

# Athletics Hot Topics

## Higher Education Free Webinar Series

March 6, 2026 at 12:00p.m.

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# Disclaimer

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- We are not giving legal advice. Consult with your legal counsel regarding how best to address a specific situation.
- We are happy to answer questions about the material and address hypotheticals.
- We have no magic crystal ball, but we'll do our best to make predictions.

# Agenda

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- *House* Settlement Updates
- NIL Updates
- Title IX Gender Equity
- Transgender Participation in Sport
- NCAA Eligibility
- Other NCAA litigation
- Future of College Sports



# *House Settlement Updates*

## Reminder on the *House Settlement*

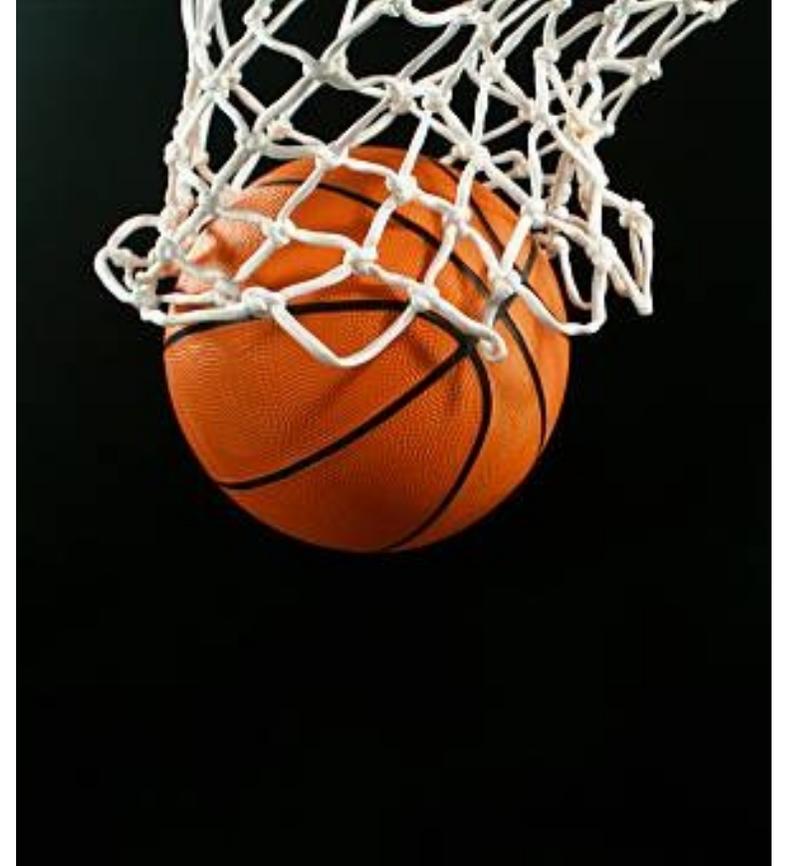
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- Resolved a host of antitrust claims by requiring the NCAA to pay around \$2.8 billion over ten years to former Division I athletes and establishing a revenue-sharing model for athletes beginning with the 2025-2026 academic year.
- DI institutions will have the option to engage in direct NIL contracts with student-athletes in the form of a licensing agreement, endorsement deal and/or brand promotion agreement.
  - \*\*Institutions opting-in will be subject to roster limits and team scholarship limitations will no longer apply.
- DI athletes will be required to report to (a) the member institution in which they are enrolled and/or (b) the designated reporting entity any and all third-party NIL contracts or payments with a total value of \$600 or more

# Updates

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- 319 schools opted-in for the 2025-2026 academic year
- “Information regarding the 2026-27 processes for opting-in/opting out will be circulated by the College Sports Commission no later than March 1, 2026”
  - [Feb2026D1Gov\\_PhaseSevenSetQuestionandAnswer.pdf](#)



