

**NAVIGATING THE SHIFTING LANDSCAPE OF NIL: LEGAL
RISKS, ATHLETE MOBILITY, AND NEW FINANCIAL MODELS**

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ABSTRACT

The evolving Name, Image, and Likeness (NIL) landscape in collegiate athletics has introduced significant legal, financial, and ethical challenges. This law note explores three critical developments reshaping college sports: the rise of NIL financing models, the NCAA's removal of the National Letter of Intent (NLI), and the recent NCAA settlement on revenue sharing. NIL financing models, which offer athletes upfront cash in exchange for future earnings, raise concerns about legal risks, exploitation, and long-term financial harm to vulnerable athletes. The elimination of the NLI grants athletes greater mobility, empowering them to negotiate better NIL deals but also increasing the potential for exploitative recruitment practices. Additionally, the NCAA settlement marks a historic shift from amateurism, as athletes gain access to revenue sharing, potentially leading to legal challenges regarding employee status and Title IX compliance. This note underscores the need for comprehensive reforms in transparency, financial education, and regulation to protect athletes' rights and ensure they benefit equitably from these transformative changes.

I. INTRODUCTION

The world of collegiate athletics has been fundamentally altered by the advent of Name, Image, and Likeness (“NIL”) rights. What began as an opportunity for athletes to profit from their personal brands has now expanded into a complex legal and financial ecosystem. From NIL financing models that raise serious legal and ethical concerns to the elimination of the National Letter of Intent (“NLI”), these developments have introduced significant changes to college sports. This note provides an updated analysis of these shifting dynamics, examining the legal risks of NIL financing, the mobility of athletes in the post-NLI era, and the implications of recent NCAA reforms on athlete compensation.

II. NIL FINANCING MODELS: LEGAL RISKS AND ATHLETE EXPLOITATION

As the NIL era transforms college sports, athletes now have the ability to earn money based on their personal brand. However, NIL financing models—where companies offer upfront cash in exchange for a portion of an athlete’s future NIL earnings—have raised serious legal and ethical concerns. One example is Nilly, a company co-founded by former NBA player Kendrick Perkins. Nilly offers cash advances to athletes in return for exclusive rights

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to their NIL for up to seven years. This type of arrangement has prompted consumer finance experts to question whether these deals exploit athletes, especially those who may be financially vulnerable. Some experts have even likened these deals to high-interest loans, raising red flags about the potential long-term harm they could cause.¹

A. THE STRUCTURE OF NIL FINANCING DEALS

NIL financing deals are structured to provide athletes with immediate cash, sometimes ranging from \$25,000 to several hundred thousand dollars. In exchange, companies like Nilly secure a percentage of the athlete's future NIL earnings, often between 10% and 50%, for a period of up to seven years. On the surface, these deals seem to offer financial relief to athletes who need it the most, but there are significant downsides. Locking athletes into long contracts severely limits their ability to negotiate better deals as

¹ See Dan Murphy, *New NIL Company Raises Red Flags for Consumer Finance Experts*, ESPN (Oct. 8, 2024), https://www.espn.com/college-sports/story/_/id/41664466/nilly-nil-company-college-athletes-kendrick-perkins-consumer-protection-experts.

their careers progress, effectively trapping them in a long-term commitment that could cost them far more than they gain upfront.² From a legal standpoint, many experts argue that these arrangements resemble high-interest loans. For example, if an athlete's earnings increase dramatically during the contract, they may end up paying the company back several times more than the amount they initially received. This creates a situation where the deal disproportionately benefits the company, leaving athletes at a disadvantage. Some have raised concerns that these deals could fall under lending laws like the Truth in Lending Act (TILA), which requires clear disclosure of loan terms and interest rates. Although Nilly claims these are not loans but licensing agreements, the similarities are hard to ignore, and legal challenges could arise if these contracts are deemed predatory or in violation of lending regulations.³

B. EXPLOITATION OF YOUNG ATHLETES

One of the most troubling aspects of NIL financing deals is their potential to exploit young, financially vulnerable athletes. Many

