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The *House* Settlement at One Year: Taking Stock & Looking Forward

*Sports & Higher Education
Webinar*

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Our Sports and Higher Education practices

Focuses on pressing issues related to college sports:

- Arbitration and dispute resolution in college athletics
- Enforcement trends, investigations, and emerging controversies
- Legislative updates, including the Protect College Sports Act and SCORE Act
- Compliance challenges involving immigration, tax, and Title IX

**Market
recognition**

Sports Practice Group of
the Year
Law360 2019, 2021, 2023,
2025

Our recent insights and credentials



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If you have any questions, please submit them in the Q&A box.

Impact of the *House* Settlement

What the settlement changed — and what it didn't:

What Changed:

- Revenue Sharing
- Third-Party NIL Clearinghouse
- Enforcement by College Sports Commission

What Didn't Change:

- Need for Title IX Compliance
- Resolution of Antitrust Challenges
- Employment Status for SAs
- Conflicting State NIL Laws



Problems Settled? Not so Fast.

Continued Uncertainty:

- Soft cap: football rosters exceeding \$40 million. Power conferences want to raise the cap
- Delays in NIL Go Review: system overwhelmed by associated deals
- Lack of enforcement for tampering and unreported deals
- Continued antitrust and legal challenges
- President Trump's executive orders

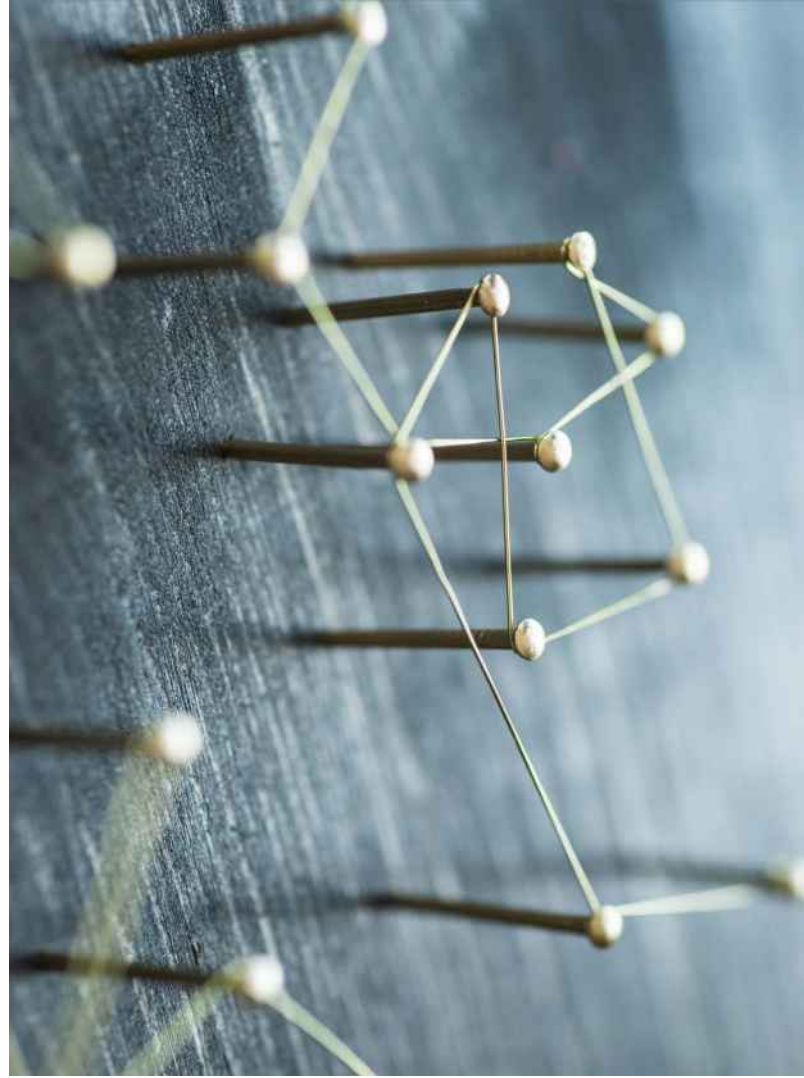
Potential Solutions to Uncertainty

- Congressional Action (NCAA/P4 favored course)
- Collective Bargaining?
- Proposed governance changes, enforcement at the conference level?



