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Understanding the Spectrums  
of Risk: The Realities of  
Modern Division I College  
Athletics

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Part of the Issues in Higher Education Webinar Series

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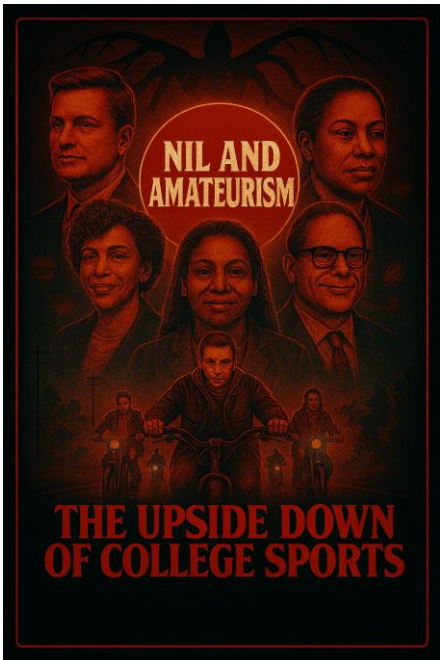
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### Agenda

- CSC and NIL
- NIL Contract Issues
- Athletics Eligibility – The End of “Amateurism”
- Private Equity – Pros & Cons
- Federal Regulations Affecting Athletics
- NCAA Infractions Trends & Gambling
- NCAA Rule Changes

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### CSC Role and New NIL Compliance Requirements

| REQUIREMENT             | RESPONSIBLE PARTY | TIMELINE                   | CONSEQUENCE                    |
|-------------------------|-------------------|----------------------------|--------------------------------|
| Report NIL deal         | Student-athlete   | Within 5 days              | Risk of ineligibility          |
| Notify CSC of violation | Institution       | Within 2 days of discovery | Must render athlete ineligible |
| Reinstatement           | Institution & CSC | After deal is reported     | Athlete regains eligibility    |

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## Incremental Scholarship Counting Policy

**2025–26:** Fine of \$1 for every \$1 by which a school exceeds the benefits cap due to incremental scholarships.

Scholarship overages will count against 2026–27 cap.

**2026–27:** Fine of \$.20 for every \$1 by which a school exceeds the benefits cap due to incremental scholarships.

**Future Change:** Scholarship-related cap overages will *\*not\** roll over and reduce the following year's cap.



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## Third-Party NIL Rules & Guidance



**MMR 'Reminder'** — Institutions must ensure multimedia rights partners do not engage in impermissible NIL activities.



**NIL Guarantees Prohibited** — Institutions and third parties may not guarantee NIL compensation as part of recruitment or retention.



**Offset Language Permitted** — An institution may include a clause in a revenue share agreement allowing it to reduce ('offset') institutional revenue share payments when a student-athlete receives a third-party NIL payment.

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## Multiyear Agreements & the Pool Cap

**House Q&A Example:**

- Student-athlete signs a two-year agreement with Institution-A as follows:
  - Signing incentive payment to be paid upon enrollment (July 2, 2025): \$50,000.
  - September 1, 2025 (year 1): \$100,000.
  - September 1, 2026 (year 2): \$200,000.
  - Contract Dissolution (e.g., liquidated damages): \$100,000
- If student-athlete transfers to Institution-B on Dec. 31, 2025 (year 1):
  - Institution-A counts \$150,000 (incentive + year 1 payment) in its cap for 2025-26.
  - Institution-B counts \$100,000 (contract dissolution payment) in its cap for 2025-26.\*

*\*Applicable only if Institution-B pays the contract dissolution payment.*

## CSC Cooperation Policy & Participant Agreement



## NIL Contract Issues Leading to Disputes

- Can a school prevent an athlete from entering the transfer portal?
- Payment Timing
  - Balance between upfront payments desired by student-athletes and institutional risk management.
  - Align recruiting realities with fiscal responsibility (e.g., retention bonuses, post-Portal payments).
- Liquidated Damages
  - Must be reasonable relative to anticipated or actual harm.
  - Should address difficulty of calculating losses at contract execution.
  - Cannot function as a penalty — must reflect legitimate damages.
- NIL Licenses are not an employment agreement and do not prohibit athletics participation.
- Limit of NIL licenses may be tested state-to-state, court-to-court.

