

Much Ado About NIL

A Name, Image, and Likeness Primer

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Three questions behind every payment

01 Who is paying?

02 What does the payer receive?

03 What rules apply to the relationship?



Before *Alston*: a restricted compensation market

Shared NCAA limits

Schools competed for student-athletes within common limits on compensation and benefits.

A substantial commercial enterprise

Broadcasting, sponsorships, donations, and sales supported athletics operations.

The legal challenge

Could competing schools jointly restrict what student-athletes could receive?



Alston: a brief exploration of antitrust law

Antitrust = rules protecting competition

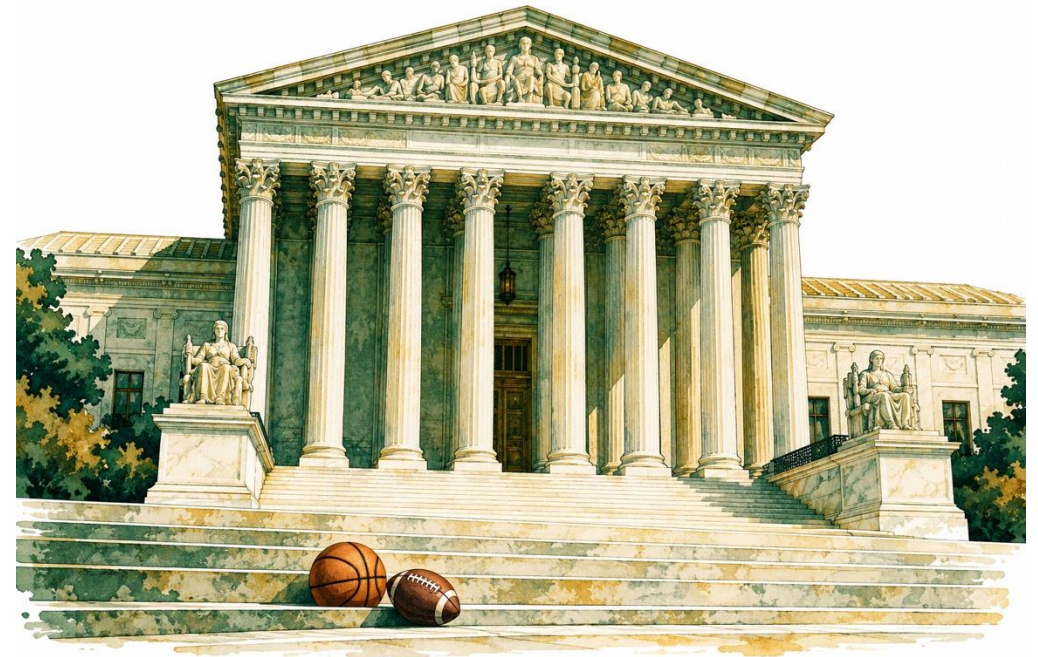
An agreement among competing buyers to limit compensation requires legal scrutiny.

The decision: June 21, 2021

The Supreme Court unanimously upheld relief concerning education-related benefits.

The limit of the holding

Alston did not itself establish NIL rights or require unrestricted student-athlete salaries.



“[T]he NCAA says that colleges may decline to pay student athletes because the defining feature of college sports, according to the NCAA, is that the student athletes are not paid. In my view, that argument is circular and unpersuasive.” – Kavanaugh, J., concurring.

NIL is a right that can be licensed

The holder grants permission

Use of identity in advertising, endorsements, merchandise or other agreed content.

The holder retains the underlying identity rights.

The buyer receives defined rights

Which uses? Which media? For how long? Exclusive or nonexclusive?

A license need not require posts or appearances.

A license can have value even when the buyer does not use it every day.

2021–2025: the payer changes

Period	Principal development	Institutional consequence
July 2021	Interim policy permits third-party NIL	Commercial opportunities expand
Collective Era	Supporters organize NIL opportunities	Recruiting and commercial motives overlap
July 2025 - present	<i>House</i> permits direct school “revenue sharing” payments	The university becomes a contracting payer

The Collective Era

What collectives did

Brought together supporters, funding and NIL opportunities for student-athletes.

