



A Summary of House v. NCAA NIL Litigation Settlement

April 7 is the Day!

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April 7th, 2025 is a day that many universities, athletes, and collectives have marked on their calendars. The NCAA and the Power 5 conferences have agreed to settle a series of lawsuits; *House v. NCAA* and *Carter v. NCAA*, which are known collectively as *In re College Athlete NIL Litigation*, Case No. 4:20-cv-3919 (*House*), and *Hubbard v. National Collegiate Athletic Association, et al.*, Case No. 4:23-cv-01593 (*Hubbard*). The cases are being litigated in the United States District Court for the Northern District of California. These class-action lawsuits claim that the NCAA and the Power 5 conferences violated antitrust law because the organizations 1) agreed to not provide benefits and compensation to student-athletes, and 2) restrained competition by denying student-athletes the opportunity to profit from use of their name, image, and likeness (NIL).

The settlement totals roughly \$2.8 billion and received preliminary approval from U.S. District Judge Claudia Wilken in October of 2024. A Final Approval Hearing is scheduled for April 7, 2025 at 10:00 a.m. where Judge Wilken will deliver her final ruling on the terms of the House settlement, but there are two major highlights of the settlement that will further reform the volatile college athletics market.

1. Backpay and Benefits

The settlement first addresses back damages to be paid to current and former college athletes who were denied the opportunity to profit from the use of their NIL rights. This portion of the settlement, totaling nearly \$2.8 billion, will be paid over a span of 10 years in \$280 million annual installments. Eligible athletes should have received notice from the Settlement Administrator and had until January 31, 2025 to submit a claim.

In addition to backpay, the settlement also opens up new benefit possibilities for college athletes. Prior to the settlement, athletes were able to receive scholarships that paid for the full cost of attending their respective universities. Following the settlement,

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PRACTICE AREAS

Name Image Likeness (NIL) Legal
Services Team

Sports Law



additional benefits will be available such as medical and mental health resources, nutrition resources, life skills development, and even extended medical coverage after the athlete finishes their athletic career. The value of these new benefits combined with the value of the proposed revenue sharing model discussed below will result in Power 5 schools sharing nearly 50 percent of their athletics revenue with student-athletes.

2. Revenue Sharing

The most significant portion of the settlement is the new revenue sharing model between member universities and their student-athletes. According to the settlement, member institutions would now be able to pay student-athletes directly for their NIL rights. Starting in the 2025-26 academic year, a school itself will be able to direct a maximum of 22 percent of their media, ticket, and sponsorship revenue (around \$19-25 million annually) toward NIL agreements with student-athletes. The revenue sharing will be on the books of the school rather than the previous booster NIL model, which featured athletic boosters raising money through collectives to promise to incoming athletes.

The new revenue sharing model does not inhibit an athlete's ability to enter third party deals that are facilitated by an NIL collective. The settlement does introduce a new oversight program that will track third party NIL deals that are for more than \$600, but an athlete remains free to collect NIL compensation from both their school and private businesses looking to sign with the athlete. The model does not necessarily spell the end of the NIL collective era, but rather opens new opportunities for collectives. For example, a collective may join a school's athletic program to help facilitate and manage student-athlete NIL deals offered through the school itself or it may remain a third-party resource for private NIL agreements.

Another significant aspect of the new model is that scholarship limits will be eliminated for all college sports. In exchange, new limits to team rosters will be established, leading schools to pick and choose between offering full or partial scholarships as long as the roster limits aren't exceeded. This aspect of the settlement will ultimately allow more athletes overall to accept scholarship funds from their school.

The *House* and *Hubbard* settlement will likely save the NCAA from yet another litigation loss, which should keep the organization's bankruptcy fears at bay. While the settlement presents a useful step forward in structuring NIL payments to college athletes, it still does not resolve the issue of competing state legislation relating to NIL. States will likely continue to introduce their own legislation to further blur the line between NCAA regulation and state law. Another question left unanswered by the settlement is whether student athletes are employees of the school itself. The employer-employee relationship between a school and the student-athlete has been a grey area ever since the introduction of NIL policy. By structuring the revenue sharing model to pay student-athletes in exchange for using their NIL, the settlement delays the answer to this question for another day.



This new model proposed by the settlement is untested, and thus it is unknown how it will play out in the college athletics market. Foster Swift's Sports Law Practice Group will remain up to date and to assist student-athletes, universities, and collectives with navigating the NIL road ahead.