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## Examples of NIL Contract Disputes

- **University of Georgia Athletic Association v. Wilson**
  - University filed lawsuit to compel arbitration with Wilson, who transferred to Missouri in January 2025.
  - Per liquidated damages clause, Wilson owes \$390K.
- **University of Washington v. Williams**
  - University sought enforcement of contract that restricted portal entry and NIL licensing to other schools.
  - Williams ultimately agreed to remain at Washington.
- **University of Wisconsin v. University of Miami**
  - Case is currently pending in Wisconsin state court and claims include tortious inference and tampering.
- **Duke University v. Mensah**
  - Duke sued Mensah for breach of contract and sought to enforce contract through private arbitration (as required in contract).
  - Duke initially received a TRO, but the parties reached a settlement earlier this week.



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# What is a Professional?

## London Johnson commits to Louisville: How G League players are now eligible to play college basketball

G League players like Johnson can now sign with college basketball teams

By Adam Finkelstein Oct 23, 2025 at 3:14 pm ET • 3 min read



## NBA draft pick James Nnaji to join Baylor mid-season: 'This s\*\*\* is crazy'

Jordan Mendoza  
USA TODAY

ET

Advertisement

## NCAA president breaks silence on college basketball eligibility mess

Craig Meyer  
USA TODAY NETWORK

Dec. 31, 2025, 9:17 a.m. ET

## Kansas State Hooper's Eligibility Held Hostage Over Pro Deal One Day After Charles Bediako Debut

KANSAS STATE WILDCATS

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BY JACOB ELSEY JANUARY 26, 2026 3:49 PM



## NCAA rules former G League player Thierry Darlan eligible

Jeremy Woo  
Sep 23, 2025, 12:56 PM ET



## Sportico

NCAA G LEAGUE ELIGIBILITY RETREAT MARKS AMATEURISM'S LATEST DEFEAT

# Athletics Eligibility – The End of Amateurism?

- Competition “against” vs. “with” professional teams after enrollment
  - Exception (Pre-Enrollment): Individuals may compete on professional teams (non-Men’s Ice Hockey/Skiing) if they receive no more than actual and necessary expenses.
- Brantmeier v. NCAA is challenging NCAA’s restriction of prize money above actual and necessary expenses.
- International SA Eligibility Waivers - Case reviews often require detailed analysis of pre-enrollment expenses.



## Ongoing Legal Dispute Related to Amateurism

NCAA denied Alabama men's basketball student-athlete Charles Bediako's request for reinstatement for the 2025-26 season despite recent approvals for similarly situated players.

- Played at Alabama (2021–23), left early to pursue NBA career
- Not drafted; brief G League participation (injured during initial year; played one full season during 2024-25)
- Played for Canada's national team (consistent with NCAA rules)

Bediako's Core Arguments:

- **Changed Landscape:** NIL expansion + House settlement now provide financial incentives that would have kept him in school earlier
- **Arbitrary Enforcement:** NCAA's refusal conflicts with recent precedent and selectively disadvantages athletes who leave college before turning pro
- **Unfair Distinction:** NCAA treats athletes who go pro before college more favorably than athletes who go pro after leaving college

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## Private Equity – Weighing Pros and Cons

- Private equity firms are investing money into athletics programs in exchange for partial ownership or financial rights.
- **Pros**
  - Immediate capital to support NIL, facilities, scholarships, and operational growth.
  - Access to advanced revenue-generation models, data analytics, and professionalized business strategies.
- **Cons**
  - Potential tax status implications for institutions due to private-sector investment.
  - Profit motive may conflict with institutional missions.
  - Financial Risks (debt, obligations) and widening gaps among programs.
  - Increased external influence over decision-making, institutional priorities, and long-term accountability.
    - Note: January 15, 2026, Bipartisan letter urging NCAA to limit private equity in college sports.

