Will McGuffey ([00:00](https://www.rev.com/transcript-editor/Edit?token=27mIvPVOFUm3oFmdxeeCVV3jU7w5gTQtiZ2jc_DuWhxX0esa4m9luug-OmO8k-WlEQNbK_vUvACn6v82411WvkHZDZE&loadFrom=DocumentDeeplink&ts=0.24)):

Okay. Welcome, everybody, to the AWM Capital Name, Image, and Likeness, also known as NIL, mini podcast series. I'm your host, Will McGuffey, and I'm an attorney, private wealth advisor, and certified financial planner at AWM Capital. The goal of this series really is just to inform our listeners about what NIL is and what they should be thinking about as they navigate the NIL landscape. We plan to have several guests during this series that will each give a unique perspective into what NIL is and give our audience a game plan on how to handle their situation and the things that they should be thinking about. Our first guest today is David Fleshman. Welcome to the show, David.

David Fleshman ([00:39](https://www.rev.com/transcript-editor/Edit?token=81yVeVrzp4kE0QhW_-YAsIKkv2C22v5bMxXUyeW2VB2R-LVOD-YWlDFmwSLPpQIoGxgaV0fIdoTso54eILkUwPto3LI&loadFrom=DocumentDeeplink&ts=39.76)):

Thanks, Will. Glad to be here.

Will McGuffey ([00:41](https://www.rev.com/transcript-editor/Edit?token=w4D28WdtAIAmGsGCcEmAd07IQcFJxUe7Pork2icsCVEflJSyDZtLxwlepCywySS9caUL1Iwg-9mhdTW_B0HW2SD6GaA&loadFrom=DocumentDeeplink&ts=41.72)):

No, I'm excited for this. To give you all a little background on David, David's a partner here in Baton Rouge at Breazeale, Sachse, and Wilson. He and I also had the privilege of teaching a sports law class together this past fall at LSU law school, quite an adventure. He was also a member of LSU's last Final Four basketball team, although I'm sure we all want that to change this year. We've got a chance.

Will McGuffey ([01:08](https://www.rev.com/transcript-editor/Edit?token=hVHMsoYcGrKlBOd19n6HSPgrQMg6pzkO8yAuSZ7qy8IrVhPZIoFsBUll-OZYzp7C0qbOkk5fmDNCMlIfLcjGbxP32Hc&loadFrom=DocumentDeeplink&ts=68.3)):

But most importantly, he's a specialist in the NIL landscape. Over the years, he and I have had the opportunity to work together on a number of projects in the sports law space, as well. With all that being said, though, I think probably the most remarkable part about David's resume is that we were the same 1L section of law school. He was a wide receiver on a notorious flag football team that I had the opportunity to quarterback. We studied for the bar exam together. There's a lot of stories. There's a lot of history. But the fact that he still claims me as a friend today is probably the biggest part of your resume that I'd like to compliment. So with all that being said, Dave, can you just give us an introduction into what NIL is, and what does it mean for amateur athletes?

David Fleshman ([01:55](https://www.rev.com/transcript-editor/Edit?token=UHcZjyISuKstT5kjHJ2WrWAShDkB9SRV2fMTbV0vx693htir0M3eqv-TNuWHRicsPR_I5ig0bUIck1JTga8j5bF-9wo&loadFrom=DocumentDeeplink&ts=115.6)):

Yeah, Will. Thank you. I really appreciate you having me on the show and looking forward to our conversation. And I won't get into too many of those stories from law school or the overthrown balls out there on the football field. But so yeah, so NIL is a really exciting development in sports and people feel pretty hot or, they feel hot or cold about this issue. Some people don't really care about it. Other people love it. Other people think it's the demise of college athletics. So it's a really, it's a dividing aspect to college sports. It's a new development and it's changed the game completely.

David Fleshman ([02:38](https://www.rev.com/transcript-editor/Edit?token=xhdOSCb69HXcvm1ntImOEddxLw-Rxry7uGbKT93dJSx8PsmeqouMH5CJv1q2M-VUYFVv2Z3uXMB5KHckmJCm_K5R9Ro&loadFrom=DocumentDeeplink&ts=158.37)):

So NIL in general involves the name, image, and likeness of anyone. It's part of the right of publicity, which is essentially the right to make money on your name, image, and likeness, promotions, autographs. Now student athletes can make appearances and be paid for those appearances. They can do social media promotions. And also, when we think about that aspect of NIL a lot, is the ability to make money, but it's also the ability to protect your name, image, and lightness. So it's a corollary right there that's also important when you see other people using your name, image, and likeness in a way that you don't like or in a way that's not profitable.

Will McGuffey ([03:24](https://www.rev.com/transcript-editor/Edit?token=BcHp3I4sJD9mKGqgNvRk9SgpdbNfrLbPmgZsDQHU7CCUA4v0LBd7bfwq40TzvgR-D_GrCWdttTJ3HB78m0xPa_EC5J0&loadFrom=DocumentDeeplink&ts=204.18)):

Yeah. Well, how did you first get involved in the NIL space, and give us a little bit about what your current involvement is, what you actually do.

David Fleshman ([03:33](https://www.rev.com/transcript-editor/Edit?token=CXi9fSZ918my_2XI3yCGHPKvvkCRCCm5cbmMhlSEaFPUZTr9jxEUsC1RNm9Pm14prE2KNcdjtw2eYwXBZFjSgqYsIhQ&loadFrom=DocumentDeeplink&ts=213.27)):

Yeah, so probably about a year and a half ago now, my law partner, Christine Colwell, and I, we have some relationships with several compliance departments here in the state of Louisiana. And we were having some conversations with those compliance departments just to kind of find out what type of issues are they dealing with? What type of legal issues do they arise, and maybe what's something that maybe we could do in the sports law practice at Breazeale, Sachse, and Wilson, what's something that maybe they need help on?

David Fleshman ([04:05](https://www.rev.com/transcript-editor/Edit?token=r0-t51ylm4w8W-LImTAAtnUwjgwLOQV0KC6yvDeV3Y33domCvxh0_Kr_a8C4waVV9jVGOjWjFpiWLIck5QcziwHI4kI&loadFrom=DocumentDeeplink&ts=245.82)):

And it quickly became clear that they were struggling and wrestling even a year and a half ago with this idea of name, image, and likeness coming into play. You know, traditionally the NCAA has not allowed any student athlete to make a penny on their name, image, and likeness. And so compliance departments were really concerned about that. And so we started to look into it. The NCAA was having some very preliminary conversations and seemed to be making the move towards supporting that. And that was really kind of the start of it. And I can remember hearing, it's like, this is a big deal if this happens.

David Fleshman ([04:46](https://www.rev.com/transcript-editor/Edit?token=167T35TVXw1UkDAC-wPwJZ6Q15zyeRbeV9D0RDS-P2xMgEMSkx1tVo3LYT-882F90KfZjyz6Gg4GjxTsf89zWDp5FgE&loadFrom=DocumentDeeplink&ts=286.59)):

I mean, this is a game changer because traditionally, again, compliance departments across the country are reporting violations when a golf student athlete gets an extra club sandwich at the clubhouse after playing golf, that technically could be a violation of NCAA, the rules. And so certainly showing up at a car dealership for autographs and getting paid for that would've been a violation. So we recognized early on that this had a lot of potential to be a game changer. And also, there's a lot of different levels and different complexities that would be involved with implementation of how this would go.

