

A Look at The Legal Terrain of College Sports and NIL Contracts: The New Presidential Executive Order Amidst Current Cases

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This is the first in a series of updates in the quickly evolving legal field of college sports compensation. Today's alert focuses on the Trump Administration's College Sports Executive Order (EO) issued this month entitled "Urgent National Action to Save College Sports."

There is a new player in the arena of college athletics legal authority. The President's EO is now calling signals in the complex legal turf of college athletics.

While recognizing inconsistencies in the current mix of NCAA rules, state and federal anti-trust and other statutes, and an increasing number of court cases, decisions and state statutes, the EO, reportedly supported by many university athletic department and inter-collegiate athletic conference leaders, attempts to tighten up eligibility and transfer limits.

Gone are the days when college athletics simply involved signing Letters of Intent, first introduced in 1964, committing high school athletes to play at Division 1 schools, often in exchange for tuition scholarships. After the landmark 2021 U.S. Supreme Court's 9-0 decision in *NCAA v. Alston*, 594 U.S. 69, allowing college athletes to receive compensation in addition to tuition scholarships, by affirming lower courts' decisions that the NCAA's rules restricting even non-monetary compensation for academic-related purposes - such as computers, tutoring and internships - violated antitrust laws, student athletes' commitments can include compensation for an athlete's name, image and likeness (NIL).

NIL contracts presented to athletic recruits - often teenagers - include dense and voluminous legal provisions, with scheduled terms and deadlines, offering cash payments in exchange for the schools' use of athletes' NIL and their compliance with various provisions. The evolving legal landscape of NIL contracts, including enforceability issues and the impact of NIL deals, together with the NCAA's transfer portal, will be highlighted in our next legal update.

The new EO wades into transfer and eligibility restrictions that are the subject of recent headline-inducing litigation. For example, in January 2026 Duke University sued its 2025 starting quarterback, Darian Mensah, for breach of contract shortly after he entered the transfer portal and announced his intention to sign with the University of Miami. The settlement between Duke and Mensah avoided rulings on whether the transfer would breach his multi-year Duke NIL deal and other legal issues. Reportedly, the settlement included a significant payment to Duke in exchange for permitting Mensah to break his contract. (See, e.g., "Darian Mensah, Duke Settlement," CBS Sports online, 1.27.26).

Another line of recent cases addresses the issue of eligibility. Typically, athletes have four years to play but may receive an additional year of eligibility if the athlete redshirts (i.e., does not participate in intercollegiate competition due to injury or other reasons).

The Ole Miss star football quarterback, Trinidad Chambliss, sued the NCAA in state court seeking an order that he remain eligible to play a sixth year in college. In allowing Chambliss' motion for a preliminary injunction, the court ruled that he had demonstrated sufficient compliance with NCAA rules because he redshirted his initial year and had a year of non-play due to injury, then played two years at Ferris State University in 2023 and 2024, and at Ole Miss for the

2025 season. (See, e.g., “What’s Next in Trinidad Chambliss Eligibility Case,” Mississippi Clarion Ledger online 3.9.26; see also Chambliss Petition for Injunctive Relief and Declaratory Judgment)

The NCAA filed a Mississippi Supreme Court petition March 5th for review of the lower court order, but it was denied March 27, 2026. (See, e.g., “Ole Miss’ Trinidad Chambliss Wins v. NCAA,” Mississippi Clarion Ledger online 3.27.26).

In another case, the Charlottesville Circuit Court denied the University of Virginia senior quarterback Chandler Morris’ request for a preliminary injunction. (See, e.g., “Chandler Morris Denied Additional Year,” The Cavalier Daily online 4.2.26). In late March 2026, the Court ruled that Morris is not eligible for a seventh year of eligibility, upholding the NCAA’s denial of a medical redshirt waiver for knee and other injuries while he played at TCU in 2022 and 2023. (See, e.g., “Virginia QB Chandler Morris Denied 7th Year,” CBS Sports online April 3, 2026) The financial context of Morris’ suit includes his reported over one million dollars in earnings in his one season at Virginia, and a reported estimated higher 7th year market value if he had prevailed. (Id.)

In addition to addressing the number of years an athlete is eligible and how many times a player can transfer from one school to another and remain eligible, the EO contains other notable provisions related to current college sports issues, as briefly summarized below.