Challenges for Institutions

- Allocating resources to remain competitive and compliant with Title IX
- Drafting revenue share agreements and adapting corporate structures to stay nimble while adequately protecting the institution
- Finding additional third-party NIL revenue through MMRs and other associated entities
- Staying compliant in a continued wild west environment of recruiting/tampering



Congressional Update

Can Congress provide a solution?

NCAA/Power Conferences are pushing for a legislative solution, but many competing interests exist.

Two competing approaches:

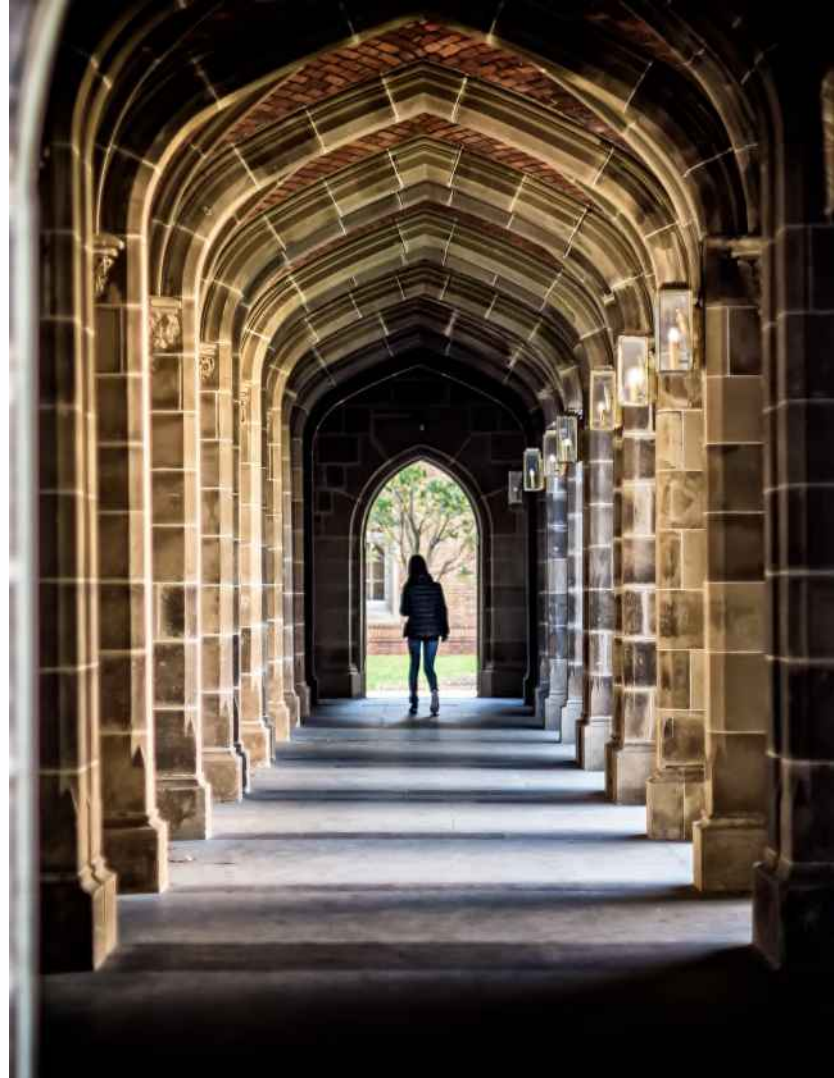
- **SCORE Act – House**
 - Codifies the *House* Settlement
 - Explicitly defines student-athletes as non-employees
 - Provides broad antitrust exemption
 - Pre-empts conflicting state laws on compensation, benefits, and employment status.

- Reported by two House Committees – stuck on the House floor



Can Congress provide a solution?

- **Protect College Sports Act (Senate)**
 - Provides a narrower antitrust exemption
 - Creates a federal NIL right and replaces the patchwork of state laws
 - Allows schools to pool media rights
 - Prohibits the development of a “super league”
 - Remains neutral on student-athlete employment status
- Reported by the Senate Commerce Committee (with opposition), awaiting floor time in the Senate



Takeaways

The recent legislative action reflects a growing recognition that the current environment is unsustainable.

