

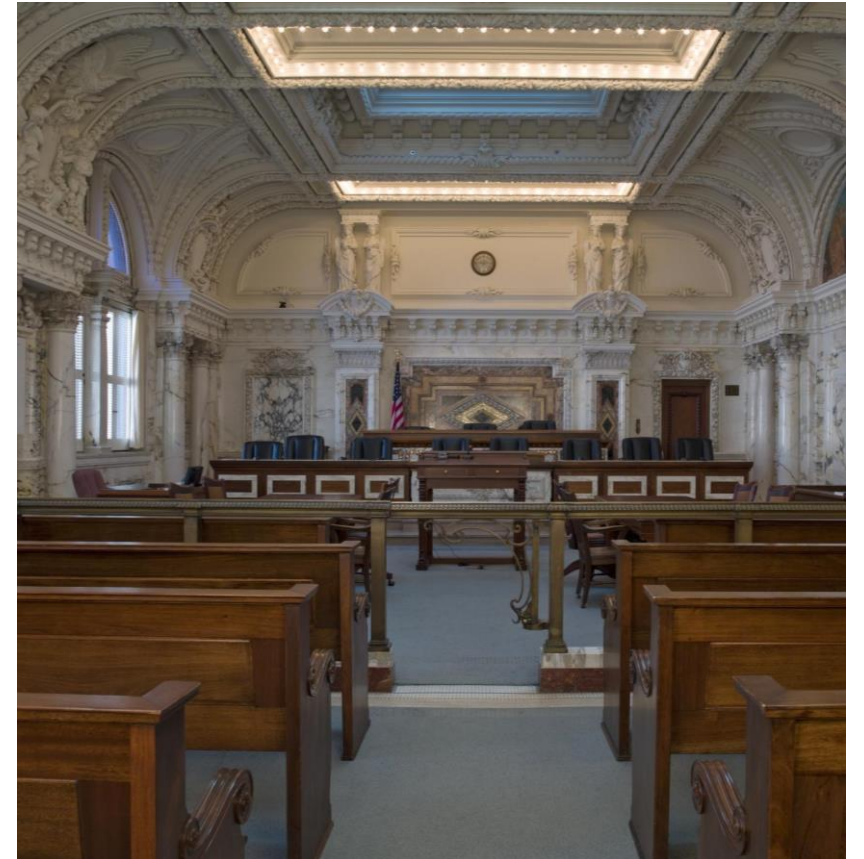
GRANT HOUSE v. NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (2021)

United States District Court, N.D. California

Case Nos. 4:20-cv-03919 CW, 4:20-cv-04527 CW

- The federal antitrust lawsuit, filed in 2020 in California, is seeking damages for athletes who didn't benefit from NIL rules because they played before the NCAA enacted them.
- The case also argues that the definition of NIL should be much more broad: Broadcast deals, game promotions, and school apparel contracts should be considered part of NIL because athletes are featured in them.
- An end to Amateurism.

A Lawsuit – A Proposed Settlement



House Lawsuit Settlement Proposal

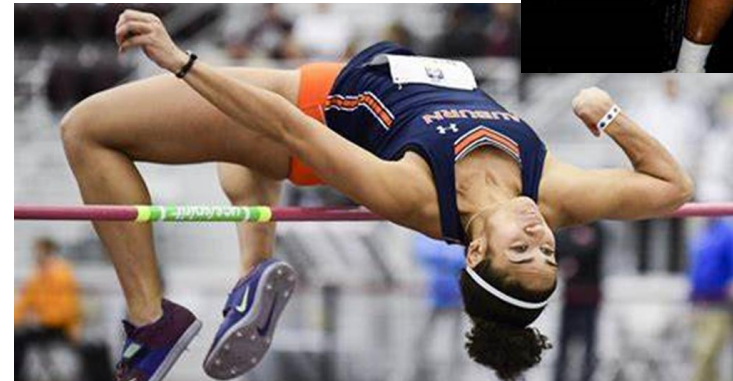
To avoid potentially crippling financial damages, the Plaintiffs, the NCAA, and major conferences (Power 4 Conferences: ACC, SEC, Big Ten, Big 12) have agreed to a settlement:

- The settlement will not affect the current NIL landscape.
- Settlement was driven as if the NCAA would have lost the case at trial wherein the NCAA could owe up to \$20 billion in damages which would be a massive hit.
- The settlement would also clean up other anti-trust lawsuits filed, i.e. Hubbard v. NCAA and Carter v. NCAA.
- Several steps are still needed to finalize the settlement, including approval from United States District Court Judge Claudia Wilkens.
- All Power 4 Conferences (ACC, SEC, Big Ten, and Big 12), as well as the NCAA, have agreed to the settlement.
- This approval of settlement appears to be the final fatal blow to amateurism.



