

NIL (Name, Image and Likeness) in NCAA: lessons for Latin America

ASIPI 2026



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NCAA

What is the NCAA?

- National Collegiate Athletic Association (NCAA)
- Body that regulates college sports in the United States
- Key regulatory gatekeeper



NCAA by the Numbers

2025–26 CFP & Bowl Game Viewership

Average viewers (millions) · Nielsen Big Data + Panel

CFP NATIONAL CHAMPIONSHIP

CFP National Championship Indiana 27, Miami 21 · Jan 19 · ESPN		30.1M
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CFP SEMIFINALS

Peach Bowl (Semifinal) Indiana 56, Oregon 22 · Jan 9 · ESPN		18.0M
Fiesta Bowl (Semifinal) Miami 31, Ole Miss 27 · Jan 8 · ESPN		15.8M

CFP QUARTERFINALS (NEW YEAR'S)

Rose Bowl (Quarterfinal) Indiana 38, Alabama 3 · Jan 1 · ESPN		23.9M
Cotton Bowl (Quarterfinal) Miami 24, Ohio State 14 · Dec 31 · ESPN		19.0M
Sugar Bowl (Quarterfinal) Ole Miss 39, Georgia 34 · Jan 1 · ESPN		18.7M
Orange Bowl (Quarterfinal) Oregon 23, Texas Tech 0 · Jan 1 · ESPN		15.9M

CFP FIRST ROUND (DEC 19–20)

Alabama vs. Oklahoma Dec 19 · ABC/ESPN		14.9M
Miami vs. Texas A&M Dec 20 · ABC/ESPN		14.8M
Tulane vs. Ole Miss Dec 20 · TNT		6.2M
James Madison vs. Oregon Dec 20 · TNT		4.4M

Source: Nielsen Big Data + Panel via ESPN PR / Sports Business Journal

2025–26 Top Non-CFP Bowl Games

Average viewers (millions) · Nielsen Big Data + Panel

NOTABLE NON-CFP / NEW YEAR'S SIX BOWLS

Citrus Bowl

Texas vs. Michigan · Dec 31 · ABC

9.1M

Pop-Tarts Bowl

Dec 31 · ABC

8.7M

Pinstripe Bowl

Penn State vs. Clemson · Dec 27 · ABC

7.6M

Gator Bowl

Virginia vs. Missouri · Dec 27 · ABC

6.0M

33 Non-CFP Bowls (ESPN networks) — Season Average:

↑ 13% year-over-year · Best non-CFP bowl average since 2015–16

3.1M



March Madness:
The 2026 Men's
Final Four
averaged 14.2
million viewers, an
increase of 11%
from 2024



Latin America & Amateur Sports

Latin American Parallels to the NCAA



Do these generate enough commercial impact for a NIL-like framework?

What is NIL?

Defining NIL

**NIL = Name,
Image, and
Likeness**

Right of publicity
forbids commercial
use of identity
without consent

Determined by
state law in the
U.S.

A subset of the
right of publicity

Case Illustration



Johnny Carson v. Here's
Johnny Portable Toilets
(1983)

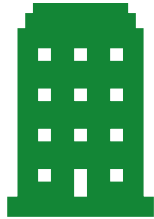


Identity can be
appropriated even
without using the
person's actual name



"A celebrity's legal right
of publicity is invaded
whenever his identity is
intentionally
appropriated for
commercial purposes"

NIL is Not About NIL



NIL as a “new right”
Based on a longstanding
IP law principle the right of
publicity.



Removal of a restraint on
college athletes to use a
right they already had



Prior to 2021, college
athletes who signed
endorsement,
sponsorship, or
influencing deals could be
deemed ineligible and
lose their scholarship.



Some colleges through
collectives, have used NIL
to recruit and retain top
athletes via deals that are
ostensibly called “NIL
deals” but function as
signing bonuses or
employment contracts.

Case Study

Indiana/Mark Cuban

- Mark Cuban: IU alumnus and former Mavericks owner funded an NIL deal to recruit QB Fernando Mendoza.
- Fernando Mendoza went on to win the Heisman and the CFP title
- Recruitment tool
- Mendoza was subsequently signed by Adidas as part of their record NFL rookie class, completing the NIL-to-pro endorsement pipeline



1991

Last Bowl Game Win for Indiana

3-9

Indiana's Record in 2023-2024

16-0

Indiana's Record in 2025-2026



Why NIL?





< **timpayne__** 

 **Tim Payne**

61 posts **4,3M** followers **751** following

[@asicsnz](#) Athlete

< **timpayne__** 

 **Tim Payne**

85 publicaciones **4.715** seguidores **754** seguidos

[@asicsnz](#) Athlete
[Ver traducción](#)

The Legal & Commercial Perspective



Strategic brand alignment



Monetization opportunities and marketing portfolio diversification



Strategic athlete partnerships



Localized fan engagement

History of NIL

NIL Before 2021

NCAA prohibited athletes from signing NIL deals

A light blue downward-pointing arrow with a white outline, indicating a flow from the first point to the second.