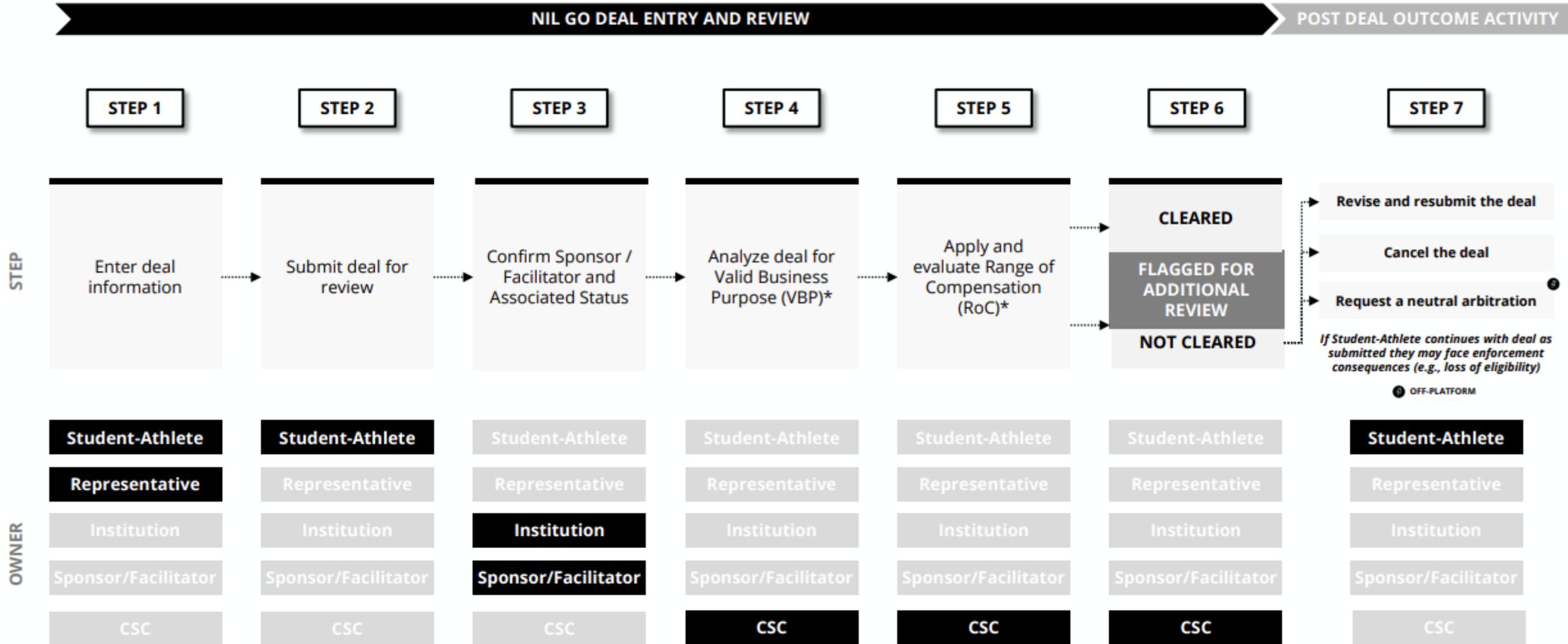
# The Numbers

- NIL Go Deal Activity as of 1/1/26
- Deals in arbitration as of 12/31/25: 10
- Resolved within 24 hours: 52%
- Resolved within 7 days: 73%

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

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

# Deal Submission Process



\* For deals involving associated entities or individuals

# CSC Investigations

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- CSC has started investigating schools
- Issue is whether CSC's enforcement decisions will survive legal action
- Participation Agreements between CSC and institutions
  - Deadline passed without all signatures
  - Some state AGs have issues with the participation agreements