David Fleshman ([05:26](https://www.rev.com/transcript-editor/Edit?token=3RXOgCB0x35W4IuJqJo7OgNQvIE_MhIYsdTv4WZ4KgNfUq9AMMHbXhAP01w6iPthtYDEoPMfaZhoSgwBM_K5GU_PQP4&loadFrom=DocumentDeeplink&ts=326.99)):

So currently, our role, what we started to do was just to monitor it. And we were reading everything we could. We still have the Google alerts set for anything that mentions NIL. Early on, it was not a lot of hits that we would get. And then today it's almost overwhelming, how many hits we get. But it really, you know, we started to look at the different legislatures and their different respective acts that they were passing to allow their student athletes. And that's really what kind of really pushed this NIL into play, was the legislatures taking action and authorizing their student athletes to make money on their name, image, and likeness. And at the time, before, so July 1st, we'll talk about that date a lot, I'm sure, but July 1st was kind of the D-day. I mean, that was the day for NIL, July 1st, 2021.

Will McGuffey ([06:27](https://www.rev.com/transcript-editor/Edit?token=aeNXciZauwmk3ulUslCja7l3dbCD-zpdORguWyW6xx9Y3C6wjkrUkm5TKfNMmtHWRu4Bxq4oy1KHCtcxNFnOqq7cqng&loadFrom=DocumentDeeplink&ts=387.28)):

And so we'll talk about what I think you mentioned, hey, look, this didn't happen overnight, although the general public is sitting there thinking, like, NIL, they just woke up one morning. It's like, hey, this can happen, and deals were getting done. What's the backstory? What's the history on that? What's the case history? I mean, you said you've been working on this and thinking about this for years. How did this all come about?

David Fleshman ([06:48](https://www.rev.com/transcript-editor/Edit?token=5wX-5YKc7fSv5Mp2ZI-dGC7jLnYg0kR_A_TVO5XCz2WaekkvE83Wz0RO4UrDQDP85_1Rq1SjfwbOEIJ01d5e0iAEH_k&loadFrom=DocumentDeeplink&ts=408.83)):

Yeah. So it's not a new concept at all. I mean, you can think about professional athletes. They deal with these endorsements and these rights all the time. So it really has just been foreign to the collegiate landscape. But there's been a lot of discussions about it. There's been a lot of, you know, the long standing conversation is should players be paid to play? And that's been a heated debate for the last probably 30 years. And it's still an issue today.

David Fleshman ([07:21](https://www.rev.com/transcript-editor/Edit?token=aOT5gl_0XPfphFiOO4gLwc_5h2oNNUPAHz2hS2Wrl6HESzy6g-u8_Bbt1qj-2ws0cAUpgwjBAuu4w5-Z0WKenzEajVo&loadFrom=DocumentDeeplink&ts=441.57)):

So it really came about, it started with California. California passed the ironically named Pay to Play Act, but when they did that, they pushed off the effective date until 2023. But that was the first state that had a law that was passed that allowed student athletes to make money on their name, image, and likeness, which was very important, but it really didn't have much teeth on it because it wasn't going to go into effect until 2023.

David Fleshman ([07:55](https://www.rev.com/transcript-editor/Edit?token=Wb3g09_mC6Hen3ApnsTT_CSmlG3yNYaZNiHFalV53sUu9oQkDTNh8CqjXkjWUVSraj-YpPYk1jB3_aaJJlyB1qTyQDs&loadFrom=DocumentDeeplink&ts=475.62)):

Florida became the second state to pass NIL legislation. And that is what set the July 1st 2021 deadline. That was the date that law went into effect. And so really what we had, and then of course, after Florida did, then the rest of the states, I say the rest of the states, half the states, started to see that Florida was doing this. It became this idea that if our state doesn't have one, then maybe we're at a recruiting disadvantage. And so you saw a lot of the states in the SEC and in the South, they all suddenly started to lobby their legislators in getting an NIL statute.

David Fleshman ([08:36](https://www.rev.com/transcript-editor/Edit?token=MzOGF4PUIj1Jv671mEyBFjMDnLQvGYer_9SyPZCEMDYiwA_Uvc7-XnEG0guiZLDw9x_bKJH37CzWzYmRVqK7rTq9Qp4&loadFrom=DocumentDeeplink&ts=516.54)):

So it really went California, Florida, but Florida's the one that really forced a lot of the other states into action, including Louisiana, and most states had a July 1st, 2021 effective date. So that's kind of the background into how we got into the space of this July 1st 2021 deadline. But it's important, because we were involved with this well before that date, and a lot of people, it's funny, we talk to people about this all the time, and they still don't know what NIL is. It's just not on everyone's radar. If you follow college sports, you know what NIL is. We gave a talk at the rotary club here in Baton Rouge, and I would say 90% of the room had no idea what NIL was, and that was in September of this year.

David Fleshman ([09:28](https://www.rev.com/transcript-editor/Edit?token=Y3mtX68SK1z-MkauOCpWZkbSav6hPaqceYuQoi_8oVLIzZ8OKgbikx3Co1nWuLdlAGVox-iTfiSDq3o-szG3x-DpNlI&loadFrom=DocumentDeeplink&ts=568.86)):

So it seems, you know, for us being involved, we've thought about it and talked about it and watched it develop for quite a while, but we have to remind ourselves that a lot of people don't even, they don't know what that involves. But it's important to talk through what we were looking at before July 1st. We were looking at a situation where state legislatures were passing the laws that directly contradicted NCAA rules. So state laws that were going to start to become effective on July 1st said that a student athlete had a legal right to make money on their name, image, and likeness, while the NCAA rules said for the student athlete to do that, they'd be deemed ineligible.

David Fleshman ([10:21](https://www.rev.com/transcript-editor/Edit?token=Yt9NXtMQrdLGXo9JbFPnxfTQ9CIFNALHhRqhzsozGfJ_73E3Uuw7VcGaSXyyc9SPdewhhZ_OKRGBtaJzNPFP8ZgVR28&loadFrom=DocumentDeeplink&ts=621.63)):

And so I think a lot of times we gloss over that fact, but beforehand, we were anticipating a lot of lawsuits. There was discussion about the NCAA potentially filing injunctions across the country to try to stop these laws from going into effect and trying to argue that the NCAA had the ability to prohibit this. And so we were monitoring that and gearing up almost for more of a legal challenge there. And ultimately what happened on the eve of July 1st, it was June 30th, the NCAA waived, they issued a blanket waiver of their prohibition against student athletes making money on their name, image, and likeness.

David Fleshman ([11:04](https://www.rev.com/transcript-editor/Edit?token=IB0Wv1Z4S3tG9FeQo_-0jBXe1TqHJXsVsUPBObknfaZcpnFxCYnb9yxas06i1dZ_3CYthiGoD4gaOUA-MGE1cdVV_ik&loadFrom=DocumentDeeplink&ts=664.84)):

And so really what that did to set the stage for kind of where we are and where we've been the last six months, the NCAA said, if you are in a state that has an NIL law that's in effect, you need to follow that law and you need to follow your institution's name, image, and likeness policies. If you are a student athlete that's going to school in a state that does not have an NIL statute, you need to follow your institution's NIL policies. So in one sweep of the pen, they allowed all student athletes, for the most part, all student athletes, there's some issues we need to get into with the international students. But for the most part, they allowed them to do that.

David Fleshman ([11:51](https://www.rev.com/transcript-editor/Edit?token=N7Zlqqf6hLroaf9LOMhAcnYA6CfCTIDeOJ1LVyeabFq6pbifDZgzLqL0GnFddwWjBj2_ayAVJnoQSkuxRsvVNeW0_vI&loadFrom=DocumentDeeplink&ts=711.38)):

But it created a situation where we have 20 or so states with slightly different NIL statutes and guidelines. Institutions have different policies. And then you have schools and states that don't have to follow any state law, that are free to develop whatever policy they want. So we don't really have a lot of consistency there, which can be problematic. I know that's just a dump of words and a lot of background, but I tried to just condense it down. It's a complicated process.