The shifting institutional boundary

Schools could assist with some NIL activity, but could not pay directly.

The inducement problem

A commercial NIL deal could not simply disguise payment to enroll or play. Legal challenges changed the rules.



The *House* settlement and “revenue sharing”

Past claims	Future operations
Damages for restricted NIL, broadcast-related and other compensation	Participating institutions may provide new payments and benefits
Class-action settlement covering multiple lawsuits	Benefits cap, roster rules, reporting and enforcement
Relief for covered student-athletes	Schools make budget and contracting decisions

NIL and "revenue sharing" are the same...kind of.

Question	Third-party NIL	Institutional revenue sharing
Who pays?	A business or other outside entity	The participating school
What is purchased?	NIL rights and/or services	A license to use NIL rights
Which framework?	Reporting and applicable NIL review	Institutional benefits cap and rules

A spending limit is not a source of funding

\$21.58M

2026–27 institutional benefits cap

Based on a 22% revenue benchmark, with annual adjustments. Each school supplies its own funding.

CAP

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BUDGET

What is the university buying?

A defined license

Permission to use the student-athlete's identity for agreed institutional or commercial purposes.

Scope of permitted use

Defined uses, media and sublicensing permissions.
The license itself supports payment.

A time-limited commitment

Rights and obligations for a specified term, with payment and exit provisions.



The agreement turns policy into obligations

Contract question	Why the answer matters
Scope of the license	Which NIL uses the university may authorize
Term and payment schedule	When compensation becomes earned and payable
Conditions and changes	What happens after injury, ineligibility, or rule changes
Exit and remedies	What survives; what may be repaid or recovered

“Pay for play” isn’t permitted...but:

NIL value may reflect sport

Athletic skill and reputation can increase the commercial value of identity rights.

NIL cannot merely disguise pay

NCAA Bylaw 22.01.1 prohibits using NIL activities to compensate for participation or achievement.

The sticky wicket: What is the payment actually in exchange for?

Bonuses: NIL value or athletic performance?

Hypothetical provision	Legal significance
Higher fee for existing rights after greater visibility	Existing rights may gain value without new duties
Bonus triggered by an award or postseason success	NIL value and athletic achievement may overlap
Payment per touchdown, win or minute played	Direct link to athletic participation or results

A payment trigger and its purpose are different

Payment trigger

The event that causes the licensing fee to increase.

Payment purpose

Increased value of licensed rights, or pay for athletic performance?

Just calling a bonus a licensing fee does not resolve the “pay for play” issue.

When a student-athlete leaves: three different sums

Category	Question to resolve
Unpaid future compensation	Has it been earned? What happens to the licensed rights?
Previously paid advance	What did the advance purchase, and what rights remain?
Damages or negotiated release	What loss or release obligation supports the additional amount?

Transfers can occur before the contract ends (even for one-year agreements)

01

Portal entry

When this happens is a matter of contract drafting and interpretation.

02

Contract term

Which rights continue?
When is compensation earned? What can end future payments?

03

Enforcement

A valid claim still requires proof, a lawful remedy, and a practical path to recovery.

Liquidated damages must reasonably relate to loss, so penalties for leaving are vulnerable.

Sidebar: employee status

The institutional position

The agreement licenses identity rights within an educational relationship.

The competing argument

Student-athletes provide services under institutional control in exchange for benefits.

The legal inquiry

Which statute applies, and what is the actual economic relationship?



The university administers the entire NIL system

Allocation and equity

Compensation choices coexist with Title IX and the broader athletics program.

Payment administration

Authority, reporting, taxes, documentation and contract oversight.

Individual circumstances

Injury, eligibility, immigration status, and academic responsibilities.



Charlotte competes in an unequal revenue market

SEC average distribution

Full-participation members, FY25
\$1.03B total across membership



\$72.4M

American distribution to Charlotte

Projected FY27



\$3.87M

Charlotte whole-program revenue

FY26, excluding institutional assistance



\$46.59M

What that means for Charlotte's decisions

Recruitment and retention

A successful student-athlete may attract offers from schools with greater resources.

Budget sustainability

Recurring commitments require recurring revenue, not just a one-time funding success.