# NIL Updates



# Schools Suing Former Athletes

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- *University of Cincinnati v. Sorsby*, No. 26-cv-00200 (S.D. Ohio)
  - On February 26, 2026, the University of Cincinnati sued its former quarterback, Sorsby, following his transfer to Texas Tech
  - Cincinnati is accusing Sorsby of **breaching his NIL contract**, which the school says was signed in July 2025 to cover the 2025 and 2026 seasons
  - Cincinnati says the contract included a \$1 million buyout if Sorsby transferred
  - Status: Waiting for a response by Sorsby
- *University of Georgia Athletic Association v. Wilson* (Clarke County Superior Court, GA)
  - In October 2025, the University of Georgia Athletic Association filed a petition to compel arbitration with former Georgia football player, Wilson, who transferred to Missouri
  - University of Georgia Athletic Association is accusing Wilson of breaching his NIL contract, seeking almost \$400,000 in liquidated damages

# Schools Suing Other Schools

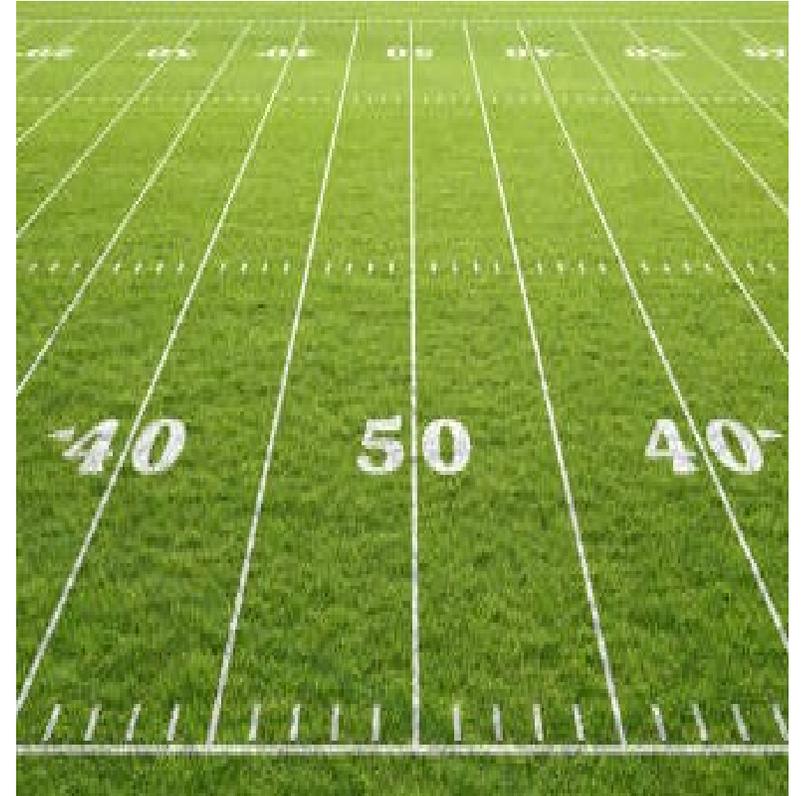
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- On June 20, 2025, the University of Wisconsin and its NIL collective filed suit against the University of Miami, alleging **tortious interference** for inducing defensive back Xavier Lucas to leave Wisconsin despite being under a binding revenue-share contract
- Wisconsin argues that Miami made impermissible contact with Lucas and knowingly encouraged him to breach that agreement
- Current status is that Miami has moved to dismiss the case for lack of personal jurisdiction and insufficient claims, while Wisconsin has responded by seeking permission to conduct targeted jurisdictional discovery
- **Broader Implications:** The first case of its kind, meaning that it may shape enforcement of NIL-related contracts and tampering clauses across college athletics

# Blind Transfers

- NCAA is recommending emergency legislation to enforce the January transfer-portal window, targeting schools and coaches who add players who **never officially entered the portal**
- If approved in April, penalties would take effect immediately, including:
  - Six-game ban on all recruiting, on-field coaching, and team-meeting duties for a head coach who accepts an ineligible transfer.
  - A 20% fine of the school's football budget.
  - Loss of five roster spots the following season, regardless of whether the implicated coach is still employed.