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## Federal Regulations Affecting Athletics

### F-1 Visa Regulations

- Poa v. Jaddou (USCIS): LSU WBB student-athlete challenged USCIS denial of P-1A visa.
- Denial reasons included: NIL activities not deemed ancillary to athletic status; representation agreement not considered an agency agreement; P-1A visa incompatibility with student enrollment.
- Active vs. Passive Income: No formal federal determination that passive NIL income is permissible for international student-athletes.
- Remains a question of risk tolerance.

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## Title IX & Institutional NIL

- Biden Administration (Jan. 16, 2025): ED states Institutional NIL = financial assistance → must be distributed equitably under Title IX.
- Trump Administration (Feb. 12, 2025): Rescinds prior Fact Sheet; no replacement guidance issued.
- Remains a question of risk tolerance.



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## Saving College Sports Executive Order



### Unfulfilled Federal Directives



Required ED + DOJ + HHS + FTC to develop policy plan within 30 days of EO (due Aug. 24, 2025).



Required FTC + DOJ plan on antitrust mitigation and litigation posture within 60 days (due Sept. 24, 2025).



No public policy updates released despite deadlines.

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## SPARTA – Athlete Agent Regulations

### Sports Agent Responsibility & Trust Act

- Establishes duties: truthfulness, disclosure, and prohibition on providing improper benefits.
- FTC investigating 20 universities for potential SPARTA non-compliance.
- Many schools eliminated their agent registration programs/monitoring post-NIL.



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## NCAA Infractions Trends & Gambling

- 2026 men's basketball indictment highlights rise in high-profile wagering-related cases.
  - Federal charges against 26 individuals, including bribery in sporting contests, conspiracy to commit wire fraud, and aiding and abetting, based on point-shaving/"fixing" CBA games during 2022-23 and Division I men's basketball games during the 2023-24 and 2024-25 seasons.
- State laws vary regarding sports wagering, and some states restrict sports wagering by individuals affiliated with a team.
- Consider institutional policy and annual education/attestation to mitigate institutional culpability/risks.
- Sports wagering cases now dominate the infractions landscape, as reflected in Division I Dashboard comparisons.

## NCAA Infractions Trends & Gambling continued

|          |                             |                                  |                       |
|----------|-----------------------------|----------------------------------|-----------------------|
| 01/12/24 | FloridaSt - 020169          |                                  | Negotiated Resolution |
| 02/01/24 | Alabama - 020262            |                                  | Negotiated Resolution |
| 02/12/24 | Texas - 020164              |                                  | Written Record        |
| 04/19/24 | ArkansasSt - 020251         |                                  | Negotiated Resolution |
| 05/29/24 | SouthernUtah - 020291       |                                  | Negotiated Resolution |
| 07/02/24 | UNLV - 020263               |                                  | Negotiated Resolution |
| 08/07/24 | Michigan - 020002           | Involved Individuals             | Negotiated Resolution |
|          |                             | Institution/Involved Individuals | Full Hearing          |
|          |                             | Involved Individual              | Written Record        |
| 08/23/24 | Wofford - 020293            |                                  | Negotiated Resolution |
| 08/27/24 | Oklahoma - 020305           |                                  | Negotiated Resolution |
| 09/04/24 | SMU - 020296                |                                  | Negotiated Resolution |
| 09/13/24 | SouthCarolinaSt - 020191    |                                  | Negotiated Resolution |
| 10/03/24 | ArizonaSt - 020017          | Institution/Involved Individuals | Negotiated Resolution |
|          |                             | Involved Individuals             | Written Record        |
| 11/12/24 | SouthernCalifornia - 020277 |                                  | Negotiated Resolution |
| 12/18/24 | Hampton - 020292            |                                  | Negotiated Resolution |
|          |                             |                                  |                       |
|          |                             |                                  |                       |
| 12/18/24 | Kentucky - 020233           | Involved Individual              | Written Record        |
|          |                             | Institution                      | Negotiated Resolution |