Institutional priorities

Student-athlete payments compete with the costs of supporting a broad athletics program.



Supporters remain essential partners

Form of support	Institutional purpose
Philanthropy	Scholarships, facilities and the student-athlete experience
Commercial partnerships	Sponsorship value and sustainable athletics revenue
Third-party NIL	Compensation for a student-athlete's commercial rights or services

The Protect College Sports Act

Senate-passed proposal • September 28, 2026 • Not enacted

NIL and agents

NIL rights, disclosure rules and an agent registry

Student protections

Academic support, medical coverage and health standards

Governance

Ombudsman and student-athlete representation

National rules

Preemption of specified state laws and limited antitrust protection

Transfers and retention

Transfer framework, recruiting rules and added retention spending

Media rights

Conditional authority for joint sales of broadcast rights

Transfers, retention and unresolved questions

TRANSFER RULES

One protected four-year transfer

A second can cost a year of eligibility, with specified exceptions.

Contact periods and anti-tampering

Sport-specific 2–5 week periods, affirmative opt-in and exceptions.

RETENTION SPENDING

Up to \$22.5M annually

Qualifying retention payments after a full competitive season, with academic conditions.

Up to \$5M more

Conditional allowance tied to non-revenue sports. Time-limited authority.

STILL UNRESOLVED

Employee status • Title IX allocation • Funding capacity

Stability and competitive balance are different

A more enforceable system

could clarify contracts, transfers and compensation rules.

A higher spending ceiling

will increase the advantage of institutions able to fund it.



Can the current model be sustained?

Haves and have-nots

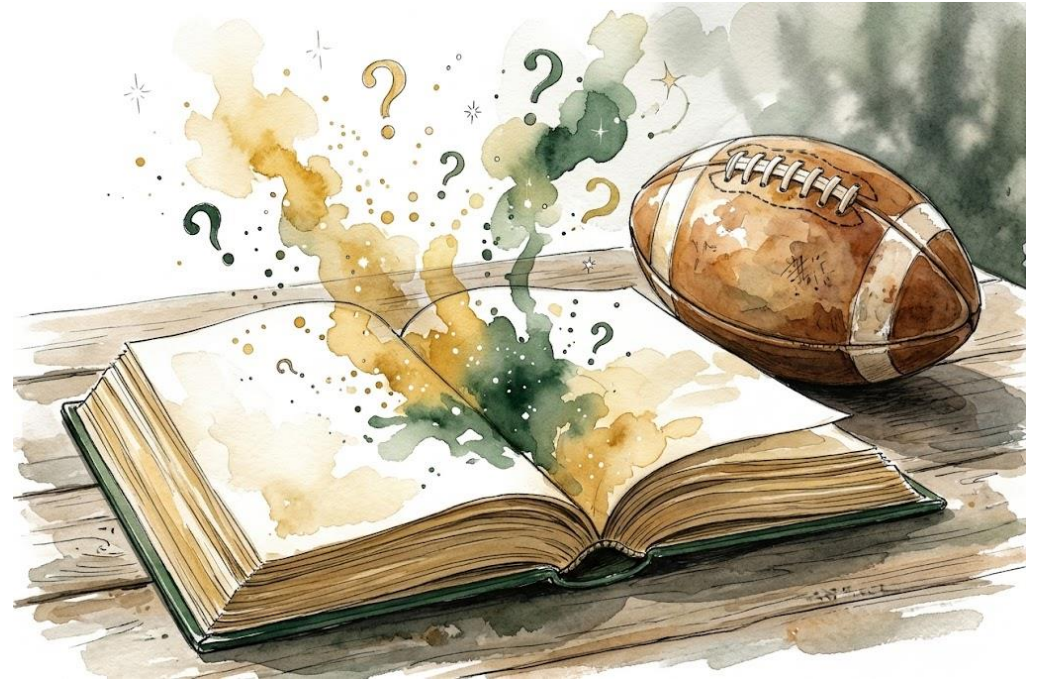
Can schools with very different resources remain competitive in the same system?

Donor fatigue

Can supporters sustain annual compensation commitments alongside other giving priorities?

Escalating costs

What happens if recruitment and retention costs rise faster than recurring revenue?



Questions

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