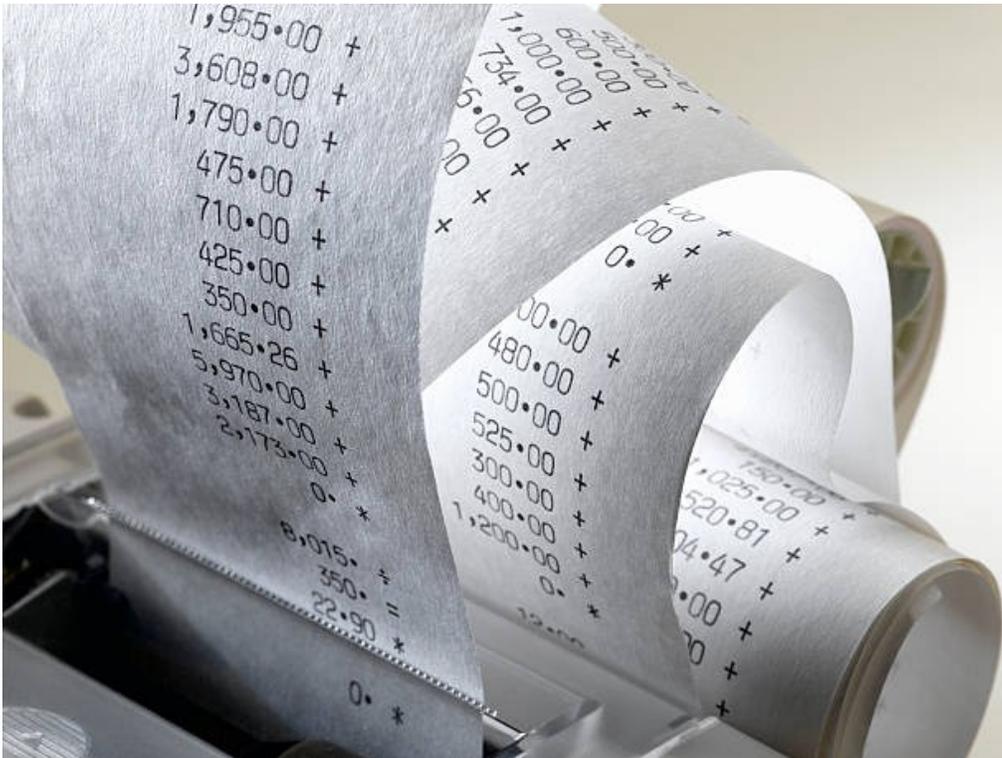


# More NIL-Related Litigation

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- Student-athletes who participated before 2016 antitrust lawsuits
  - *Chalmers v. NCAA; Bailey v. NCAA; Robinson v. NCAA; Bush v. NCAA; Pryor v. NCAA*
  - Key issue: Statute of limitations
  - Status: most of these cases have been dismissed
- International student-athlete litigation
  - *Poa v. Jaddou (U.S. Citizen and Immigration Services)*
  - Key issue: Visas
  - Status: Discovery phase
- Promises to student-athletes
  - *Rashada v. Hathcock, et al*
    - Status: Settled as of February 17, 2026

# NIL Donations Tax-Deductible?



- Question: Are contributions that institutions solicit, accept, and receive from donors for NIL purposes tax-deductible?
  - Issue is whether there is a private benefit. If there is a private benefit, likely not tax-deductible.
  - What is a private benefit?
- Best practice: Tell donors to consult with their tax advisor!

# Title IX Gender Equity

# New NCAA Championships

- NCAA to add four new championships
  - DI: Acrobatics and tumbling and stunt
  - DII: Bowling
  - DIII: Women's wrestling
- Women's flag football to be an emerging sport at all NCAA levels



# Litigation (Part I)

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- *Niblock v. University of Kentucky, 2024 WL 4891025, (E.D. Ky. Oct. 28, 2024)*
  - After a three day trial, judge ruled that the Plaintiffs failed to show sufficient unmet interest and ability among UK female students. Therefore, UK met prong 3, which means they effectively accommodate the interests and abilities of UK female athletes.
  - Plaintiffs appealed the ruling to the 6<sup>th</sup> Circuit.
  - 6th Circuit affirmed
    - Plaintiff's self-reported survey responses alone did not establish varsity level ability and club team members and coaches expressed lack of sufficient numbers to compete at a varsity level
    - Concurrence talks about the 1979 guidance in light of *Loper Bright*: “Suffice to say, we are skeptical of this guidance’s validity.”

