its program to ensure compliance by its Representatives, student-athletes, and Associated Entities ... and shall promptly notify the CSC of any evidence or information related to a potential violation.”



# Conclusion

# Things to Do

- Develop strategy around institution's approach and response to the new structure of college sports and shifting status of student-athletes
- Educate and communicate with key internal stakeholders in athletic department, risk managers, leadership, trustees, and donors
- Make strategic decisions re: institutional risks and priorities
- Review and align internal processes
- Respond to evolving federal and state laws and obligations
- Stay informed and stay compliant; for example, educate and require compliance with sports agent regulations

# Things to Think About

- Relationships with agents and super agencies
- Complying with the new CSC Rules and Regulations
- Administrative burden for Institutions
- Demand for institutional Rev Share dollars over third-party dollars
- “Be quick, but don’t hurry.” – John Wooden
- Importance of a successful athletics program to the institution
- As Vanderbilt’s chancellor said, we’re now in **“an era where disruption will be needed and will be rewarded.”**

# Thank You / Q&A

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