Will McGuffey ([12:26](https://www.rev.com/transcript-editor/Edit?token=LYhBrnZoGIHeetzHEM6fR152R8hkn06GtvUbAKSiCPn7HYjVFr6qR8Jx3dtGfTdmBFhb6VRGs8NjeNn32TtbmZtriCg&loadFrom=DocumentDeeplink&ts=746.28)):

I think it's helpful, and you touched on a couple things there, talking about there was different timing mechanisms, different states, different schools have different rules. Like if I'm an athlete, if I'm a parent of an athlete, if I'm an agent, if I'm anybody involved in this, what should I do to get guidance on this? Where should I go first? I mean, does it matter? If I'm a high school athlete in Texas, but I'm signed to go to LSU, what do I do there? Where do I seek guidance? Is there a difference? You mentioned there is differences, but what are some of those differences, and how should I handle that?

David Fleshman ([13:01](https://www.rev.com/transcript-editor/Edit?token=MU3-RGcTbDYYZPZuPwpn2I4BquTkZFjWbJABgeg5ATCoHDnrq9Yy_XOEhF4nNAL0CHjfqEk4a_VEouq3Lzx-10QuJBU&loadFrom=DocumentDeeplink&ts=781.23)):

Yeah. So the first place you want to look is the state law of the school that you are going to attend. That's the first place you want to look. So if you're a student athlete in Louisiana, you're going to want to look to Louisiana law. The first question you need to ask is does Louisiana even have a statute on NIL?

Will McGuffey ([13:19](https://www.rev.com/transcript-editor/Edit?token=dgrFHcaLee3Q35raVp-dTXsFQKw4E7hpXNcTD9XquL6JW2AsfjW43MthicVsFtJ-sKRN9jvGkIh_ot1QkZ0RVCD_6go&loadFrom=DocumentDeeplink&ts=799.06)):

You're saying this is if I'm an amateur, if I'm a high school guy living in Louisiana, step one would be go to Louisiana statue, then from there?

David Fleshman ([13:27](https://www.rev.com/transcript-editor/Edit?token=iQZmI9lfkB8AcrtL-DyiGeGUujvXYB9_4VDecjVo_gFMz-JHQ1Y4lt1N9x1J2OebLDIcd6JcUzTHI2dIPgM6TabLhFk&loadFrom=DocumentDeeplink&ts=807.7)):

Yes. Yeah. That would be the first step. Now, we'll get into that. High school is a whole different animal because most of the state statutes don't even deal with high school athletes. Now, Texas is one of those that specifically prohibited high school athletes from engaging in NIL activities and making money on it, which is why you had a very highly recruited quarterback forego his senior year to go to a state and enroll early into a university for a seven figure NIL deal.

David Fleshman ([13:59](https://www.rev.com/transcript-editor/Edit?token=U1k_g1GVsqyGThKLMJ76vY0NTm2DmogOZ5gsJ2_79i_eo0WsNffUXbWGjLziYEL-yxq9lJp4Q20PvVDWRg6gkl1FI9M&loadFrom=DocumentDeeplink&ts=839.56)):

But it really kind of complicates it when we talk about if you're in high school. So why don't we take it first with if you're a college athlete. So the first question you wanted to ask is you want to know, does our state have a law on that? The second question is you're going to want to get a copy of your institution's NIL policy.

Will McGuffey ([14:26](https://www.rev.com/transcript-editor/Edit?token=B1aj69FQ1SAUgXKjQXsbPjp_3pcsT7SwQMfL-9Iy9pkdVduyLyGPWgJEIYdZf562J-R6Zp6ttz2H_RxMGG7y3vSBsqk&loadFrom=DocumentDeeplink&ts=866.29)):

Where do you get a copy of that at?

David Fleshman ([14:28](https://www.rev.com/transcript-editor/Edit?token=Ky7wjRDvm3GuWM0FAiLv5mLW7ggrUnBsxkL32xCTgp0pTVnuAXuzf1i_pmykPVK7GqqXTJpYafOkg6QknHm0dfjiQAs&loadFrom=DocumentDeeplink&ts=868.05)):

The compliance. Yeah, so the compliance department, they should be educating all the student athletes on what is permissible in their state and under their institution. But the first, if you are enrolled in school or you have a child that's a student athlete in college, you can feel free to contact the compliance department to say what guidance, you know, can you please let us know what we can or can't do? Yeah. So those are kind of the two main places you need to go, you need to look. The NCAA has really taken a hands off approach. They've really punted on enforcement of this. They have left it up to the states and to the institutions to monitor and to set really the guardrails as to what is permissible and what is not.

David Fleshman ([15:17](https://www.rev.com/transcript-editor/Edit?token=4Fy9v6SH50lFu-dU3L6mi3jSMzADSdPJjOMa7k84SjcE7fj1LrkbXWhZDGis4yFbAEDZ1910mSp2drIXPNOI4q4jLOc&loadFrom=DocumentDeeplink&ts=917.51)):

And I'll give you an example. So under Louisiana law, student athletes cannot promote any casinos or gaming or any alcoholic beverages. Or there's several, kind of five things. Tobacco is another one. A lot of the states have those same prohibitions, but Florida does not. So Florida, if you're a student athlete in Florida, you can do a deal promoting a beer company. That's not necessarily prohibited in Texas. I mean, I'm sorry, in Florida.

David Fleshman ([15:53](https://www.rev.com/transcript-editor/Edit?token=Vk0fupsMgrLMGUq4PTx4v6D5XE00hyxx7mC9TJH3bISWTEg3dKYer3spv-k4j6cK95QrESbTW2Z6C2MltiItbBfQN5U&loadFrom=DocumentDeeplink&ts=953.61)):

In Texas, their state statutes prohibit student athletes from any NIL deal involving the adult film industry. Louisiana doesn't. So there's all kind of little things here and there, that it really just depends on what state, what the state law says, and where you are. And then of course the policies of the institutions are also equally as important to look at. If you want to take a step back and now look at the high school...

Will McGuffey ([16:23](https://www.rev.com/transcript-editor/Edit?token=DBkTMDqd38czKlbqcswi3JlDuOZkF_gDYJo481pGnp7fZvDpMyuOiEvUsq9IHXTw6-RimMdoqcziMABk6u0ghWrqYxI&loadFrom=DocumentDeeplink&ts=983.82)):

While we're on the college side, one of the things I was thinking about is you said we've got both institution and state rules that we're looking at, and that's our guidance. Is there any guidance from the conferences? Like if I'm at, I'll just use LSU, because we're here, we went to law school there. If I'm an LSU student athlete or prospective student athlete, does the SEC come into play ever? Or is it just strictly your university policy and the state that it's located in?

David Fleshman ([16:50](https://www.rev.com/transcript-editor/Edit?token=Mpozlzu35zEDiY5LVLvUvt1Acp8oU5hZj59F7eCldJo7ejoUB5bvrwRQuBY5iGOqLXl8pcw2NzB4DaQnI3VT6qGThU0&loadFrom=DocumentDeeplink&ts=1010.98)):

Yeah, so conferences have the ability also to have rules and regulations on that as well.

Will McGuffey ([16:57](https://www.rev.com/transcript-editor/Edit?token=AyWOiO3otRFkqX45FSg2nEvVjyvLEzrpp2ZSBC6OdSgR08Y02XmyDrl1iX8rwrfM1EnW9l6t4D-MYvtFNpl17HHI6nE&loadFrom=DocumentDeeplink&ts=1017.08)):

They haven't done it yet, or no?