² *Id.*

³ *Id.*

athletes come from low-income backgrounds and face immediate financial pressures. In some cases, they may be supporting their families or covering basic living expenses, which makes the offer of upfront cash incredibly appealing. Kendrick Perkins, co-founder of Nilly, has openly acknowledged that these deals target athletes in financial need, framing them as a solution to reduce financial stress. However, this raises ethical concerns about whether these companies are preying on desperate athletes who may not fully understand the long-term implications of signing away a significant portion of their future earnings.⁴

Another issue is the lack of financial literacy among many young athletes. These athletes often do not have the education or resources to properly evaluate complex financial contracts, which puts them at even greater risk of being exploited. Financial experts have compared these NIL deals to payday loans, where individuals are enticed by immediate cash but end up trapped in agreements that cost them far more in the long run. Without proper guidance or

⁴ *Id.*

education, athletes may unknowingly enter into deals that severely limit their financial potential down the road.⁵

C. REGULATORY GAPS AND THE NEED FOR REFORM

Currently, there are few regulations governing NIL financing models, either from the NCAA or at the state level. While NIL deals themselves are permitted, there are no specific rules in place to protect athletes from the risks posed by upfront payments tied to future earnings. This regulatory gap leaves athletes vulnerable to exploitation, with little oversight to ensure that these deals are fair and transparent.⁶

Reforms are needed to address these issues. One key proposal is to implement transparency requirements, similar to those found in financial loan agreements, to ensure that athletes fully understand the terms of their contracts. This would include clear disclosures on how much of their future earnings they are giving up and what the long-term costs of the deal could be. Another recommendation is to limit the length of NIL contracts, capping them at one or two years to give athletes more flexibility as their careers evolve.

⁵ *Id.*

⁶ *Id.*

Additionally, providing athletes with financial education or requiring them to consult with a certified financial advisor before entering into NIL deals would go a long way in helping them make informed decisions.⁷

D. CONCLUSION

While NIL financing models like those offered by Nilly provide immediate financial relief, they come with significant risks that can ultimately harm athletes in the long run. The legal and ethical concerns surrounding these deals, particularly their resemblance to high-interest loans and the potential for exploitation of vulnerable athletes, highlight the need for stricter regulations. Without proper safeguards in place, athletes may find themselves locked into long-term contracts that severely limit their financial potential. Reforms focused on transparency, contract limitations, and financial education are essential to protect athletes from these predatory practices and ensure that they can benefit fully from their NIL opportunities.⁸

⁷ *Id.*

⁸ *Id.*

III. RECRUITMENT WITHOUT THE NATIONAL LETTER OF INTENT (NLI): LEGAL IMPLICATIONS AND ATHLETE MOBILITY

The NCAA's decision to eliminate the National Letter of Intent marks another critical shift in the landscape of college sports. Since its inception in 1964, the NLI served as a binding agreement between student-athletes and their chosen schools, requiring athletes to commit to attending the institution for one academic year. However, the NCAA Division I Council's decision to eliminate the NLI reflects broader changes in recruitment practices, allowing more flexibility for athletes and further transforming the relationship between schools and athletes in light of new NIL opportunities. Going forward, athletes will sign financial aid and scholarship agreements rather than the binding NLI contract, which may lead to greater athlete mobility and legal ramifications surrounding recruitment and NIL negotiations.⁹

⁹ See Pete Nakos, *NCAA Eliminating National Letter of Intent*, On3 (Oct. 9, 2024) <https://www.on3.com/news/ncaa-announces-elimination-national-letter-of-intent-nli/>.

A. LEGAL IMPACT OF NLI REMOVAL

The removal of the NLI significantly alters the legal landscape of athlete recruitment, particularly with respect to contractual obligations and flexibility. Previously, athletes who signed the NLI were bound to their chosen school for at least one year, limiting their ability to transfer without penalty. With the NLI gone, athletes will now sign less restrictive financial aid and scholarship agreements, which give them more freedom to transfer schools without facing the penalties that were traditionally associated with breaking the NLI. This increased flexibility could lead to greater fluidity in college sports recruitment, as athletes can now change schools with fewer restrictions.

