College Sports Landscape Update

INTERCOLLEGIATE ATHLETICS COMMITTEE OF THE UNIVERSITY SYSTEM OF MARYLAND BOARD OF REGENTS
MONDAY, JUNE 3, 2024
CHAD HAWLEY, BIG TEN CONFERENCE, SVP – POLICY & COMPLIANCE
OUTLINE

• Past Tense (Briefly)
• Present Tense
• Future Tense
PAST TENSE

• Pre-2021: “Bright-line” Approach but Shifting Winds
  • No NIL, much less payment beyond cost-of-attendance or actual/necessary expenses
  • Significant litigation and intensifying public scrutiny

• 2021: A Year of Change
  • State-level NIL legislation
  • NCAA allowing NIL (but chastened by the DOJ)
  • Alston Supreme Court decision (incl. Kavanaugh concurrence)
PAST TENSE

• Post-2021 to Present: Activity in the Four Realms
  • Courtrooms
  • State legislatures
  • Congress
  • NCAA World
PRESENT TENSE - COURTSROOMS

• “House” Settlement

  • Settles 3 lawsuits: House/Oliver (NIL restrictions), Hubbard (“Alston” back pay), and Carter (pay for play)
    • Interplay with Fontenot (pay for play)

  • 2 general components:
    • Backward-looking damages
    • Forward-looking injunction
PRESENT TENSE - COURTROOMS

• “House” Settlement
  • 2 general components:
    • Backward-looking damages ($1.776B)
      • Withheld from NCAA distributions over next 10 years
      • Amounts withheld in proportion to D1 distributions
      • No impact on D2 or D3
    • Forward-looking injunctive relief
PRESENT TENSE - COURTROOMS

• “House” Settlement
  • 2 general components:
    • Backward-looking damages
    • Forward-looking injunctive relief
      • Allows payment up to 22% of avg athletics revenue (media, gate, and sponsorships) among Autonomy (aka, Power 5) institutions in addition to existing scholarships and benefits
      • Shifts from scholarship limits to roster limits
      • Allows institutions to pay student-athletes for NIL
      • Allows NCAA to have and enforce rules related to years of eligibility, progress toward degree, and booster payments unrelated to legitimate NIL
      • Reporting requirements
PRESENT TENSE - COURTROOMS

- Employment Cases
  - NLRB – Dartmouth
  - NLRB – USC
  - FLSA – Johnson v. NCAA

- Other Cases
  - Transfer rules (DOJ Consent Decree)
  - Booster inducements (TN injunction)
  - Prize money (Brantmeier v. NCAA)
PRESENT TENSE – STATE LEGISLATURES

• NIL
• Revenue Sharing
• Employment Status
• Enforcement Restrictions
PRESENT TENSE – CONGRESS

• Federal legislation needs (even with the settlement):
  • Preemption of state law
  • Limited liability protection for rules
  • Nonemployment status

• Active engagement:
  • House
  • Senate
PRESENT TENSE – NCAA WORLD

• Settlement Implementation:
  • Modifying current rules
  • Creating new regulatory framework
  • Enhanced enforcement

• D1 Governance
  • Increased autonomy for A4/Power 4 conferences
FUTURE TENSE

• Operationalizing the Settlement
• Continued Congressional Effort
• Reformed D1 Governance