David Fleshman ([17:00](https://www.rev.com/transcript-editor/Edit?token=aXSYHZcQJHAAuD2TmCn4Yc8PyeDMCibLbe_2wlvYegK9AJV7oz30atW1aRMsCfRDlCnbYxxSh92STX_QF5wMqnRriME&loadFrom=DocumentDeeplink&ts=1020.07)):

Well, we haven't dealt with a lot. We haven't seen that a lot. I think that's where it's going. I do think that the conferences will at the point where they feel like they really need to step in, but there's concerns. I mean, there's concerns for the SEC to just jump in and regulate because again, student athletes in Louisiana and other states now have a legal right to make money on their name, image, and likeness. And to restrict that right unreasonably will invite legal challenges.

Will McGuffey ([17:27](https://www.rev.com/transcript-editor/Edit?token=K5j7rDPkt7n0fpUzh4IFKlQkUTQwgmLhvfO2WeA4L1thKhOM60z8FKjZd7BI7axW9ANxKXq4QLHQR1mUiUkvAqPMiVY&loadFrom=DocumentDeeplink&ts=1047.66)):

So it would be the same thing over again. They've been challenging the NCAA for all these years. And now if the conferences step in, it's going to be basically taking the place and they're going to go after those conferences and sue them, and the same process probably happens all over again, is what you're saying.

David Fleshman ([17:40](https://www.rev.com/transcript-editor/Edit?token=uqjK17iUWSxRf6O350Zi6DbYjn6bai5y2pi1t4nwvkunpxeJ_xZKkNnZB4gUY2eG2-eKBxrX55cUOmv8P6n8VwBmmNw&loadFrom=DocumentDeeplink&ts=1060.66)):

That's right. It could, if whatever role or regulation they put into place really affects student athletes' ability to reasonably profit on their name, image, and likeness.

Will McGuffey ([17:50](https://www.rev.com/transcript-editor/Edit?token=v3hEpnERxJSuYiSqARE3XDyDbCnEp0cN7qdBsLHjzwvbDNdpvH5Z4x3iN8KktF7EETzOrFFa1fLvKKm4fsBZ_1Ifzc4&loadFrom=DocumentDeeplink&ts=1070.99)):

Yeah, huh, that's interesting. Now back to the high school student athletes, how does that differ from the college? And then how does that differ? I know you said, we talked about the quarterback that went to Ohio State from Texas, the reason why he did it. What's different with the high school amateur athlete that we need to be aware of?

David Fleshman ([18:09](https://www.rev.com/transcript-editor/Edit?token=tN2XzJf9ZEvhO_MosfRzi8gCz_Xe2AKX6nOE61Re4qjYLIyU2-kZuyPYXQowCEccMSSYQFHVLQRtFgPwT67AvxcGI_Y&loadFrom=DocumentDeeplink&ts=1089)):

So the primary difference is you're also bringing a third component, which is the high school athletic associations. So the steps that you would look at, we'll take Louisiana just because I know you know Louisiana law very well. So if I'm a high school student athlete, I would first look to the state statute. And I would ask, does our state statute even address it? Does it prohibit me from making money on my name, image, likeness? The answer is no. The state statute doesn't address any athletes aside from collegiate athletes.

David Fleshman ([18:46](https://www.rev.com/transcript-editor/Edit?token=L8ZRHM86pPth8_Q9BdxolEyVA-26VhVxyPcw0BOaZvzoo-NKNGsUbpGN0W5LcUuc75mQW_5BycxjaZ89tmNiYdsaFak&loadFrom=DocumentDeeplink&ts=1126.44)):

The next step you would look to, you would then go the LHSAA. They have rules that prohibit, and really they try to promote amateurism in the same way that the NCAA has. And most high school athletic associations do not have a rule that is very clear on this issue. And the reason for that is because it could affect college recruiting. So if you were a high school athlete and you were signing autographs or making appearances in exchange for cars, that would likely affect your eligibility to play at the next level.

David Fleshman ([19:21](https://www.rev.com/transcript-editor/Edit?token=Ro6b6R5dYG-aZyrknln5fjKxjoZ9izSbWZ-ad0l8qCzfOi3mC5uNuQWOiV1aOH6yryzx3isKINIcevCwlne9J1vj2I4&loadFrom=DocumentDeeplink&ts=1161.53)):

So there wasn't really as much of a need to enforce that at the high school level, because the institution took such a strong stance against that, and the fact that it could affect your future eligibility to play college sports. So the LHSAA, and most of the high school athletic associations, their rules are unclear, but they have taken the position that for a high school athlete to engage in NIL will render them ineligible.

Will McGuffey ([19:53](https://www.rev.com/transcript-editor/Edit?token=dOa3WklnfnCubP62mMAscz_RR5EOHM0wfJP0pi7039ePtoTAdUPTuzXLhV166I4zgXXTh-d_r5ys_yG8A-FvvU98UIg&loadFrom=DocumentDeeplink&ts=1193.07)):

Ineligible, just for high school athletics?

David Fleshman ([19:54](https://www.rev.com/transcript-editor/Edit?token=P5N16_DBCz_c7YQCwy1eMz9rK312uNUh3UYeQijHLJgIF-Ht2G9bA_TPl3-W5VPF5Z9u5ouURvTak4go7UoyILTIZik&loadFrom=DocumentDeeplink&ts=1194.81)):

Just for high school. So it will not affect, you know, the high school athletic associations don't have any ability to tell the NCAA, to affect-

Will McGuffey ([20:04](https://www.rev.com/transcript-editor/Edit?token=TOxImSWl4NNlqJcLHSVNL5ns3aOHAV8oLTzPD1fcVoZFDaTiM2aP8EbTEgnqEm6A1Gp2lo4zEBoLlvqraQt6sSJLvpw&loadFrom=DocumentDeeplink&ts=1204.55)):

Eligibility.

David Fleshman ([20:05](https://www.rev.com/transcript-editor/Edit?token=AwCzz_lq5AKlOtWYahyZ-wCy5l_4JYUFLWPCpAnUPRc4ksFJ39ZByLP1UVkuTIc2FExm4My2I22UmJWVqM3JcqevFdY&loadFrom=DocumentDeeplink&ts=1205.95)):

But they have said that your high school eligibility will be jeopardized if you engage in NIL activities. Now, Louisiana, that is something that we think is ripe for legal challenges, because the rules are unclear. There's several high school athletics associations in the country that allow it, California being one. I think New York just recently changed. And you've seen some high school athletic associations change their mentality on this. And I think that is a change that we likely see more of as the NCAA's, the right that they granted is kind of, is being codified. And it's not going anywhere.

David Fleshman ([20:45](https://www.rev.com/transcript-editor/Edit?token=WKg_UCyWUtoivrJi_08n-oao-0sdohQ08J1aNK-muG8mmanFKlCouIVzBv4Im1_SCjbWZ3xH8iziYqpG_12MMXguhCM&loadFrom=DocumentDeeplink&ts=1245.52)):

I imagine we would see high school athletes being able to utilize that with a little bit more clear direction, but it gets real muddy in high school because the rules of the high school athletic associations are less than crystal clear on whether you can or you can't. So we deal with high school administrators a lot, just what do we tell parents? And ultimately, what you are risking here is the eligibility of the student athlete. And so it's one of those things. If you tell your student athlete that you can't engage and you report to the LHSAA, they will likely, at this stage likely tell you that you are ineligible to continue playing any other sport.