Three potential paths forward:

- Maintain the status quo
- Collective bargaining
- Legislative intervention

Now is the time to engage in the legislative process by expressing concerns and support to your Members of Congress.

Enforcement and Disputes

CSC – One Year In

College Sports Commission

- Scaled rapidly, growing from zero to ~20 personnel in the past year
- Established headquarters in Tysons, Virginia, just outside Washington, D.C.
- Leadership brings a hybrid of professional sports and prosecutorial experience
- Designed to operate like a professional sports league, rather than a traditional collegiate compliance framework
- Policy documents and other developments signal a shift toward a professionalized enforcement model



Relevant CSC Updates

College Sports Commission

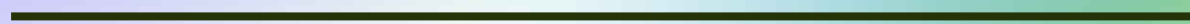
- **University of Nebraska**
 - MMRs deemed “associated entities” for CSC purposes
 - Improper “warehousing” not permitted (must show valid business purpose)
 - Issue also being challenged in N.D. California litigation
 - Deals ultimately re-submitted following rejection
- **University of Georgia**
 - Deals approved after CSC re-review and updated compensation data
 - Arbitrator declined broader relief and denied attorneys’ fees
- **Broader implications**
 - Litigation is underway challenging CSC authority and framework



Takeaways

- The CSC has quickly built a centralized, professionalized enforcement model with leadership and procedures drawn from pro sports and prosecutorial settings.
- Arbitrators are independent neutrals, not industry insiders.
- Early rulings and pending litigation create a moving target for NIL compliance, particularly around associated entities and range-of-compensation determinations.

Title IX Considerations



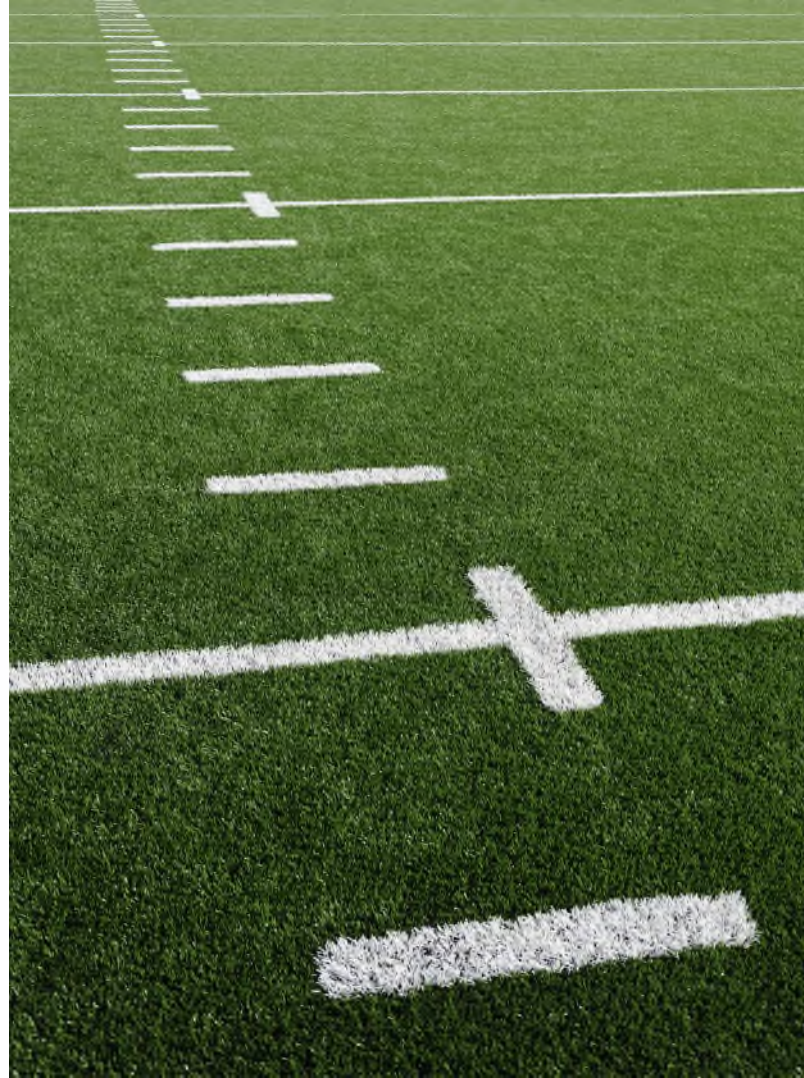
What did *House* change?