Ed O'Bannon sued the NCAA over use of likenesses in video games

A light blue downward-pointing arrow with a white outline, indicating a flow from the second point to the third.

NIL is not a “new right”, it is based on the longstanding right of publicity

The Alston Decision (2021)



NCAA v. Alston: Antitrust Case

- NCAA rules limiting athlete compensation subject to ordinary antitrust scrutiny
- Supreme Court ruled against the NCAA
- The decision itself does not mention NIL, but opened the floodgates



NIL became a widely-used term in 2021 when the NCAA adopted a policy allowing athletes to profit from their NIL without losing eligibility.

More than a dozen states passing NIL statutes

Consent

Consent - Scope, Revocability & Standards

“Informed, specific,
and revocable”
consent in high-
volume marketing



Challenging in
layered consent
structures (cascading
authorizations)



Argentine “derecho a
la imagen” vs. U.S.
NIL



Does NIL include
voice, gesture, and
other identifiers?



Property right vs.
personality right
implications



Contractual Practice & Negotiation

Types of NIL Deals

To avoid direct compensation:



Local restaurant TikTok sponsorship



Affiliate deals with promo codes



Store credits and barter arrangements

Essential Contractual Clauses

Morality and
misconduct
provisions

Doping
violations

Termination
rights

Exclusivity

Use of team
and league IP

Advertising
compliance

Reputational
risk
management

Contractual Authorizations

Layered Consent

Athlete



Team



League/Federation



Third-party sublicensees

Individual vs. Collective Image

Rights are shared/coordinated between athlete, club, and brand

- Individual vs. Collective Image

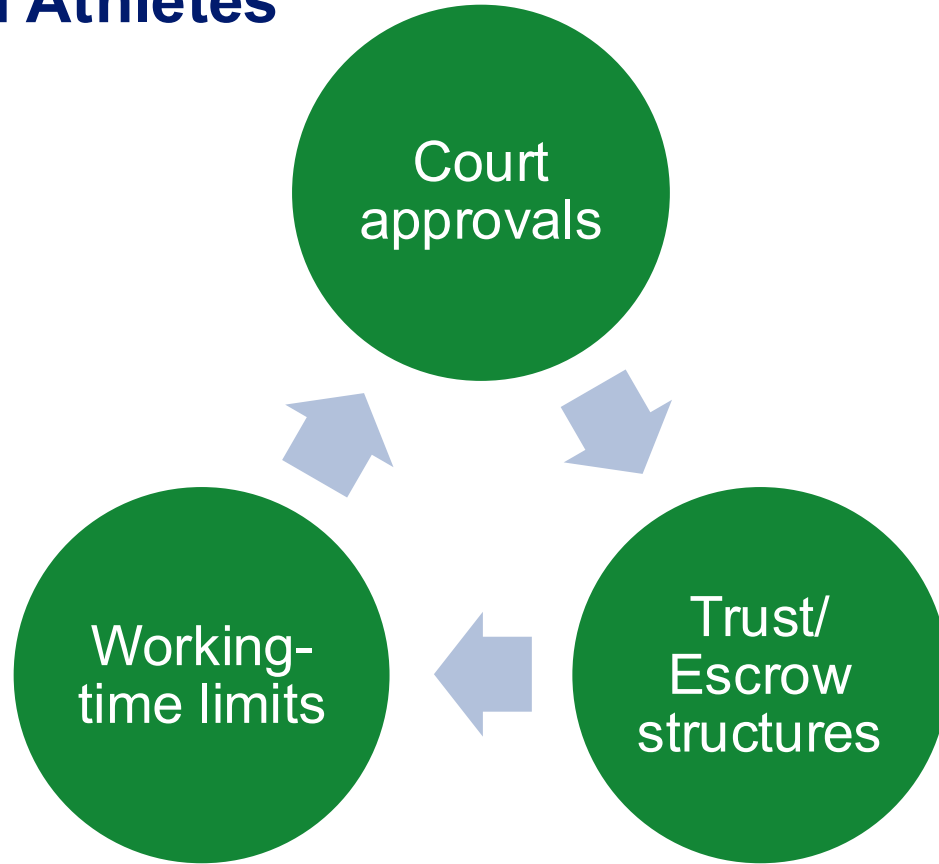


Collective

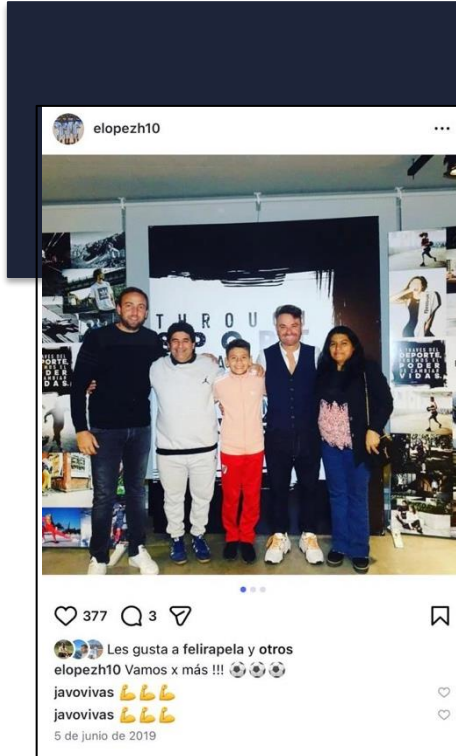


Individual

Under-Aged Athletes



Scouting and Sponsoring Emerging Talent



The New Regulatory Landscape

Federal Action

Transfer portal: ~25% of FBS players entered in 2026

College Sports Commission

EO 14322 (July 2025): “Saving College Sports”