Will McGuffey ([21:28](https://www.rev.com/transcript-editor/Edit?token=ODGO-XzdygQSzopuN6588YDyk-wTo5_W7H8sy7mrun9atpxLozH2orhQPw1m2oZzOaoX4_tIgALjVaINcqkWgy0SVQY&loadFrom=DocumentDeeplink&ts=1288.34)):

So it would be all sports. It's not just one particular, it's like, I'm a football player. I do something football related. I can't play baseball. I can't play basketball also.

David Fleshman ([21:37](https://www.rev.com/transcript-editor/Edit?token=91Sthq9MGC1GTyaC_-QwuLLSm10p-STpUKYKHgy3EiapypMkyLZvxaDwkec-rTN3OyD4aBWMx_c_I72UbzplZZwv7kE&loadFrom=DocumentDeeplink&ts=1297.13)):

No, it's you've lost your amateur status.

Will McGuffey ([21:40](https://www.rev.com/transcript-editor/Edit?token=sbXOQ3D0DsqS6DBncDvMLNOF46fwzP0nKWAhLhvXmeBGI6Evlyy9iBfpv4Wy9KNS9IF2tydfAV-__CAGTRkiLH9K2kM&loadFrom=DocumentDeeplink&ts=1300.4)):

What about as far as we talk about there's different state laws, different laws for high school players. And we're looking at what the state high school association is kicking out, and then the institution and the state. What if I do something in high school that's completely legal where I live as a high school athlete, and I'm signed to go play in another state, and what I did in high school would not be fair game, I wouldn't be allowed to do that if I was attending a university and they had a rule in place. Does that affect my eligibility in any way at that university? Or did they just say, "Hey, that happened in high school. We're now moving on to this other phase and this other state. What happens from this point on is all that we care about." What's the thought process there?

David Fleshman ([22:27](https://www.rev.com/transcript-editor/Edit?token=-TJOzmj8_uuUXs4Kps6Z2e41QZfbN5nxYoWnkYgtBwvwsxXQfU_MAYaOB1BhKc6j7WU8QNH7cWRTYWvcXvgls7fcHZk&loadFrom=DocumentDeeplink&ts=1347.63)):

Yeah. It should not affect that at all, your eligibility at the college level. So during the recruiting process, if you're getting recruited by a lot of different states, that doesn't need to be one of your considerations, is do they allow it, or do they not at all? Now the NCAA, if they came back eventually and changed that, or kind of restricted those rights to do that, then they would be the ones that have really the power to say you are ineligible because of your high school activities to play anywhere. But we're not seeing any of that at all.

Will McGuffey ([23:02](https://www.rev.com/transcript-editor/Edit?token=EUe-Y6Y_vWn-TKAZSOL3Xr2TFbpBLSH2S63JwycvjAzCbxzjeu8fd6dJGkCafS1Li_pEZtqGX0DGqUXORmoGx8R9Cho&loadFrom=DocumentDeeplink&ts=1382.89)):

And they're probably not going to go retroactive on us either and be like, I mean, it's probably going to be like from this point forward, this is going to happen. We're not going to penalize anybody in the past. Correct?

David Fleshman ([23:12](https://www.rev.com/transcript-editor/Edit?token=emkcAySMmU_KMK4oKrmjNaZCPXWxi4ae-hiXAagbZ-yZkqLwiVtK_djPixrplUCPq4akNwDU93eXvOcr12MxjQ5Q5LA&loadFrom=DocumentDeeplink&ts=1392.02)):

Right. So if University of Texas is recruiting somebody in California, that does happen. They get a lot of good recruits out there. The California High School Athletic Association allows student athletes to engage in NIL activities. And Texas does not allow their high school athletes to do that. There's no problem with that at all. There is no violation. And it's really, it's two separate things. And think about it, these states and the institutions in these states, even if they don't have a law allowing it, they don't want to restrict their ability to recruit in states that allow it for high school athletes. But you're seeing a transfer portal. That's where it gets-

Will McGuffey ([23:59](https://www.rev.com/transcript-editor/Edit?token=BubHFlB7a_xlNgrmf-xa16YJlHXhsg7krWldPje-JXDeO2ryNJuOXzeGPZto4yj4JERMXkrgtxL8dveIT8hpjr1eZWc&loadFrom=DocumentDeeplink&ts=1439.21)):

Little murky.

David Fleshman ([23:59](https://www.rev.com/transcript-editor/Edit?token=E0o7scGRyxXpd07hAbjMeshr_jJ8yLLU4j5Y7ijTJSt0c9P-Djbc3m1mjqTyUy4BzgwAwLTyt9TOwEVVeFNMGbhFDc4&loadFrom=DocumentDeeplink&ts=1439.73)):

Really, really complicated because you have a deal in place in one state, that doesn't mean that that deal can continue in another state because the laws are different.

Will McGuffey ([24:08](https://www.rev.com/transcript-editor/Edit?token=-r7QuO0ZKBtpPgjY2t99K-qJS4XVmWQXr-b2D3bjYPlo12mxqGv47gR0L1aToqofjbAcu3BatYiG0vwVh-izVgVyX-s&loadFrom=DocumentDeeplink&ts=1448.96)):

I was thinking about that as far as somebody from Florida that has even a high school or a college player that has something with an alcohol. You said alcohol's allowed in the state of Florida, then they come to Louisiana, then it's not allowed. They won't be penalized, or will they just stop the activity? What's the thought process there?

David Fleshman ([24:29](https://www.rev.com/transcript-editor/Edit?token=llpb12boXCbv8XW18384pTViQNbRWG7XVRGiv-Ewav4OUHBwxrENeafg7WBdtbiL5bbxfyiZN2-C5w7J7fSF7jb4UX0&loadFrom=DocumentDeeplink&ts=1469.13)):

Well, the question is going to be going to be-

Will McGuffey ([24:31](https://www.rev.com/transcript-editor/Edit?token=tBWqa1BdZoMt7XheqBle59wLjL_akRXlneO1_BDdFQn2vXnlz3EHRx8d41Loe604EPsnpLP3z4yfePYOxRvlOhDQs_s&loadFrom=DocumentDeeplink&ts=1471)):

Or is that a [crosstalk 00:24:31] question?

David Fleshman ([24:33](https://www.rev.com/transcript-editor/Edit?token=RclRDwv9Np1y6dvyQ3iTE9hwSzECQ1YKpBbXxmoV2cgY3pPLi0vOGD2SrdXQB9AKk9GFG0bQFpA2b4QH1utKY3VlgEE&loadFrom=DocumentDeeplink&ts=1473.17)):

Yeah. Well, it's an interesting one. I mean, I think they would not be able to continue doing that in Louisiana, but the question's going to be where is this activity taking place? The brewing company in Florida may still want this student athlete to show up and promote their Florida beer. So I think that would be problematic, when you come into a state that specifically prohibits it.

David Fleshman ([25:02](https://www.rev.com/transcript-editor/Edit?token=8r6sBnb9Zer5VGTsuXzqgiRx47Pnv5hzoVtr19Gb5XAWn4bF2nilpyeZ7I_OI8mpEhrQlpInk2MqUjghBKxhSV2Xzf0&loadFrom=DocumentDeeplink&ts=1502.47)):

But what's really interesting about this, and for the first time that we're seeing, this is an issue of state laws and the conflict of laws. We're not really talking about the NCAA here. And that's been the concern for student athletes in college, and the compliance departments, for the last 50 years, is we want to stay out of the hammer of the NCAA coming in and saying that you violated one of our rules. Now we're talking about different state laws, different institutions, policies, and all of that can change things.