EO’s Purpose and Policy to Avoid “Financial Arms Race”

The Purpose and Policy section describes the college athletic legal and financial playing field and the “enormous pressure on many universities to be competitive in football ... [and] basketball to a lesser degree” including to pay for other sports for men and women, and the unpredictability and mixed interpretations of NCAA rules, state statutes and court cases. (See § 1). The EO emphasizes that

... the rules governing pay-for-play eligibility, and other aspects of college athletics have been substantially loosened through a number of judicial rulings. Additional rules that could institute order and consistency in these systems have been nullified by some State legislatures that are incentivized to advantage their own State’s universities in the competitive market for student-athletes by minimizing barriers to recruitment. This chaotic state of affairs has undermined competition, reduced opportunities for student-athletes, and jeopardized support for the current range of college athletics, particularly women’s and Olympic sports. (Id.).

According to the EO, these factors have “created an out-of-control financial arms race in these sports that is driving universities into debt, threatening to siphon resources from other sports, and damaging student-athletes’ educational and graduation opportunities.” (Id.) The EO warns that “financial perils will inevitably siphon funds from universities’ educational and research purposes, which could impact their capabilities and responsibilities as Federal contractors and grantees.”

The EO states that “[f]air competition cannot occur without a consistent set of rules concerning pay-for-play or player eligibility that cannot be endlessly relitigated in court.” Concluding that a comprehensive national solution is necessary to preserve both college sports and schools’ academic and research capabilities and encouraging the U.S. Congress to pass legislation, the EO states that further delay is not an option given the financial risks related to an estimated 500,000 annual athletic, academic and leadership opportunities valued at nearly \$4 billion in scholarships. (§ 1).

EO’s Quick Timeline for New Rules

The heart of the EO, Section 4, is titled “Protecting Women’s and Olympic Sports and Preserving Higher Education Financial Responsibility,” and instructs the interstate intercollegiate athletic governing body for higher education

institutions to update or clarify its rules before August 1, 2026 by establishing seven separate areas “to the extent permitted by law and applicable court orders.” (§ 4(b)).

Eligibility: “No More Than a 5-year Period with Limited Exceptions.”

The first area relates to “age-based eligibility limits to promote fairness, consistency, safety and opportunities for student-athletes” limiting participation in college athletics to “no more than a five-year period, with limited exceptions for military service, missionary service and other periods of absence from participation that are in the public interest.” (§ 4(b)(i)(A)). In addition, professional athletes cannot return to college athletics. (§ 4(b)(i)(B)).

Transfer: Once “During the 5-Year Period” and an Additional Time if a 4-year Degree

The second area relates to “transfer-related rules,” and transfer would be limited to: i) “one time during the five-year period with immediate playing eligibility; and, ii) one additional such time “if the student-athlete obtains a four-year degree.” (§ 4(b)(ii)(A)).

Other Topics in EO, Including to Preserve or Expand Women’s and Olympic Sports

The required rules would also prioritize “academic development, success, graduation and long-term well-being of student-athletes;” and, as a further goal, “ensure that the transfer window does not incentivize interference with athletic seasons or the academic year or otherwise undermine the integrity of participation and competition in college athletics.” (§ 4(b)(ii)(B) and (C)).

Notably, provisions in Section 4 focus on athletes, including: i) medical care for student-athletes for athletic-related injuries during their period of enrollment “and for a reasonable period of time thereafter”; and, ii) “implementation of revenue-sharing between higher education institutions and student-athletes in a manner that preserves or expands scholarships and collegiate athletic opportunities in women’s and Olympic sports...” (§ 4(b)(iii) and (iv)).

Financial-related rules include: i) “a prohibition on the use of Federal funds” by schools “for NIL or revenue-sharing payments or coaching or athletic compensation”; ii) “a prohibition on improper financial activities regarding student-athletes, including collectives or other entities or methods used to facilitate third-party, pay-for-play payments;” and, perhaps very significant, iii) creation of “a national student-athlete agent registry and reasonable protections for student-athletes from excessive agent commissions.” (§ 4(b)(v)-(vii)).

While there may be questions as to the extent of enforceability of the EO and the rules and regulations to be promulgated, it provides a legal authority and framework that may likely influence courts’ analyses in transfer portal and eligibility-related litigation. Codification of any of its provisions by the U.S. Congress would likely strengthen enforceability.

The next Legal Update in this series will focus on NIL Developments After House v. NCAA.