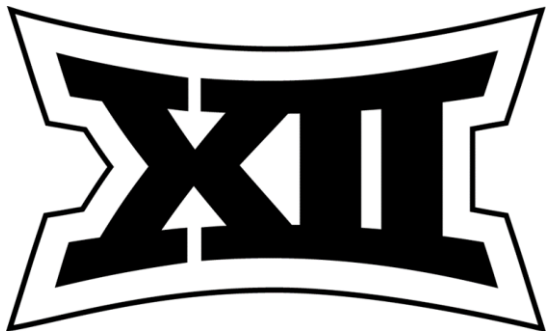
House Lawsuit Settlement Proposal – Back Pay

- Back Pay: The settlement includes more than \$2.8 billion in NIL Backpay damages.
- All Division 1 Athletes, dating back to 2016 are eligible to receive a share as part of the Settlement Class.
- A distribution formula devised by a sports economist will be used to decide how to split the money among more than 14,500 former and current athletes (June 15, 2016 to November 3, 2023).
- How is the \$2.8 billion to be distributed? Will it necessitate sports economists developing a formula based on careers, statistics, and high school recruitment rankings to determine a student-athlete's "brand value?"
- Under the approved framework, the NCAA will fund 41% of the damages (\$1.2 billion) while the schools will fund 59% (\$1.65 billion) over the 10-year payback period. At issue is the schools' portion of the settlement payment. The power conferences will pay about \$664 million in contributions to the damages. The other 27 non-power conferences will pay \$990 million – a split that has angered those from non-power leagues.
- 25-30% of the Settlement Amount will go to the Plaintiffs' attorneys.



House Lawsuit Settlement Proposal – Revenue Sharing

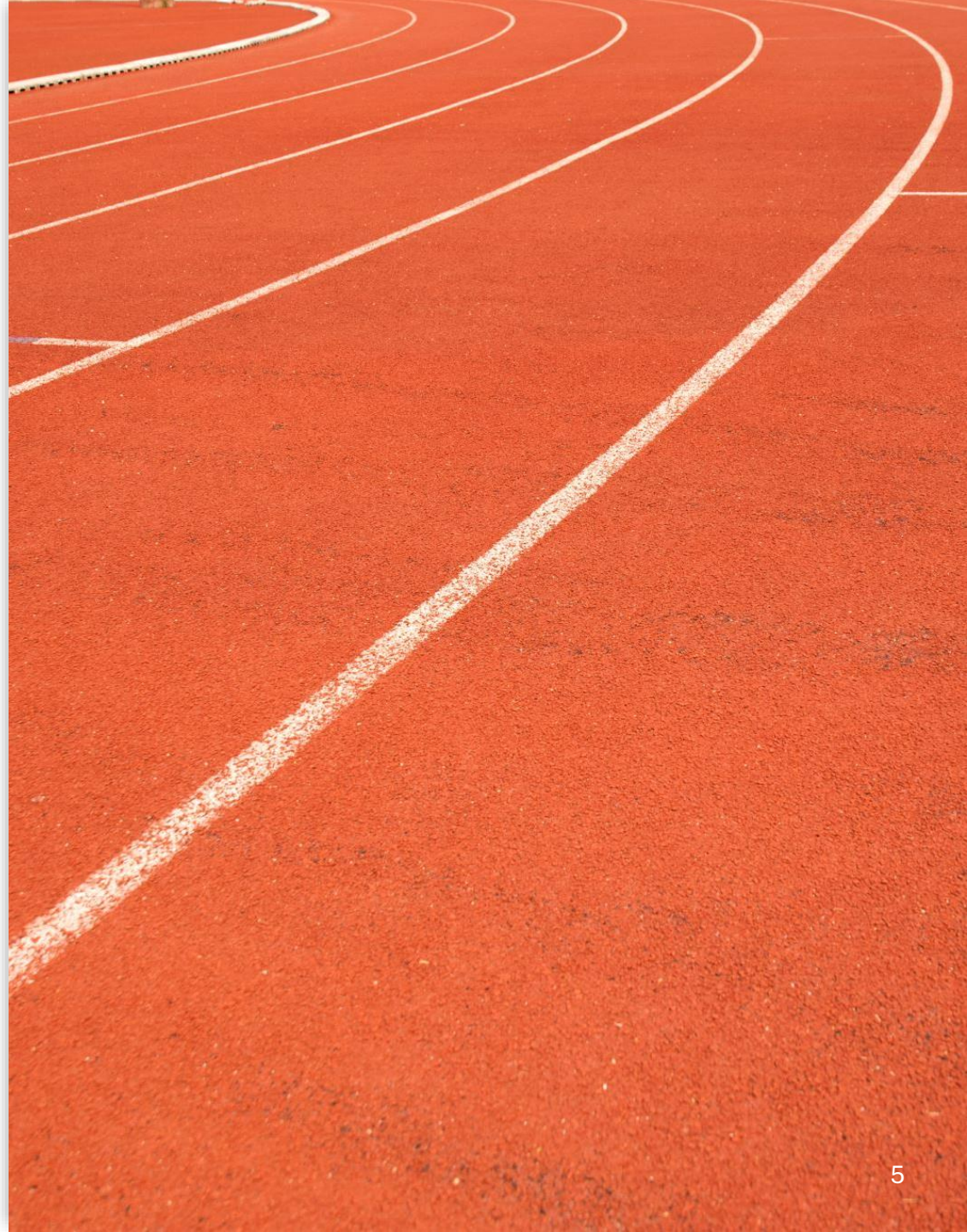
- The settlement will allow the Power 4 (Big Ten, SEC, ACC, and Big 12) Conference schools to pay student-athletes compensation for use of their NIL, largely stemming from lucrative media rights deals in a form of revenue sharing (much like professional leagues base their salaries on sports related revenues, i.e. revenue sharing).
- Power 4 schools may pay student-athletes up to 22% of the revenue generated by their athletic department. On average, this will be approximately \$25 million, but will vary from school to school, and from year to year.
- Schools will likely begin sharing revenues by the fall of 2025.
- Revenue categories include TV contracts, ticket sales and sponsorship, but not donations.
- Automatic escalators – 4% per year.
- Payments and sharing should represent the fair market value of athletes.
- Is the 22% a salary cap that needs to be collectively negotiated by student-athletes and schools?
- This will do little to stop the NIL arms race.
- Increased costs of revenue sharing will probably be increases to fans, student body, donors, and in the form of increased ticket prices, tuition, fees, and donation solicitations.
- Is the student-athlete’s share of the revenue sharing negotiated directly between the school and student-athlete or is there some form of collective bargaining?
- Schools will be required to overhaul their athletic departments. Salary Pool Specialists. In the form of a professional sports organization.
- The settlement means the “Group of 5” football conferences (ACC, Conference USA, Mountain West, Sun Belt, MAC, may also include former PAC-12 members Washington State and Oregon State) and all non-Power 4 basketball conferences have no mandate to pay student-athletes under this settlement framework.