Will McGuffey ([25:33](https://www.rev.com/transcript-editor/Edit?token=FgyXRWUbuSuNdw8JdSnDhj5909tyrQM82eePTHiFy8uJd_UlsQC5wHy2mhZX7WdQ0E5k8DVTHo7_FWaJn_Zx3MDrjpA&loadFrom=DocumentDeeplink&ts=1533.62)):

Yeah, that's interesting. That's interesting. What are you seeing? I know we're starting to see the headlines around National Signing Day, about boosters. And you're seeing this NIL, I don't want to call it a slush fund, but this NIL fund that the University of Texas is creating. Boosters are getting involved to raise NIL funds, you know, transport portals heating up. There was an attorney, I think, offering people in Virginia, if they went to UVA to do XYZ, automatic, you come here, you get $15,000 if you promote my firm. What are your thoughts on that? What do you see the issues? I mean, what do you think happens there? Or is there any big issue you see coming out of this? Or how do you handle this?

David Fleshman ([26:17](https://www.rev.com/transcript-editor/Edit?token=Bs32rOo_yuJKbaX-QBlitiHT8o1BIq-OIjkfVZHiiAPGrvnxvW5jiD96ux-xXy-4O74qreqpPZN_9bvywiQGQQDaUVs&loadFrom=DocumentDeeplink&ts=1577.41)):

Yeah. So this is the closest that we've got, that we've seen where we are getting really close to violations of current NCAA rules. So when the NCAA, when they waived their rule prohibiting NIL, they made it very clear that their rules prohibiting impermissible benefits or recruiting inducements, and pay to play, that is all still prohibited by the NCAA. And they will still enforce those.

Will McGuffey ([26:50](https://www.rev.com/transcript-editor/Edit?token=MzUp6mha2TC4eNIpLluh1q31tjcUEkJjugeq5hPC9ArmhFgjpYBdAX2P5hbHvtcNvUhOGr-5l2Dmn8g72Lnwfh_a2p0&loadFrom=DocumentDeeplink&ts=1610.35)):

So they'll cross over and say, "Hey, this is pay to play. This isn't NIL." And they will, the NCAA will step in at that point.

David Fleshman ([26:56](https://www.rev.com/transcript-editor/Edit?token=bPpFXaPHZzn1RK8ghlcTGY4EszpqGKr4gEjl4J6yhKS6LIlq83tAn0NacKNkDzCBCnSuYl0O-e-j4FH28QvsX6xnLIQ&loadFrom=DocumentDeeplink&ts=1616.96)):

Yeah. So I'll give you an example. If you're a student athlete and you have a potential deal for 100,000 dollars to do an autograph signing, if you don't go to that autograph signing, but you get the 100,000 dollars, then there has been no exchange there. And so that is an impermissible benefit that you received. So there has to always be an activity or an endorsement or an appearance or something tied to the exchange of compensation. If there's not, and money just gets transferred into the account of a student athlete, that is still a violation. It's been a violation, and it still is. And it will probably always be. The NCAA is allowed to continue making rules on that front.

David Fleshman ([27:45](https://www.rev.com/transcript-editor/Edit?token=kn10e8J8sQ-Wai4LacdSVwrHUge_bhgRK3c7LDjcY9PcApw993zKVcn5Pd96um4_Hf3YQ5mVcJko4y4ehoyoRbqsMNk&loadFrom=DocumentDeeplink&ts=1665.41)):

So you see these collectives, as they're kind of being called, and they pop up. So it's been really interesting because this is the first signing day that we're seeing with the NIL in place. But that's really when we saw a lot of states and a lot of these different groups coming together and making collections in their state. And Texas is a great example, and they have two, they've got one $10 million fund. And they put together a board of directors of notable alumni of the University of Texas that will decide which athletes will support which businesses down the road.

David Fleshman ([28:23](https://www.rev.com/transcript-editor/Edit?token=wiSZverteJu2bv4rM_2b9374IgT-YREMRF8Ahq1s0S5li1lkqf5L272rp1m8gmDnwgOjqviA3vEMJpDBtn_fLtVO_XU&loadFrom=DocumentDeeplink&ts=1703.86)):

But what's concerned to me is what you're hearing, is there is nothing about how these funds necessarily are going to be used. There's nothing about a promotion of a business or a promotion, it's getting very, very close to a recruiting inducement. It's a signal to say that our school has the alumni base that has 10 million dollars ready to spend on its athletes. And Texas even got even closer to that when they said $50,000 per offensive lineman.

David Fleshman ([28:56](https://www.rev.com/transcript-editor/Edit?token=6pZg8scGPTz1xW-ALurBkxl0DyTyaGAbW3OQVyuZMeDbmXgAHHPCHspwPeeSiHJPw09T3xMu_UxBDO-Rlk2GRNk3ePI&loadFrom=DocumentDeeplink&ts=1736.88)):

Now what they're not saying is that we've seen the deals with the offensive lineman, with barbecue restaurants in Texas and Arkansas. That's on brand. That makes sense. But it's also within the initial scope of what NIL is intended to be. There's no reason, and I agree, that student athletes, because they're student athletes, shouldn't be prohibited from promoting or using their popularity. And most of these deals are not massive deals. I mean, there's $500 to show up at a holiday Christmas party. It could be a pretty big return on the investment. If you think [inaudible 00:29:44] here, parking cars at a Christmas party, or being a valet, wouldn't be a pretty big hit, now he could do that. But these collectives, the narratives surrounding the collectives are problematic, I think. The offers to just pay money, I mean, that is pay to play.

Will McGuffey ([30:02](https://www.rev.com/transcript-editor/Edit?token=J2PofWIsXkqLo_m7ExhE6eQMwovTOcl4jEbIjJV_TaAuCBaxWhBz7pH6FJEcsXYGaZ6FT7nJpZMTKQ2Jc5B_oWr8UwU&loadFrom=DocumentDeeplink&ts=1802.63)):

You saw what [crosstalk 00:30:03]. If you're an offensive lineman, this is for you, versus like, hey, there's a nexus between your personality, your popularity, our brand, and then we're going to decide how we pay you. So yeah, it does sound like, hey, this is for you, if you come here, not this is for you because of who you are and how you can help our brand. And then if you describe collective, what is a collective? Can you help unpack what that is?

David Fleshman ([30:29](https://www.rev.com/transcript-editor/Edit?token=D9mqqqSW9QpILAy5Y2Dbq9kNpUJigP2kU5hLftcjt859RFV0_ytrWc01o0KflD8JCwsecj3ShgXkpcb6eALE4Zkv_GA&loadFrom=DocumentDeeplink&ts=1829.95)):

Yeah, so people use that in different ways, but the way that I think about it, it's a collective of people coming together to invest funds towards a goal of supporting the NIL and creating NIL opportunities for student athletes. So you hear it used sometimes, meaning to pay a whole team or to do all that. But really, I think of it as a group of individuals coming together to support opportunities and NIL opportunities.

David Fleshman ([30:58](https://www.rev.com/transcript-editor/Edit?token=ZqsMKFu6kCuZMplGveg2i5HQEXa7nNDIa6I3B4BoBeAIc_-UW3yxPnd8BiYMuY8tGQGm8Qp0m6OKO0cwWViPIo8KZjg&loadFrom=DocumentDeeplink&ts=1858.89)):

The idea alone, it's not as concerning to me, that people would want to do that, except it's the rhetoric around it. And it's also, they're not talking about their current offensive linemen. I mean, they can go do deals with the current offensive linemen. They are using the publicity of that to signal, at a good time, we need some top offensive linemen. Who wants $50,000?