- Judge Wilken's answer: Essentially, "nothing."
- The \$20.5+ million question that *House* poses is whether the direct compensation payments from colleges and universities to student athletes qualify as athletic financial assistance that is subject to the "substantial proportionality" rule.



Where are we now?

- Still no definitive answer to the \$20.5+ million question. Yet, we have some preliminary answers or at least indications:
 - Biden OCR
 - Trump OCR
 - Congress
 - White House
 - Power Four Institutions
- Judge Wilken's approval of the *House* settlement is the subject of multiple consolidated appeals in the 9th Circuit. The \$20.5+ million question is one of the issues the Court is asked to decide.



Where are we now? (cont.)

- Timeline for *House* settlement appeal resolution:
- Briefing substantially complete as of March 2026
- Oral argument not yet scheduled (likely late 2026 if held)
- Decision after oral argument



What to do?

- It's not a matter of if but when Hope is not a strategy!
- How would your institution answer the question: Explain how your *House* allocations to teams and athletes comply with Title IX?
- Do not forget Title IX participation, financial aid, and laundry list compliance.



Additional developments/cases

- President Trump's Executive Orders
- Schroeder v. University of Oregon, No. 23-cv-01806, (D. Oregon 2023)
- Kelly v. California Baptist University, No. 26-cv-01450 (C.D. Cal. Mar. 26. 2026)
- Myers. V. Stephen F. Austin State University, No. 25-cv-00187, (E.D. Texas)
- Niblock v. University of Kentucky, No. 24-6060 (6th Circuit)



Takeaways

Title IX compliance remains a critical issue with continued, significant uncertainty and risk of litigation and enforcement.

Institutions should consider:

- Developing a robust legal and factual basis for the institution's allocations of *House* payments under Title IX.
- Revisiting such grounds on a year-to-year basis.
- Considering how other changes to athletics operations stemming from *House* may affect Title IX compliance.

Employment

House did not resolve the employment question.

- Employment status is a key sticking point between various congressional constituencies to reach a legislative deal.
- Johnson Case Continues
 - FLSA claims/economic realities test
 - *House* has now turbocharged the economic dynamic of the university-SA relationship.
- Is employee status/collective bargaining the better approach?
 - Some leaders, including in the SEC, are of the mind that a collective bargaining model is the preferable approach.
 - **Pro:** Would lighten the burden on Congress to provide antitrust protection
 - **Con:** Would be another seismic shift. Have to figure out workman's comp, state-to-state bargaining issues, etc.



Takeaways

“You experience the Pain of Preparation or the Pain of Failure. It's pain either way. You have to decide if you want pain at the beginning or pain at the end.”

- Bill Belichick.

Role of employment risk in current operations.

- How will the way you structure distribution agreements affect the application of the Johnson test?
- What else are you doing (or not doing) to reinforce that student-athletes remain students?

Preparing for employment.

- What would that contingency look like on your campus?

Steps for Institutions to Take Heading into Year Two

Final Takeaways

[See our takeaways in each section above!](#)

- How are we going to pay for this?
- Ensure your views on the proposed legislation are properly represented in the negotiations.
- Communicate with institutional and conference stakeholders about a contingency plan in the absence of federal legislation.
- Major focus on sports wagering cases by NCAA enforcement. Maximizing education and monitoring on campus. Parallel criminal and NCAA risk for student-athletes.
- CSC Arbitrations: Faster but not simpler. Build a record early to avoid playing defense.



Questions?

Check out more from the Sports practice:

A Matter of Law

Podcast:
**Has
Antitrust
Ruined
College
Sports?**



Introducing
**The
Sports
Disputes
Playbook:**
A new
interactive
client tool.



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