House v. NCAA Settlement Implications

HOUSE CREATED MORE QUESTIONS THAN ANSWERS.

- College athletics is a business – unpaid labor force. March Madness alone produces \$1 Billion in revenues each year for the NCAA. Big Ten holds a 7 year TV contract equal to \$8 Billion.
- New pressures on athletic department budgets which will result in cutting costs and attempting to increase revenues.
- Increased ticket prices, increased tuition, increased demands from donors
- Conversion of non-revenue sports into club sports.
- Could result in cuts in scholarships and number of players.
- Title IX headaches will continue, no indications as to how monies will be divided between male/female athletes.
- New landscape, but no logistics in executing framework
- Employee status, unionization, and collective bargaining ability.
- Athletes will need to secure representation in negotiating their revenue share.
- Larger generating athletic departments will have advantage over other colleges in the retention recruitment process.
- Athletic departments will be reorganized to more closely resemble professional sports organizations.



A photograph of a brown leather football with white laces, resting on a green grass field with white yard lines. The image is partially obscured by a white, torn-edge border on the right side.

House v. NCAA

Settlement Implications, Continued

- The settlement isn't perfect. It does not protect the NCAA and conferences from future lawsuits brought by state attorney generals, and does not pre-empt state NIL laws.
- Other lawsuits popping up: UNC v. NCAA, Tennis-prize money,
- In the long run, the House v. NCAA settlement could widen the gap between high-revenue sports (like football) and other college sports. There's a possibility that the biggest programs might form super leagues, separating from the rest of the NCAA. Smaller conferences are concerned about how they will cover their share of the settlement costs, which might lead to cuts in sports programs and athlete resources.
- The settlement has created a fully bifurcated college athletics landscape in which a group of 5 schools operate as the minor leagues feeding into the Power 4 conferences.
- Disintegration of conferences – PAC-12 (ten schools departed), UCLA/USC to the Big Ten, Oregon/Washington to the Big 12.
- Will the NCAA seek an Anti-Trust Exemption from Congress?
- What is the future of the NCAA?
- NIL Federal Legislation?
- College Football Super-League?
- A handful of college athletic departments make money. Power 4 Conferences average budget equals \$98 Million. Group of Five average budget equals \$33 Million.
- Continuation of court cases to determine if athletes are employees (Johnson v. NCAA).⁶ 1983 North Carolina basketball team suing over back pay.

To Be Continued...

*Information as herein contained is the most recent/best information that could be obtained from reliable news sources. We have not had the opportunity to review the Settlement Agreement itself.