# Litigation (Part II)

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- *Fisk v. Board of Trustees of the California State University (San Diego State)*, No. 22-cv-00173 (S.D. Cal.)
  - Group of women’s rowers filed suit after SDSU eliminated their team in 2022 alleging that SDSU did not provide proportional athletic aid and benefits and treatment
  - Class action lawsuit
  - Parties have agreed to settle (Settlement Final Approval Hearing on April 16, 2026)
- *Schroeder v. University of Oregon*, No. 23-cv-01806 (D. Oregon)
  - Group of varsity women’s beach volleyball and club women’s rowing team filed suit alleging the university discriminated against them by not providing equal opportunities, equal financial aid, and equal benefits and treatment
  - Class action lawsuit
  - University filed motions to dismiss or narrow the case last year and the court denied most of the motions, and the case is proceeding into discovery

# Litigation (Part III)

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- *Myers v. Stephen F. Austin*, No. 25-cv-00187 (E.D. Texas)
  - Female beach volleyball and bowling athletes at SFA filed suit after the university cut their teams (both men's and women's golf were also eliminated).
  - SFA's stated reason for its decision was budget concerns tied to the *House* settlement
  - District court granted the Plaintiff's preliminary injunction that SFA had to preserve the teams and a few months later, the Fifth Circuit Court of Appeals vacated the preliminary injunction to essentially reword the preliminary injunction language – effect still the same
  - Status: Ongoing in district court

# Key Takeaways

- Control your own destiny and be proactive in complying with Title IX
- Document compliance – have a written Gender Equity Plan!
- Do not add, eliminate, or transition a varsity sport **WITHOUT** doing a Title IX athletic review (especially participation and financial aid)



# Transgender Participation in Sport

# Dept of Ed Investigations



- **Jan 15, 2026** - ED & DOJ's Title IX Special Investigations Team opened an investigation into the California Community College Athletic Association (3C2A) over its transgender participation policy
  - Policy allows a transgender female or non-binary athlete who has completed one year of testosterone suppression to compete on women's teams.
  - Complaint alleges discrimination against at least three female athletes
  - ED officials state 3C2A, as a statewide governing body receiving federal funds, must uphold Title IX's sex-based protections.
- **Jan 28, 2026** - found San Jose State University violated Title IX by allowing male athletes to compete in women's sports and access female-only facilities.
  - OCR issued a proposed Resolution Agreement requiring SJSU to adopt biology-based sex definitions, separate sports/facilities by sex, restore records/titles to affected female athletes, and issue formal apologies.
- **Takeaway: Enforcement priority**

# SCOTUS Oral Arguments

- On January 16, 2026, SCOTUS heard oral arguments in *Little v. Hecox* and *BPJ v. West Virginia*
  - State laws ban transgender women and girls from competing on female school sports teams.
  - The issue is whether a state may, consistent with the Equal Protection Clause and Title IX, require athletes to compete based strictly on biological sex rather than gender identity.
- Expect a ruling in June 2026



## Other cases to follow

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- *Tirrell et al v. Edelblut et al*, Case No. 1:24-cv-00251 (D.N.H.)
- *Gaines v. NCAA*, Case No. 24-cv-01109, (N.D. GA)
- *Slusser v. Mountain West Conference et al*, Case No. 24-cv-03155 (D. Colo.)
- *Estabrook v. Ivy League*, Case No. 25-cv-10281 (D. Mass.)
- *Batie-Smoose v. San Jose State University*, Case No. 25-cv-08957 (C.D. CA)

# Key Takeaways

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- Follow the SCOTUS case, it will likely shape your state law whatever the ruling is
- Ensure you are complying with federal orders, state law, and NCAA policy
- To the extent they may conflict, consult with your general counsel