One of the most notable legal changes involves the expanded use of the transfer portal. With the removal of the NLI, athletes may take advantage of the transfer portal without having to sit out for a semester, which was previously a penalty for switching schools under the NLI system. This newfound mobility could have significant implications for both recruitment and scholarship retention, as schools will need to account for the possibility of athletes transferring more frequently. Additionally, NIL deals tied

to specific schools may become more complex as athletes exercise their increased freedom to switch institutions.¹⁰

B. IMPACT ON NIL AGREEMENTS

The elimination of the NLI also impacts how athletes negotiate NIL deals, giving them increased bargaining power. Without being bound by the NLI to one institution, athletes now have greater leverage in NIL negotiations, as they can more easily transfer to schools or programs offering more lucrative NIL opportunities. This flexibility places athletes in a stronger position when dealing with schools, boosters, and collective organizations, as the possibility of transferring adds an additional layer of competition for their services. Schools may feel pressured to offer better NIL deals to retain top talent, further transforming the college sports recruitment landscape.¹¹

However, the increased mobility brought about by the removal of the NLI also introduces new legal challenges for athletes engaged in NIL deals. For example, if an athlete signs an NIL agreement with

¹⁰ *Id.*

¹¹ *Id.*

a booster collective tied to one school, transferring to another school could result in legal disputes over whether the athlete must continue fulfilling their obligations to the original collective. These disputes may center around contract terms, such as non-compete clauses or exclusivity provisions, which could restrict an athlete's ability to sign new NIL deals after transferring. These complications could create legal risks for athletes who are not fully aware of the long-term consequences of transferring for a more lucrative NIL opportunity.¹²

C. POTENTIAL FOR EXPLOITATION

With the elimination of the NLI, there is also a heightened risk of athletes being exploited through the recruitment process and NIL negotiations. The increased freedom to transfer schools and pursue more attractive NIL deals could lead to situations where athletes are lured by short-term financial gains without fully understanding the legal implications of their contracts. For instance, athletes may be drawn to lucrative NIL offers at a new school but fail to recognize the restrictive terms of their original NIL deal, such as non-compete clauses, that could limit their future earning potential. This could

¹² *Id.*

leave athletes in precarious legal situations, especially if they are enticed into making decisions that are not in their long-term best interest.

Additionally, the absence of the NLI could lead to recruitment practices that prioritize NIL deals over the athlete's academic and athletic development. Without the binding commitment of the NLI, schools and boosters may focus more on offering competitive NIL packages to attract talent, potentially sidelining the athlete's overall educational and career goals. This shift raises ethical concerns about whether the elimination of the NLI will lead to a more exploitative recruitment environment, particularly for young athletes who may not fully understand the long-term consequences of their decisions.¹³

D. CONCLUSION

The elimination of the National Letter of Intent by the NCAA marks a pivotal change in college sports recruitment. By removing the binding commitment of the NLI, athletes now have greater freedom to transfer schools and negotiate more favorable NIL deals. However, this increased mobility introduces legal complexities

¹³ *Id.*

surrounding scholarship agreements, NIL contracts, and potential exploitation risks. As athletes gain more flexibility in their college sports careers, schools and legal advisors must remain vigilant in protecting them from exploitative practices and ensuring that they fully understand the legal and financial implications of their decisions. Comprehensive reforms and legal protections will be necessary to ensure that athletes can take full advantage of these changes while safeguarding their long-term interests.¹⁴

IV. THE NCAA SETTLEMENT

In addition to NIL financing and the elimination of the NLI, recent developments in NCAA athlete compensation highlight the broader shift in the collegiate sports landscape. Over the next decade, the NCAA will distribute more than \$20 billion in revenue sharing to athletes, marking a dramatic departure from its previous stance on amateurism. This change signals the end of the era when student-athletes were unpaid participants, fundamentally altering the landscape of college athletics. The settlement also introduces significant adjustments to scholarship and roster rules, which will

¹⁴ *Id.*

have far-reaching consequences for schools, coaches, and athletes alike.¹⁵

A. REVENUE SHARING AND THE EROSION OF
AMATEURISM

The most notable impact of the NCAA settlement is its direct challenge to the concept of amateurism, which has long been a cornerstone of the NCAA's operations. With the introduction of revenue sharing, athletes who were once prohibited from receiving financial compensation will now receive significant payments for their contributions to college sports. This shift blurs the line between student-athlete and professional athlete, as athletes are now financially compensated for their performance on the field.

