

THE JOURNAL RECORD

Gavel to Gavel: The new playing field – How NIL rights are reshaping sports law

By: Nathan Miramontes // [GableGotwals](#) // September 23, 2026



Nathan Miramontes

For most of its history, college athletics operated under a strict amateurism model: athletes competed, universities profited, and the rules barred players from earning a dime off their own name, image, or likeness (“NIL”). That changed in 2021, when the National Collegiate Athletic Association (the “NCAA”) suspended its NIL restrictions under pressure from [state legislation and litigation](#).

The groundwork was laid by [NCAA v. Alston](#), in which a unanimous Supreme Court held that NCAA limits on education-related compensation violated antitrust law. Though narrow in scope, the decision signaled skepticism toward the NCAA’s broader amateurism justifications, emboldening further challenges and

adding momentum to the state NIL laws that forced the NCAA’s hand.

Athletes can now sign endorsement deals, monetize social media followings, and profit from autographs and appearances. But this freedom has produced a patchwork of inconsistent state laws, raising questions about competitive equity. It has also spawned “NIL collectives”—booster-funded groups that pay athletes for NIL activities and, some say, serve as vehicles for disguised pay-for-play. Such collectives generally do not qualify as [tax-exempt under I.R.C. § 501\(c\)\(3\)](#).

The unsettled questions extend further. Are college athletes employees under labor law, entitled to bargain collectively or receive workers’ compensation? Litigation and National Labor Relations Board proceedings are now testing these questions. Meanwhile, the [House v. NCAA](#) settlement, a \$2.576 billion agreement approved in June 2025 that ended amateurism restrictions for college athletes, opened the door to direct revenue sharing, further blurring the amateur–professional line.

Congress has long considered a federal standard to replace this state-by-state approach but only now appears close to enacting one: on September 15, 2026, the Senate voted [74–24](#) to advance the bipartisan [Protect College Sports Act](#) (S. 4668), though final passage remains uncertain. If enacted, the bill would preempt the state patchwork and impose heightened compliance obligations on Division I institutions.

Sports law attorneys navigate a wide range of laws, including antitrust, contract, intellectual property, tax, and emerging state and federal NIL legislation. What began as a narrow antitrust challenge has become a full-scale reexamination of the relationship between athletes, institutions, and revenue. For sports lawyers, it is a rapidly moving target—and one of the most dynamic areas of practice.

As the rules governing compensation and institutional obligations continue to shift, both athletes and universities have strong reason to engage experienced counsel now. Doing so protects athletes' financial and legal interests and helps institutions navigate compliance risk before it becomes costly litigation.

Nathan Miramontes is a litigation associate at GableGotwals.