David Fleshman ([31:22](https://www.rev.com/transcript-editor/Edit?token=oWrERlWlDUR1BOYRrbWb-08NfKE4se8OdZfrleCcjaOWl8F7WOzjglAWRmelVLjGVdmwjZmpWuENqgsbXws2iu8TB2c&loadFrom=DocumentDeeplink&ts=1882.58)):

Now again, there's a lot of problems. I think that we're starting to see, I think what a lot of people expected to see maybe earlier, that some of the worst of the worst of A, not knowing the rule, but B, not really being concerned about anyone enforcing it because of how murky everything is. And the NCAA's saying that, look, we're not in the business of interpreting everyone's NIL, the 28 different states that have NIL laws, we're not going to interpret your institution's NIL policies, because we've got a lot of institutions. So that's up to you all.

David Fleshman ([31:58](https://www.rev.com/transcript-editor/Edit?token=0Q0QNJEd-rFR3w2nG-ttRayK9DDZzIg4HtSAaTeSiOtQOXFtdlidYd0HSEt0s4gpi9YdgjvZA5NgAJdpz-oC5wc1CKg&loadFrom=DocumentDeeplink&ts=1918.13)):

And that's kind of, I think, allowed people to say, who's going to stop us from doing that? And that's a problem. We saw one two days ago with, I think, was it Eastern Michigan, Central Michigan, but there was a tweet that was put out towards the transfer, the quarterback in Oklahoma that's in the transfer portal, that says, have you considered our college? We have a million dollars ready for you to play for one year. I mean, that is, again, that has been a violation of the NCAA rules in the past. And it is today. And I do think this is a place where you might see the NCAA reinsert itself into showing these really egregious examples of, this has nothing to do with NIL. NIL wasn't mentioned in that tweet at all. That's a pay to play in an illegal recruiting inducement.

Will McGuffey ([32:56](https://www.rev.com/transcript-editor/Edit?token=OEtM7SDyuXj1a9hEFRzGv3A20ViIB3pCYyikNHAJw17JT6oPaZtE-GHhP6hv75XJnG_FwhqUSE1y2plj11slPUpAdHQ&loadFrom=DocumentDeeplink&ts=1976.93)):

I mean, these are the things that you and I had deal with. I mean, being the top caliber athletes we were.

David Fleshman ([33:01](https://www.rev.com/transcript-editor/Edit?token=q2SiPfZ6i1rwJ3Jglay5lXsSMcwyqG_Pz5_4Oo3HxMwgmxBAxDzgWt6Q6znv_IdtDBa562Fr1un_wC44UFpxFzHSqkE&loadFrom=DocumentDeeplink&ts=1981.55)):

Of course.

Will McGuffey ([33:02](https://www.rev.com/transcript-editor/Edit?token=xuoGFJ63ruSccVCsX-uxpqYL7OAD2fE05YK6GQh2hy_HPEjke-ZCPx061Lq8GzEYCNae4RHcO_6X-s3_7c3izYnroYk&loadFrom=DocumentDeeplink&ts=1982.36)):

I was just turning down deals left and right. I mean, just people were like, "Hey, here's some money. We want you to come be hurt at Northwestern State." And for you at LSU.

David Fleshman ([33:10](https://www.rev.com/transcript-editor/Edit?token=EMWcEXOXSG8qHaqFDocDbUYQO_MPd8IWruVYV9aon0cMpIvVyYsf7Z0-n-RoHaFslhmmPGAWBwyKVIBuRDUEKXNhqi0&loadFrom=DocumentDeeplink&ts=1990.82)):

It was really exhausting. It was just exhausting.

Will McGuffey ([33:13](https://www.rev.com/transcript-editor/Edit?token=Ue7ye5VlqiQfKFpfUc4PBvqS_KkItIOsgFQ62ZdcCZ68jtC_UJRhqtq8s6DetNFwNRYp8K79Ig6wXbVdogibyADWi1A&loadFrom=DocumentDeeplink&ts=1993)):

It was a lot to work through.

David Fleshman ([33:15](https://www.rev.com/transcript-editor/Edit?token=zrnuczks33E2KpJwzDMwstfHOg3RkNNE7t2MEwLBrQkUryjN4Dt4DP1HR8x4j4PrmfMOwXe_gfgsiN9ktwZTDAIcYdg&loadFrom=DocumentDeeplink&ts=1995.79)):

Turn away all that money. Yeah, that was a real difficult time there.

Will McGuffey ([33:20](https://www.rev.com/transcript-editor/Edit?token=wHqgjsxXWqiXJ_NIG5W-apJcJcX5xHnJpC6c9oX9hp6LTGTOV2wW_NviL4qlE7i3g4adqkXRXXkhvoOy7QPmx0kyTig&loadFrom=DocumentDeeplink&ts=2000.3)):

I hear you. Well, good. Well, I know we've talked about a lot of things, and I think the most important thing, I mean, it's a lot to understand and to break down for somebody that's new to this, and I know a lot of student athletes, parents, coaches, even compliance departments, I think we're seeing that there's differences in the ability of compliance departments to analyze rules and help their student athletes.

Will McGuffey ([33:43](https://www.rev.com/transcript-editor/Edit?token=FmjbsEMSdh86WUnCzVPG1xx8bWQ0tAeE4tk6wI_4ZqR3gs5ZPub-9fArUGaQdy48Rpjae-xn1qn-MBYdQz6Ir9_jMqg&loadFrom=DocumentDeeplink&ts=2023.27)):

But I think the good framework and good starting point for everybody is step one, go look at the state, the state legislation, what it says. And then two, if you're a high school athlete, LHSA, if you're in Louisiana, or whatever your state athletic association, if you're at a university, just go to your compliance department and start there.

Will McGuffey ([34:02](https://www.rev.com/transcript-editor/Edit?token=wCKeUDWKnnZif7hTWxVIQ0D2_JemRK1D1Pzu3q68o115OeZMqht18IZFW5p9W6GDWDx8DNC3-bM1FWaH5bsC7q3fsNY&loadFrom=DocumentDeeplink&ts=2042.02)):

Do you have any parting shots, any last big things that you want to talk about, or that you say, hey, look, if I'm a prospective student athlete, if I'm a family, if I'm a, I mean, even an agent or a compliance department, anybody that might be listening to this, is there anything you want to say, hey, look, this is something that you should think about that we haven't touched on yet?

David Fleshman ([34:23](https://www.rev.com/transcript-editor/Edit?token=LHM8Lrnrcu64kY_3ot9YvPfkrWZMtxgWd7Nju29oTrV7C3aLmLGSaDMHjp6IzGP9pSn0GhtkAU1331hju2Mo6yRrA3Y&loadFrom=DocumentDeeplink&ts=2063.38)):

Yeah. You know, I think it's important. A lot of times you hear the negative about NIL. There's a lot of positives to this, there really is. And it's remembering these student athletes, most of them are not getting $50,000 deals to do very little or to do autograph signings, but they do have large social media followings because they're in the public more. I mean, especially at the larger institutions. So there's a lot of smaller deals that are awesome that we're seeing, to promote local stores in Baton Rouge, or a boutique. You get a soccer player that's in a sorority that promotes a local boutique with some new jackets or game day wear, that stuff's very successful for the brand itself. And it's not game changing for that student athlete. It's not like they can now just retire from the $500 they made from the promotion.