# NCAA Eligibility



# Additional Years of Eligibility

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- Cases started in Dec. 2024 with *Pavia v. NCAA*, over 40 have been filed since
- Challenging the following NCAA rules:
  - Four Seasons in Five Years Rule (NCAA Bylaw 12.8 and 12.02.6) and JUCO, DII applicability
  - Redshirt Rule
  - Hardship and Waiver Restriction (Bylaw 12.8.4)
- Main argument is that the NCAA is violating anti-trust laws by limiting NIL opportunities and has made several exceptions to its rules over the years, meaning it arbitrarily caps participation

# Trends

- Filed at state and federal levels (NCAA having more success at the federal level)
- "Wins" at the preliminary injunction/TRO phase
  - NCAA – 25
  - Players – 15
- NCAA Convention 2026: DII members approve sending 5 seasons-of-competition proposal back to governance structure
- Is there an end in sight? Congress?



# Other NCAA Litigation

# NCAA Enforcement – “Show Cause” Penalty

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- On Dec. 6, 2025, an Alabama state judge issued a preliminary injunction blocking the NCAA from enforcing a six-year “show cause” penalty against former Tennessee coach Jeremy Pruitt
  - The NCAA’s COI found the program committed recruiting violations, and was thereafter fired
- The ruling questions the fairness and legality of the NCAA’s infractions process. It noted:
  - It lacks basic protections such as the right to cross-examine witnesses or compel evidence
  - The NCAA relied heavily on Tennessee’s admissions without fully considering Pruitt’s defense
- Decision could undermine the entire NCAA enforcement system
- NCAA appealed the ruling to the Alabama Supreme Court

# Tennis Prize Money Settlement

- *Brantmeier v. NCAA*, Case No. 24-cv-00238 (M.D. N.C.)
  - UNC tennis player filed a lawsuit challenging the NCAA's ban on individual athletes' ability to receive prize money for outside athletic competitions beyond "actual and necessary" expenses.
  - She argues that under antitrust law, there is no longer any justification for the restriction given that athletes in other sports like football and basketball are able to earn money from the participation in their sports through NIL deals.
  - Status: As of February 25, 2026, parties have reached a class action settlement



# Future of College Sports

# Liability for Coaches Behavior

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- Allegations of mistreatment, exercise as punishment
- Could lead to liability (negligence, inadequate training and supervision, intentional infliction of emotional distress, harassment, retaliation, breach of contract, etc.)
- Best practices:
  - Proper training for coaches and sport administrators
  - Ensure coaches are following all relevant safety standards and guidelines
  - Anonymous reporting methods (software)
  - In-person spot checks
  - Good relationship with student-athletes
  - Open communication with athletic trainers, strength and conditioning and academic advisors

# Federal Government Involvement

- Save College Sports Executive Order (July 24, 2025)
  - [Preserving Participation and Equity: What the “Saving College Sports” Executive Order Means for Campus Athletics | Bricker Graydon](#)
  - Reports that today President Trump having a meeting to discuss issues facing college sports (Yahoo Sports)
- SCORE Act
  - Seeks to bar student-athletes from being classified as employees, protects the NCAA and conferences from antitrust lawsuits related to rules enforcement, codifies revenue sharing
  - Status: stuck in the Senate



# New Governance Model?

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- Many are frustrated with the NCAA
  - Growing litigation costs
  - Is NCAA membership worth it?
- Conference model where a group of institutions govern themselves
  - “If the CSC is not going to enforce the House settlement, if the NCAA is not going to enforce tampering rules and if Congress is not going to pass the SCORE Act, then it leaves the SEC in a position that we have to go our own way to create some rules and a level of responsibility,” Georgia president Jere Morehead, a former chair of the NCAA DI Board of Directors, told Yahoo Sports earlier this month. “We’d be able to make a much stronger argument that we are not in violation of antitrust rules because we don’t have market power.”

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**Thank you!**

**Questions?**

