

## **NIL in College Athletics: A Review from Economic, Historical, Legal, and International Perspectives**

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### **Abstract**

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*College athletics is a major economic as well as social force in American society. A series of NIL related court cases and NCAA administrative decisions will likely help to transform college athletics for years to come. In the past, certain college athletes who participated at the Division I level had an opportunity to receive athletic scholarships. These scholarships were not direct monetary payments or direct compensation. Instead, they were considered to be athletic scholarships that provided room, board, books, tuition, and fees to selected student athletes. The notion of directly paying or compensating college athletes for their services was not allowed in the past as a strict view of pure amateurism prevailed in college sports. Examining college athlete compensation from economic, historical, legal, and international perspectives has allowed the author to closely examine the athlete compensation situation and controversy. Fairly recent NIL related court cases and NCAA administrative decisions have resulted in a situation where college athletes can now receive compensation. The current framework of NIL compensation for student athletes along with an examination of potential future issues and concerns will be discussed in this paper as well.*

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**Keywords:** NIL, NCAA, Athlete Compensation, Athletic Scholarships

### **1. Introduction**

The purpose of this review article is to examine Name, Image, and Likeness (NIL) from economic, historical, legal, and international perspectives in order to gain a better understanding of NIL developments and to project its possible impact on American college athletics into the future. In the United States, college athletics has a significant impact on college campuses and life in and around college communities. Hundreds of colleges and universities exist in the United States that offer athletic programs. The U.S. collegiate sport system is unlike the European sport system where sport clubs exist (particularly in soccer) and they are not directly linked to the college educational system. However, in the United States college athletics are closely intertwined with the overall educational system and they play a major role in college life and the collective identify of colleges and universities.

### **2. Economic Perspectives**

One of the most interesting aspects of college athletics in the United States when compared to other countries from around the world is the extensive amount of attention and money spent on college athletics and specifically college football at the high FBS Division I level. It is not uncommon to see over 50,000 spectators attending FBS Division I college football games on any given weekend in the Fall. The college football games are the American version of football and not the same as European soccer. Media attention related to broadcasting of college football games on television is at an all-time high in terms of viewership numbers, commercial sponsorship fee levels, and the number of games available per week on television (Dees, W., Walsh, A., McEvoy, C., & McKelvy, S., 2025).

Schools that participate in certain conferences in football can make several million dollars per year through lucrative television and media contracts, product sponsorship endorsement deals, spectator ticket sales, concession and souvenir revenues, athletic program fund-raising, game participation contracts, etc. Elite level FBS Division I college football has certainly become a big business as reflected in the high salaries of selected FBS Division I head football coaches. It is not uncommon for a head football coach of a “big time” FBS college football program to earn an annual salary in the multi-million dollar range. College athletics is not to be confused with recreational and intramural sport activities that exist on many college campuses. These recreational sport activities are conducted for the general student body with participation carried out between students located on a particular campus and not intercollegiate in nature where athletic teams from one school compete against teams from another school with athletes playing at high competitive levels. It should also be noted that not all FBS college football programs are realizing a profit each year.