David Fleshman ([35:24](https://www.rev.com/transcript-editor/Edit?token=Cr-hdA2CEoGCu0WgCid13SK1yTRZRBMGPeQCLu4PObL7unrXBTSp-F-aVYjtYwazG7GGSevoz6qlN4WMS_bSLEkSJe0&loadFrom=DocumentDeeplink&ts=2124.58)):

But at the same time, they are not deemed ineligible and put into the headlines and now can't participate in their sport for doing that deal. So it's important that everyone remembers the scope of what we're talking about. There's always going to be individuals and boosters that want to push this thing and get the biggest advantage. And that's something that it's going to have to be dealt with. But I think overall, we've made a right step into removing that barrier, because again, remember that all the student athletes, their classmates, and at the university, who aren't student athletes, they all could do that. They all could do the same things without potentially having any problems or being removed from their sport or a hobby of theirs.

David Fleshman ([36:14](https://www.rev.com/transcript-editor/Edit?token=nN2hT4_qcRPMOPboHb3hDRUWzMO2T5DqCd7jtKYJ6ZrbNdJchzkKY_BovswGdAnmTqSuGqrAPbC-17Ys6ZPIvHszaIc&loadFrom=DocumentDeeplink&ts=2174.33)):

So this has really equalized that, but there needs to be some stronger guardrails put up. There needs to be consistency across the board. And I think that what we're looking at is potential federal legislation. This will come back towards the middle right now. I think people, I think the NCAA is going to step in here shortly and start enforcing their current rules. But I do think it's important for people to remember that there's a lot of student athletes on the division two and division three level, too, that are now able to do things that other whole camps, you know, when we were playing, we couldn't train athletes or hold a camp and get paid for that. Now they can.

Will McGuffey ([36:59](https://www.rev.com/transcript-editor/Edit?token=3nHsqSD3nTpu2eTS9EIXVHIju74kRilU_VfQgVRHnimQWhwjFbc9A5lqKxn4zTRyPMA-jzkxLh-5YOTuF9GoyFlPxwU&loadFrom=DocumentDeeplink&ts=2219.24)):

We're actually going to utilize that with our daughter and some of her teammates. We're going to get some athletes just because it's something like, I'm not an expert, but you've got a college athlete that has a little time and needs the money. And it's like, they're not getting rich. But I mean, I remember being a student athlete and a couple hundred dollars went a long way, talking about rent, talking about groceries. I mean, we didn't have everything we needed and it just kind of helped out. I think you're right. That is a positive. That's what a lot of people should be looking at this as.

David Fleshman ([37:27](https://www.rev.com/transcript-editor/Edit?token=47I83ePKUiqkTVClUpb-uR-Jomb15MxFUuT4BEXlp_n_4THT34luX4a6zzyfW7l8OennjIPFJLVpeWLrbUKYgpg566o&loadFrom=DocumentDeeplink&ts=2247.27)):

Yeah, but there's a million different legal issues. And again, the other thing that would be good to point out is that if you're a student athlete, just because you see a deal that's done and the way that that deal's done in Texas, it doesn't mean that that deal could be done here legally. Some schools are allowed to facilitate arrangements and deals for their student athletes, and other states prohibit it, like Louisiana. The LSU athletic department cannot arrange a deal between a brand and one of their student athletes. A coach can't do that under Louisiana law. Other states, they don't have that. They don't have a state law that prohibits that. And the institutions in those states have said, well, we should be able to arrange those deals.

David Fleshman ([38:15](https://www.rev.com/transcript-editor/Edit?token=JFTGODjdi5XB7NtC89t5bW5KJwNCvGNtyL8hUldsdZmQLhbUfRdhPfelhSlfGBigGF3evw4pvllg8mc6m6N7bMfbszY&loadFrom=DocumentDeeplink&ts=2295.3)):

So that's a good example of how different the different states, and where we are with the guidelines. So when you read that BYU has arranged a deal with the entire football team or given all the walk ons scholarships through a brand that's come in to pay to promote this deal, that can't happen in Louisiana. And so it's just important to remember that we're dealing with a lot of different interpretations and different laws and regulations on this. And so stay within your bounds of your college athlete, the compliance department, they're up to speed on this, and they have to be.

Will McGuffey ([38:55](https://www.rev.com/transcript-editor/Edit?token=DLjKU9Zrbf8ay9rZrIf_VFRs7DAiOuP_Eqt0R-qOlGRQLucJqX2TE5BwmUQYiE6THtOrZX72lbniGerZkA4K77Mg-Do&loadFrom=DocumentDeeplink&ts=2335.93)):

Yeah, no. And I think the biggest thing about this, we talked about this in class, is it's an evolution. It's constantly changing. States might have a law in the books right now, or schools might have a policy in place, but they're going to go back and revise and look and make adjustments as they see fit. So I think it's smart not just to be complacent, like if something happens, continue to go back to those resources before you do your next deal, continue to use your compliance department, continue to check on the state legislation.

Will McGuffey ([39:25](https://www.rev.com/transcript-editor/Edit?token=uqP1zNPtluLLOTeNG9L25FDouQ_MAqf4DACV-6-OMvqMjyfrRJYX75lRtiJmpOswz-xMSpHySudXvaM72U3qsyfWZkM&loadFrom=DocumentDeeplink&ts=2365.73)):

So with that being said, Dave, man, I really appreciate this. This has been fun. I think just for me and you to get together and cut it up in person, or I guess in person, but to talk about something that we talked a lot about this past fall, but I think that there's not a lot of information out there about this. And I think that being able to give this insight is extremely important to everybody involved in sports, whether it's, like you said, whether it's the athlete, family, compliance department. And our listeners, what I'd tell you to do, is we're going to have some show notes that are attached to the bottom of this podcast. And it's going to have our contact information in it.

Will McGuffey ([40:07](https://www.rev.com/transcript-editor/Edit?token=8M5n_MNSlTOXQTZ0Yzc5RIsP1B_d6Q3RxOQ9hJ6OI3JIf9ZvIfJ5mOCTv-JwfRvf4XGH-1YCNzOxxO4izU3dnKsp4Qg&loadFrom=DocumentDeeplink&ts=2407.93)):

If you have any questions, please feel free to reach out to David or I, and we will try to help out in any way we can, help direct you. You know, obviously if it's a Texas issue and we're Louisiana attorneys, we might not be able to work on it directly, but we can point you in the right direction or help you find somebody that might be able to help you out. But so go take a look at those show notes. If you have any questions or if there's something you'd like us to discuss on a future podcast, please let us know. And we'd love to touch base on it. So David, thank you once again. This was great. And also, thanks once again for the sports law fun and look forward to doing that again next year.

David Fleshman ([40:47](https://www.rev.com/transcript-editor/Edit?token=RomafEqygLDQf43LyX4zy-qp0ALSNXu8kZ1SqQGVk0qv3pGhsuLJkJ--BylRB5LPOvJkUl3EohHUHPECdwEbEXJ_2n8&loadFrom=DocumentDeeplink&ts=2447.63)):

Yeah, I appreciate it, Will. And look, we could talk about this and Christine Colwell here and we could talk about this for hours, and we love hearing some different questions and different takes on it. So we're happy, you know, give us a call. We love talking about it and love just thinking about it, and the more interaction that we have on these issues, it helps us see the bigger picture. So anytime that, you know, she'd be great to be on here as well. She is very knowledgeable about it. But we will never turn down an opportunity to talk NIL. So I really appreciate this opportunity, Will.

Will McGuffey ([41:22](https://www.rev.com/transcript-editor/Edit?token=GNG7X_fiwncUM2SDpiTbQObtm98sLk7qfQt7SwpzCPB9zCzYCYYtJeGWBLATpLBEmfv13mGMXOYAbqLmRhXmWRudMeM&loadFrom=DocumentDeeplink&ts=2482.69)):

Ah, no problem, Dave. Thank you.