



# The Shifting Sands of College Athletics

Division of Institutional Integrity Legal Symposium

October 26, 2023

Katie Renaut, Assistant Athletic Director of Compliance, UNC Charlotte

Jesh Humphrey, Vice Chancellor for Institutional Integrity and General  
Counsel, UNC Charlotte

# Emerging Issues





# ***Name, Image, and Likeness (NIL)***

- What is it?
- Prior to July 2021 – not permissible
- Not allowed:
  - Pay for play, inducements
- Institutional Impact
  - Collectives
  - How Charlotte handles?



# *Transfer Portal*

- Historical background
- Sports impacted
- Current policy
- Portal “windows”
- Potential waivers



# ***Transfer Waiver Structuring***

- Portal Entry date
- New Post-Portal Transfer Guidelines
  - Emphasis on “control” and “extraordinary circumstances”
  - 10 Day Response
- Committee Philosophy
  - Physical or mental health and well-being
  - Exigent circumstances outside student-athlete control
  - Diagnosed education impacting disabilities



# ***Institutional Control***

- **11.1.1.1 Responsibility of Head Coach.** An institution's head coach shall be held responsible for the head coach's actions and the actions of all institutional staff members who report, directly or indirectly, to the head coach. In order to assist the NCAA Division I Committee on Infractions in penalty deliberations, the enforcement staff will gather information regarding whether the head coach promoted an atmosphere of compliance within the program and monitored the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach. *(Adopted: 4/28/05, Revised: 10/30/12, 7/16/14, 8/31/22 effective 1/1/23)*
- **NCAA Constitution, Article 6.** The control and responsibility for the conduct of intercollegiate athletics shall be exercised by the institution itself and the division and conference of which it is a member. A member institution's president or chancellor has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program and the actions of any board in control of that program. *(Adopted: 1/20/22 effective 8/1/22)*



# ***Institutional Control***

- 2023 - NCAA Transformation Committee - Infractions process changes need to promote fair and timely outcomes and reflect a modernized set of shared principles and rules holding those accountable who are directly involved in the relevant malfeasance.
- Level I or II violation → Head coach presumed responsible unless they can rebut the presumption
- Emphasis on head coach to rebut presumption of guilt by showing:
  - Promoted an atmosphere of compliance within their program AND
  - Monitored the activities of staff members who report, directly or indirectly, to the coach

# Litigation





# ***Alston vs. NCAA***

- 2021 Supreme Court antitrust case
- Bottom line:
  - NCAA cannot limit “education-related” compensation and benefits to student athletes.



# ***In re: College Athlete NIL Litigation (House v. NCAA)***

- Antitrust case in same trial court as *Alston*
- Relief requested:
  - Damages for “social media earnings” and “game telecast group licensing revenue” student-athletes attending Power 5 schools would have received the past four years
  - End to all NIL restrictions



# ***Student-Athlete Employee Status Cases***

- *Johnson v. NCAA*
  - Fair Labor Standards Act case
  - Pending interlocutory appeal of denial of motion to dismiss in Third Circuit
- NLRB Unfair Labor Practices Complaints
  - Would legally obligate institutions of higher education, athletic conferences, and/or the NCAA to engage in collective bargaining with unions representing college athletes over wages, hours, and other terms and conditions of employment.

# What else? (and isn't that enough?)

- Student-Athlete Wellbeing
- Federal Involvement
- Title IX Implications and Regulations
- Conference Realignment





***Questions?***