### **3. Historical Perspectives**

Prior to recent NIL court decisions, the pursuit of “amateurism” in college athletics has existed for over 100 years. College athletics had its start in 1852 when a college rowing competition was held between Harvard and Yale. In the early years, organized collegiate athletic competitions were held for students and by students (Coakley, 2025). By the late 1800s, a number of colleges and universities were being established and sporting events soon became popular on college campuses. By 1906, there was a need to organize and regulate college athletic competitions and eventually the National Collegiate Athletic Association (NCAA) was created as a result of these efforts (Gems, Borish, Pfister, 2022). Also, around this time, multiple player deaths in college football were happening and this expanded the urgency and need to develop rules and safety guidelines in an effort to organize competitions between college teams to play for the “love” of the game rather than monetary compensation and to consider the values of athletic competition to be an important part of the sport participation educational and developmental experience (Sate, Eitzen, & Beal, 2019). This pure view of amateurism as it applies to sport participation even existed during the Olympic Movement of the times. For example, at the 1912 Olympic Games in Stockholm, Sweden, Jim Thorpe (an American athlete) had his Olympic medals taken away because he was considered not to be an amateur athlete since he previously played baseball during the summer for compensation thus making him a “professional” athlete (Gems, Borish, Pfister, 2022). This notion of “pure” amateurism in college athletics continued for over 110 years. Furthermore, “professional” athletes in baseball and eventually football could earn money and a salary but they were not allowed to play as amateurs on college sport teams or to participate in the Olympic Games as amateurs during the first half of the 20<sup>th</sup> century. Prior to 2021, college athletes who attended and played at an NCAA member school could not receive direct compensation or salary from colleges or college athletic departments for their participation as athletes on college teams. Being paid by external sources for the use of the athlete’s name, image, and likeness was not allowed by NCAA rules and policies.

In the past, the NCAA had established three competitive levels or divisions which included Division I where athletes could receive athletic scholarships to include room, board, books, tuition, and fees. Division II athlete status did allow for a small amount of athletic scholarship money but it was very limited when compared to a full Division I athletic scholarship. Division III athletes received no athletic scholarship compensation and their college tuition money primarily came from parental support, personal savings, student employment, academic scholarships, or financial aid if the student was qualified for such aid.

### **4. Legal Perspectives**

Name, Image, and Likeness (NIL) was not an integral part of student-athlete funding until recent times. Over a period of several decades, the NCAA continued to grow in size and power to the point that it became the preeminent and dominant governing body in college athletics. Other organizations and entities emerged over time but they were primarily associated with very small colleges and their efforts were directed at establishing rules to ensure fair play and determining the eligibility of participants. These smaller sport governing bodies also played a key role in organizing tournaments and national championships in selected sports (e.g., National Association of Intercollegiate Athletics or NAIA).

It was not until 1984 that a legal case was adjudicated by the United States Supreme Court that opened the door for more extensive conversations about antitrust issues involving college athletics. Although the case did not directly deal with athlete compensation in college athletics, the United States Supreme Court case involving *NCAA v. Board of Regents of the University of Oklahoma* did expand the discussion about potential antitrust concerns associated with college athletics.

The decision by the U.S. Supreme Court ruled that the NCAA did in fact display monopolistic tendencies in their actions related to attempted control of television rights and revenues involving the broadcast of college football games.

Another important legal case that included sport and antitrust laws was the O'Bannon v. NCAA case in 2015. This case involved the U.S. Court of Appeals and included Ed O'Bannon who was a former college basketball player. His lawyers challenged NCAA rules prohibiting college athletes from being paid or compensated for the use of their name, image, and likeness (NIL) as the athletes appeared in video games and broadcasts without being compensated. It was argued in court that the NCAA and others profited from the use of athletes in sport video games and that the athletes should also be compensated. Furthermore, it was pointed out in the lawsuit that the specific NCAA rules represented an illegal restraint of trade under the Sherman Antitrust Act. A federal judge ruled in favor of O'Bannon and it was determined that the NCAA rules did, in fact, violate antitrust laws. As it turned out, the O'Bannon decision would help to pave the way for future court decisions dealing directly with college athlete compensation through name, image, and likeness.

The National Collegiate Athletic Association v. Alston case in 2021 was a United States Supreme Court case that was instrumental in moving the legal ball forward in terms of antitrust law and college athlete compensation. The U.S. Supreme Court upheld a lower court's injunction that allowed colleges to provide benefits like post-eligibility scholarships, tutoring, and study abroad expenses beyond standard attendance costs. Although the Alston case was not an NIL case, it once again moved the ball forward in terms of antitrust litigations involving college athletes. The Alston case along with the O'Bannon case would indirectly set the stage for future court decisions involving college athletics and antitrust laws (specifically the Sherman Act) particularly as they relate to name, image, and likeness issues.