From a legal standpoint, this revenue-sharing model may lead to further challenges. As athletes begin to receive payments that more closely resemble salaries, they may seek to establish employee status, which could open the door for lawsuits related to wages,

¹⁵ See Kendall Rogers, *The NCAA Settlement: 12 Things Every College Baseball Coach and Fan Should Know*, D1Baseball (Oct. 9, 2024), <https://d1baseball.com/ncaa/the-ncaa-settlement-12-things-every-college-baseball-coach-and-fan-should-know/>.

working conditions, and benefits. The transition from amateurism to a revenue-sharing model may invite legal battles similar to those seen in professional sports leagues, where athletes have fought for greater protections and compensation. This could fundamentally reshape the legal landscape of college sports.¹⁶

B. TITLE IX AND COMPETITIVE BALANCE

The revenue-sharing model also raises concerns about Title IX compliance and competitive balance across different athletic programs. Title IX requires schools to provide equitable treatment to male and female athletes, which means that revenue distribution must be carefully managed to ensure compliance with federal law. Schools may face legal challenges if revenue sharing disproportionately favors male athletes, particularly in revenue-generating sports like football and basketball. Ensuring that female athletes receive equitable compensation could prove difficult, leading to potential Title IX disputes.

In addition to Title IX issues, the settlement may further exacerbate the competitive imbalance between wealthier schools and smaller programs. Schools in financially powerful conferences, such as the

¹⁶ *Id.*

SEC and Big Ten, will likely be able to offer more lucrative revenue-sharing opportunities, attracting top talent and widening the gap between elite programs and smaller schools. This could result in an uneven playing field, with wealthier schools able to dominate recruiting and competition due to their superior financial resources.¹⁷

C. IMPACT ON SCHOLARSHIPS AND ROSTER LIMITS

The settlement also introduces significant changes to scholarship and roster rules, particularly in sports like college baseball. Beginning in 2025, baseball rosters will be reduced from 40 to 34 players, and schools will be permitted to offer up to 34 full scholarships. However, not all schools are expected to reach this full scholarship threshold immediately, with some programs likely to spread their scholarships across a smaller number of players. This reduction in roster sizes and scholarship limits could create legal challenges, particularly if athletes feel they are being treated unfairly or discriminated against due to limited scholarship opportunities.

¹⁷ *Id.*

One potential area of legal complexity arises from the interaction between scholarships and NIL agreements. As schools face constraints in offering full scholarships to all players, they may increasingly rely on NIL deals to compensate athletes. This could lead to a complicated legal landscape where scholarship funds and NIL earnings are intertwined, raising questions about whether athletes are being fairly compensated and whether schools are using NIL deals to circumvent scholarship limits. Additionally, athletes may face legal disputes over NIL agreements if they transfer schools, further complicating the already complex relationship between scholarships and NIL compensation.¹⁸

D. CONCLUSION

The NCAA settlement marks a significant turning point in college sports, particularly with regard to revenue sharing, scholarships, and athlete compensation. By challenging the traditional notion of amateurism and introducing revenue-sharing opportunities, the settlement opens the door for further legal challenges around athlete rights and compensation. Additionally, the new scholarship and roster rules, combined with the potential Title IX and competitive

¹⁸ *Id.*

balance issues, create a complex legal environment that schools and athletes must navigate carefully. As these changes take effect, it is crucial that schools implement fair and transparent policies to ensure compliance with the law and protect the interests of their student-athletes.¹⁹

¹⁹ *Id.*