|          |                         |                           |                       |
|----------|-------------------------|---------------------------|-----------------------|
| 01/08/25 | Sports Betting - 020351 | Involved Individual       | Negotiated Resolution |
| 02/21/25 | HighPoint - 020218      | Institution               | SDR                   |
|          |                         | Involved Individual       | Negotiated Resolution |
| 04/18/25 | Sports Betting - 020412 | Involved Individual       | Negotiated Resolution |
| 04/22/25 | Fordham - 020226        | Institution/Involved Ind. | Negotiated Resolution |
|          |                         | Involved Individual       | Negotiated Resolution |
| 04/25/25 | FlaGulfCoast - 020349   | Institution               | Negotiated Resolution |
|          |                         | Involved Individual       | Negotiated Resolution |
| 05/03/25 | Sports Betting - 020309 | Involved Individuals      | Negotiated Resolution |
|          |                         | Institution/Involved Ind. | Negotiated Resolution |
| 06/12/25 | California - 020184     | Institution/Involved Ind. | Negotiated Resolution |
| 06/12/25 | UTMartin - 020274       | Institution/Involved Ind. | Negotiated Resolution |
| 06/12/25 | Wisconsin - 020330      | Institution/Involved Ind. | Negotiated Resolution |
| 07/02/25 | OklahomaSt - 020278     | Institution/Involved Ind. | Negotiated Resolution |
| 07/16/25 | Memphis - 020352        | Institution/Involved Ind. | Negotiated Resolution |
| 09/10/25 | Sports Betting - 020420 | Involved Individual       | Negotiated Resolution |
|          |                         | Involved Individual       | Negotiated Resolution |
| 10/24/25 | Sports Betting - 020428 | Involved Individual       | Negotiated Resolution |
|          |                         | Involved Individuals      | Negotiated Resolution |
| 10/30/25 | CentralMich - 020317    | Institution/Involved Ind. | Negotiated Resolution |
| 10/31/25 | Sports Betting - 020427 | Involved Individual       | Negotiated Resolution |
|          |                         | Involved Individual       | Negotiated Resolution |
| 11/04/25 | Sports Betting - 020388 | Involved Individual       | Negotiated Resolution |
| 11/07/25 | Sports Betting - 020366 | Involved Individual       | Negotiated Resolution |
|          |                         | Involved Individuals      | Negotiated Resolution |
| 11/07/25 | Sports Betting - 020424 | Involved Individuals      | Negotiated Resolution |
|          |                         | Involved Individuals      | Negotiated Resolution |
| 11/07/25 | Sports Betting - 020425 | Involved Individuals      | Negotiated Resolution |
|          |                         | Involved Individual       | Negotiated Resolution |
| 11/12/25 | Sports Betting - 020430 | Involved Individual       | Negotiated Resolution |
|          |                         | Institution/Involved Ind. | Negotiated Resolution |
| 11/12/25 | MichiganSt - 020290     | Involved Individual       | Written Record        |
|          |                         | Involved Individual       | Negotiated Resolution |
| 11/21/25 | Sports Betting - 020353 | Involved Individual       | Negotiated Resolution |
|          |                         | Involved Individual       | Negotiated Resolution |
| 12/16/25 | Sports Betting - 020431 | Involved Individual       | Negotiated Resolution |
| 12/11/25 | WesternIll - 020368     | Institution               | Negotiated Resolution |

## NCAA Rule Changes



Proposal to permit gambling on professional sports failed.



Two-thirds of Division I schools rescinded Proposal 2025-20 within 30-day rescission period.



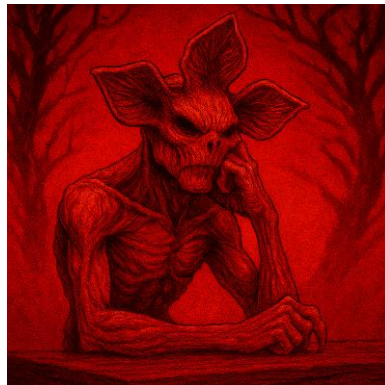
Because betting rules are common legislation, ban on all betting in NCAA-championship sports remains across all three divisions.



2026 NCAA Convention: Voted on transfer portal window changes for M/W basketball, men's wrestling, track & field, and men's ice hockey.

## Do NCAA Rules Still Matter?

- Do NCAA rules still matter?
  - Institutional control
  - Institutional penalties
- What remains under the NCAA's purview?
  - Academics, sports wagering, and what else?
- Will the modernization and deregulation of NCAA rules continue?



# Questions



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