The House v. NCAA case (2025) involved a landmark settlement in a series of federal antitrust lawsuits against the NCAA. The settlements included the creation of a nearly \$2.85 billion fund to address past NIL damages dating back to 2016 and the formulation of a new revenue-sharing model that would allow colleges and universities to directly pay student athletes up to 22% of their media/ticket/sponsorship revenues starting in 2025-2026. It is estimated that this amount will be in the range of 20 to 25 million dollars annually and it will be monitored for compliance by the newly formed College Sports Commission. The settlement and subsequent plan effectively ends the historical view of "amateurism" that has dominated NCAA student-athlete decision making for decades.

## **5. International Issues and Perspectives**

Although recent court rulings have impacted NIL opportunities and procedures for U.S. college athletes, a new can of worms has been opened for international student athletes who compete on U.S. college sport teams and would like to participate in various Name, Image, and Likeness opportunities. When considering international student F-1 visa requirements that limit employment of foreign students in light of the recent House v NCAA settlement, it will be very difficult for international student-athletes to cash in on the new NIL opportunities. In general, F-1 visa holders who attend U.S. colleges and universities can't engage in off-campus work. Many of the NIL opportunities are considered unauthorized employment based on F-1 visa standards. International student-athletes at the present time do not have the same NIL opportunities as U.S. student athletes due to NCAA rules and immigration laws. International student athletes in the U.S. can earn money through their home countries but not through the most common forms of NIL opportunities available to student athletes.

## **6. The Future**

College athletics can have a tremendous impact on American society along with the athletes who compete in college sports. This article has examined the past and present implications of college athletics and NIL in terms of economic, historical, legal, and international perspectives. It is now time to briefly discuss some of the possible additional implications of NIL that apply to the future of college athletics in America.

Future NIL opportunities for college athletes are extensive and include many possibilities that range from appearing in advertisements to licensing an athlete's image for a product or package to postings on social media for a brand to wearing sponsored apparel, etc. College direct pay to athletes has recently been allowed along with involvement with collectives. The College Sports Commission has been created independent from the NCAA to provide guidance and oversight through this important growth period involving NIL. Some of the possible future questions related to NIL that will require answers in the future include the following:

1. How will Title IX and women's sport be impacted by NIL?
2. How will Division II and Division III athletic programs be impacted long term by NIL?
3. How will non-revenue sports like wrestling and tennis survive the NIL era in terms of securing adequate funding?
4. How will academics and athletics be connected in the future in terms of a student-athlete or athlete-student perspective?
5. Will involvement of sport agents and other external parties lead to future sport scandals and corruption?
6. What will NIL and college athletics look like during the next few years in terms of the transfer portal and athletes continuing to transfer to multiple colleges for athletic advancement opportunities with emphasis placed on academics?
7. Will the unequal distribution of NIL opportunities and funds to only a few star players lead to dissention and jealousy on certain teams in the future?
8. Will the concept and practice of NIL cascade down to the high school and middle school levels of athletic participation and how will it impact youth sport competitive levels and leagues (e.g., elite travel team expansion, creation of super elite leagues)?
9. What will be the role of the federal government and NCAA in regulating NIL policies and procedures into the future?
10. As college athletics become more commercialized with NIL money, will the connection between the mission of college athletics change and the high level FBS programs begin to move more toward a professionalized model of sport and perhaps eventually aligning with professional sport teams and leagues like the NFL and NBA or the sport club model similar to what is found in European soccer leagues?

In conclusion, this article has attempted to expand the discussion about NIL and its impact on the future of college sport. The analysis has examined the issue from economic, historical, legal, and international perspectives. Overall, the current situation involving NIL has raised many important questions to consider for the future of college athletics in the United States. It is hoped that finding answers to the questions raised here as well as many other questions that will surface in the future will help to navigate and shape the future of college sport. The future will certainly be exciting!

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