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# Navigating the Legal Landscape of NIL Contracts in Collegiate Sports

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College athletics has experienced a dramatic sea change in just a few short years. Gone are the days of strict NCAA regulation that felt like they governed every aspect of a student's life down to a strict number of snacks they could consume in a single day. Now, student athletes are social media stars—often earning millions of dollars in endorsements—and are eligible to receive compensation directly from their schools.

With significant dollars on the line and national championships at stake, it is just a matter of time before the honeymoon period ends and conflicts between players and schools turn into legal disputes. Indeed, fissures have already started to emerge, with a lawsuit filed over a football player breaking his contract in order to play on a bigger stage—and for more money. Driven by antitrust and other concerns, the NCAA is taking a more hands-off approach to player-institution relations than it has in its over 120-year history—leading to a lack of predictability and constantly changing precedent that has come to define the NIL era.

The NIL era began in 2021, when many states passed laws restricting the NCAA's ability to punish athletes for earning NIL compensation. In June of that year, the Supreme Court decided *Alston v. NCAA*, noting that restrictions on student-athlete compensation were unlikely to survive legal challenges. In response, the NCAA adopted an interim policy to allow athletes to earn compensation.

In the infant stages of the NIL era, schools could not pay college athletes directly. Rather, NIL “collectives” were established at many schools to be middlemen, pooling money from boosters and businesses into a single fund from which student-athletes were paid for endorsements.

In June 2025, a California federal court approved a class action settlement that allowed colleges and universities to directly pay student-athletes for the first time. This change, combined with an IRS ruling that NIL collective donations served no charitable purpose and therefore were not tax-deductible (which led to a significant decrease in contributions to NIL collectives), shifted the focus from collectives to direct compensation.

Professional sports leagues (i.e. the NFL, NBA, MLB, and MLS) operate with Collective Bargaining Agreements (“CBAs”) that provide institutional guardrails to prevent the exact types of litigation novel to college football. CBAs, agreements between an association of players and the league to set the rules that govern salaries, free agency, revenue sharing, etc., create an essentially parallel and private legal system based on predictability and uniformity. These rules provide certainty that prevents or preempts claims between competing teams. In professional sports, CBAs generally include arbitration procedures that require internal resolution of disputes. The concept of a professional sports franchise suing another over the departure of a player is relatively unheard of, as the respective leagues have rules and channels in place to resolve these disputes.

Unlike in professional sports, the NCAA cannot enter into a CBA with college athletes. Collective bargaining agreements may only be struck between employers and employees. This is one of the reasons why CBAs are such a natural fit for professional sports, and why they are less congruent for collegiate athletics. In college, since the players are not considered “employees” of the schools, traditional collective bargaining is not an option. The NCAA prefers this status quo, as much of how the NCAA operates is predicated on the assumption that the athletes are amateurs and are not engaged in a professional labor market.

Without the ability to collectively bargain, the NCAA’s hands are effectively tied. Any attempt by the NCAA to set strict standards and rules regulating student athlete compensation are sure to be met with legal challenges under the United States antitrust laws. While there is some support in Congress, including through the proposed SCORE Act, for granting an antitrust exemption to the NCAA, that is likely a long shot. Major League Baseball is the only sports organization in the United States with even a limited antitrust exemption. The Supreme Court created that exemption over 100 years ago, and it has never been extended to other sports leagues despite countless attempts to do so.

At present, without legislation in place or a framework of rules from the NCAA, players and schools are only governed by the contracts they agree to. Thus, the actors involved in NIL agreements, including the schools, players, agents, boosters, and the NCAA, must interact through ordinary contract and tort law. Much of what will govern these agreements will be developed case by case through court decisions in varying jurisdictions. This raises the questions of what happens when one of these agreements goes sideways, and how the relevant participants will react to the extreme time pressure of the transfer portal, scheduled sports seasons, and limited eligibility?

Courts in the United States are not built for speed, and teams and players do not have years to allow their disputes to wind through the courts to get to resolution. Without agreed upon processes for timely resolutions of disputes between student athletes and schools—and potentially different academic institutions—the relevant players will need to look for court mechanisms to resolve their disputes quickly.

In an effort to avoid traditional, slow-burn litigation, many contracts between players and schools compel mandatory arbitration—a form of dispute resolution in which arguments are presented to a neutral third party—to resolve any dispute arising from the agreement. Additionally, one tool we have seen schools start to employ is filing suits seeking temporary restraining orders (“TROs”), a type of legal remedy that preserves the status quo for a period of time, to prevent their players from transferring to another school and breaching their contracts. Players seek similar relief in efforts to gain extra eligibility and subvert NCAA rules. Although TROs can provide fast, interim decisions on significant legal disputes, obtaining such relief requires the moving party to satisfy a demanding legal standard.

By way of example, under federal law, in addition to showing that it has a strong likelihood of success on the merits, a party seeking a TRO must demonstrate that he or she will suffer irreparable injury, among other things. Injury is generally considered irreparable when it cannot be adequately addressed through the award of money damages. Thus, the key focus of claims will be on whether a harm is irreparable, i.e., whether monetary damages will be inadequate due to the special nature or peculiar value of the contract.

Schools may argue that student-athletes are inherently unique, as each possesses a unique skillset and ability on the field. Schools will note that the pool of “superstar” players at any given position in Division I college football is relatively small. Thus, if a team’s star quarterback leaves for another school in breach of their multi-year contract, no amount of money damages will make the school’s football team whole—they will be at a competitive disadvantage. The structure of the actual contracts between player and school, however, complicates this argument. Notably, many of these contracts do not require a student-athlete to play football at all. Rather, they compensate the student-athlete for NIL opportunities in exchange for exclusivity and continued enrollment at the institution.

In an action by a school against a student-athlete for breach of an NIL deal, the alleged breach is generally that the student has either expressed intent to or has agreed to play football at another institution, violating the exclusivity of the contract. In order for this breach to have occurred, though, that player must have been *recruited* by another school—likely negotiating or even signing another contract with another school before leaving their current institution. This

raises an important question and another area of NIL litigation for courts to navigate: can schools who induce players to break their contracts and join their teams be liable to that former school for interfering with their contract? If so, expect major programs, who often poach and tamper with players across the college football landscape, to face one another head-to-head in the courtroom.

Litigation over NIL agreements and player transfers is inevitable. Schools, players, and collectives will face a steady stream of disputes reaching the courts. Without legislation mandating employment status for athletes or providing the NCAA an antitrust exemption, courts will continue developing the legal framework case by case, and all parties will need to draft their agreements carefully in anticipation of an evolving body of precedent that will differ by jurisdiction.

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