EO 14400 (April 2026): Overhaul by August 2026

PCSA Bill (May 2026): bipartisan, antitrust protection, replaces state patchwork

House Settlement

\$2.8B House v. NCAA settlement (2025)

\$20.5M annual per-school revenue share cap

Top QBs sign deals worth \$4–8M+

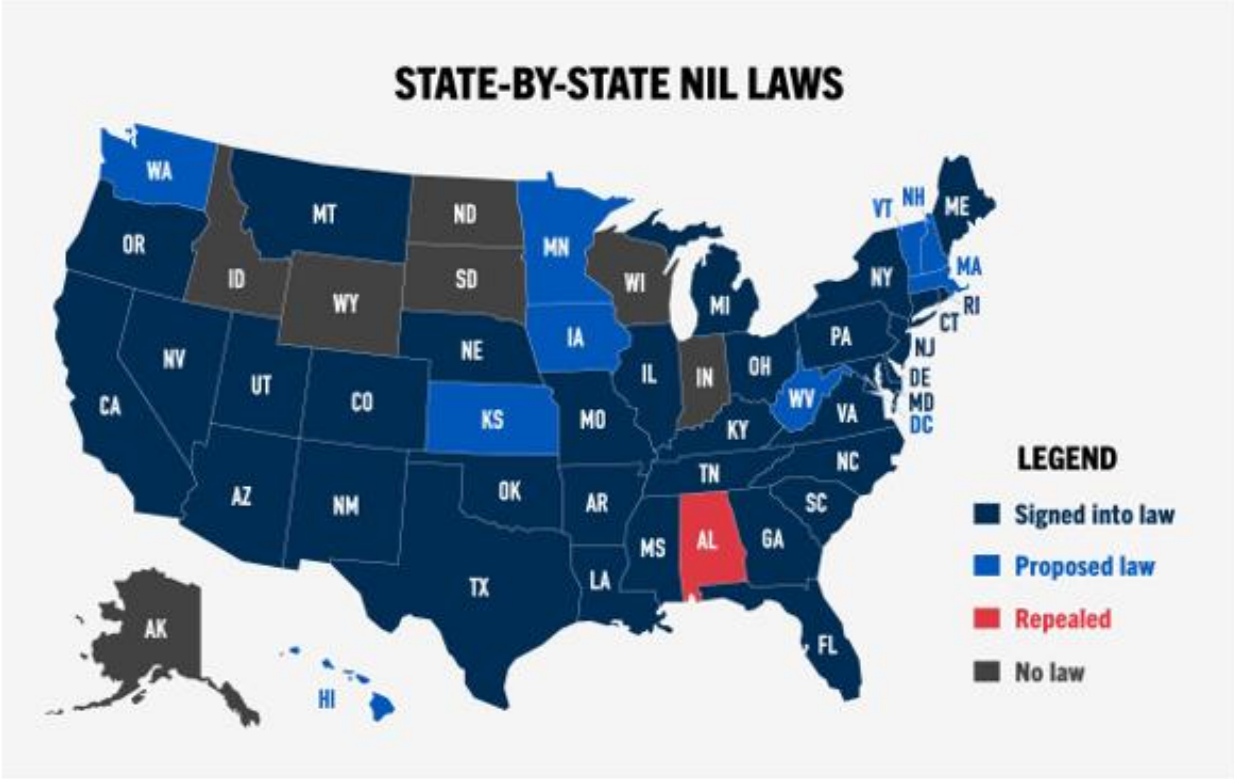
Only 15–20% of D-1 athletes land NIL deals (~35,000 of 190,000)

Median NIL deal value: \$62 | Average: \$2,716

NIL Go (Deloitte): reviews deals over \$600 for fair-market-value

Much data is unreliable

State- Bv- State Breakdown



*As of July 2025

Harmonization & International Outlook

Is the current framework sustainable?

Why did Alabama repealed the NIL Law?

NIL as an international standard: is it possible / worth it?



AI, Deepfakes & Emerging Challenges

AI & Athlete Image



AI use in NIL framework

Deepfakes and AI-generated exploitation of athletes' image and voice

Competition law risks: collusion, exclusivity, salary caps post-Alston

Emerging Challenges



Comparable structures
U.S. Vs. Argentina



Advice for Latin
American brands
entering NIL space



Unauthorized use
remedies: cease-and-
desist, injunctions,
takedowns, damages



Anti-corruption &
compliance

Key Takeaways



ANY QUESTIONS?
THANK YOU!



Thank You

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