Sources:

- NCAA's Interim Name, Image and Likeness Policy, Guidance Regarding Third-Party Involvement, https://ncaaorg.s3.amazonaws.com/ncaa/NIL/May2022NIL_Guidance.pdf.
- *The Brandt Report: The Name, Image and Likeness (NIL) Revolution in College Sports*, The Jeffrey S. Moorad Center for the Study of Sports Law, Villanova University School of Law, Volume III.
- *Student Athletes in the Age of NIL: America's Newest Brand Ambassadors*, Attorney Megan L. W. Jerabek, von Briesen & Roper, S.C., February 16, 2023.
- *Who is the highest paid college athlete? NIL Endorsement deal money in NCAA sports*, Paul Rudder, www.en.as.com, March 25, 2024.
- *NCAA, Power Five Conferences vote to approve \$2.8B settlement in House, Hubbard and Carter Cases*, Ross Dellenger, Senior Football Reporter, May 23, 2024.
- *UGA Quarterback files lawsuit against Florida head coach, others over failed \$14M NIL deal*, Atlanta News First staff, May 21, 2024.
- *Historic House case settlement has college basketball – not college football – to thank for saving the NCAA*, Matt Norlander, CBS Sports, May 24, 2024.
- *Who gets paid? How much? What to know about the landmark NCAA settlement*, The Associated Press, May 23, 2024.
- *NCAA signs off on deal that would change landscape of college sports – paying student athletes*, The Associated Press and NBA News, May 23, 2024.
- *NCAA, five major conferences pay players as part of massive settlement*, Mike Florio, NBC Sports, May 23, 2024.
- *What is NIL, how has it changed college sports and why are schools under investigation?* David Ubben, et al., The New York Times, February 2, 2024.
- *Tennessee and Virginia are challenging NCAA NIL Restrictions*, Ezzat Nsouli and Andrew King, SQUIRE PATTON BOGGS SPORTS & ENTERTAINMENT GROUP, February 1, 2024.
- *Attorney General James Sues NCAA for Imposing Unfair Restrictions on Student Athletes' Careers*, Press Release, State of New York Office of the Attorney General, May 1, 2024.
- *In major change, college athletes set to be paid directly by schools*, Jesse Dougherty, The Washington Post, May of 2024.
- *NCAA Power 5 agree to deal that will let schools pay players*, Dan Murphy and Pete Thamel, ESPN, May 23, 2024.
- *Bill seeking to black college athletes from employee status advances to House of Representatives*, Justin Williams, et al., The New York Times, June 13, 2024.
- *NCAA v. Alston*, Harvard Law Review, Volume 135, Issue 1, November 2021.
- *SCOTUS Analysis: NCAA v. Alston*, Kwanghyuk David Yoo, Emory Law News Center, August 2, 2021.
- *The Fair Pay to Play Act and How California Led the Way to College Athlete Pay Reform and the Development of NIL*, Simon Lockard, USC Gould's Business Law Digest, In College Sports/Entertainment, Volume VI, April 27, 2024.
- *NCAA Rolls Out 2024 NIL Rules Enhancing Athlete Protections and Mark Transparency*, Michael S. Horvath, II, Gross McGinley, March 12, 2024.
- *What's Next After California Signs Game Changer Fair Pay to Play Act Into Law?* Michael McCann, Sports Illustrated, September 30, 2019.
- *House Settlement leaves numerous questions for NCAA, college sports moving forward*, Ben Portnoy, Sports Business Journal, May 24, 2024.
- *Fair Pay to Play Act: A Game Changer for California College Athletes*, Gallagher Krich, APC, November 18, 2023.
- *Who are the top 10 women in the NIL athlete universe?* Barry Werner, USA Today, August 17, 2023.
- *Pay for Play, the changing landscape of college athletics following House v. NCAA Settlement*, Alexis Takashima and Gary Loope, Lawreview.syr.edu, May 30, 2024.
- *NIL Deals and Tax Implications: A Guide for College Athletes*, Rebecca Lake, Investopedia.com, May 30, 2024.
- *With Payments to College Athletes, Another Fight Looms for Women*, Billy Witz, The New York Times, May 29, 2024.
- *Moneyball: The Landscape of College Athletics in the wake of NCAA v. Alston*, Milind Khurana, University of Miami Law Review, Vol. 76, March 1, 2022.
- *Caitlin Clark reportedly signing a \$28 million endorsement deal with Nike, includes signature shoe*, Chris Bengel, CBS Sports, April 25, 2024.
- *How House v. NCAA affects student athletes*, The Wire, Signing Day Sports, May 22, 2024.
- *The Implications of the NCAA Antitrust Settlement*, Client Alert, Kutak Book LLP, June 14, 2024.