

NIL EDUCATION AT UNIVERSITIES AS STUDENT ATHLETES FACE THE WILD WEST

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INTRODUCTION

In the past five years, the pace of change for student-athlete licensing of Name, Image, and Likeness (NIL) rights has been anything but glacial. The mountain of the National Collegiate Athletic Association's (NCAA or the "Association") litigation defeats reached a peak in Justice Kavanaugh's 2021 concurring opinion in *National Collegiate Athletic Ass'n v. Alston*.¹ Justice Kavanaugh joined the majority, finding the NCAA in violation of antitrust law and describing the Court's decision as "an important and overdue course correction."² But the justice went further—predicting that "the NCAA's remaining compensation rules also raise serious questions under the antitrust laws."³ Justice Kavanaugh sent "a clear signal that some members of the court would look favorably on a more ambitious challenge of the NCAA's compensation rules."⁴ His opinion "ooz[ed] with disdain for the principle of amateurism which throughout its history provided the NCAA with amnesty from the full impact of antitrust scrutiny."⁵

Today, the Association, athletic conferences, and schools face a bewildering state of affairs. This state of affairs raises the most significant concerns regarding its impact on student athletes, both because their well-being should be at the center of "college athletics" and because they are the youngest, least experienced, and generally most poorly resourced stakeholder group in the big business of today's college sports.⁶

The new college sports landscape leaves student athletes ill prepared to enjoy the benefits of new opportunities that the NCAA's compelled surrender provides. Following *Alston*, the NCAA would quickly move "of its own volition" to "wipe[]" out a series of restrictions on the ability of student-athletes to earn money or other in-kind benefits through endorsements.⁷

In this environment, it is certain that some athletes will make mistakes and miss out on opportunities. The mere existence of NIL options not available a decade ago intensifies the pressure on student athletes before they fully develop an "adult" level of thinking and processing information.⁸ Moreover, the stress associated with NIL availability may be harming a significant number of student athletes. Fortunately, most universities large enough to

1. 141 S. Ct. 2141, 2166 (2021) (Kavanaugh, J., concurring).

2. *Id.*

3. *Id.* at 2166–67.

4. Rogan Feng, Comment, *Quick Look Review as a New Path to Salvation: NCAA v. Alston*, 141 S. Ct. 2141 (2021), 45 HARV. J.L. & PUB. POL'Y 761, 768 (2022).

5. Lynda Wray Black, *The Day the Fight Song Died: The Alston Concurrence That Became the Playbook*, 53 U. MEM. L. REV. 1009, 1037–38 (2023) ("As Justice Kavanaugh provided the playbook for future legal challenges to the NCAA eligibility rules, it was the concurrence and not the majority holding of *Alston* that ushered in the era of NIL.").

6. Part of the vulnerability college athletes face is that although they have the strength and size of full-grown adults, young peoples' brains are continuing to develop and may not reach their full cognitive maturity until their late twenties. See Geoffrey Christopher Rapp, *The Brain of the College Athlete*, 8 DEPAUL J. SPORTS L. & CONTEMP. PROBS. 151, 153 (2012).

7. See Black, *supra* note 5, at 1041.

8. See *supra* note 6 and accompanying text.

offer robust sports programs—competing in Division I or Football Bowl Subdivision (FBS) athletics, for example—also have significant in-house resources that can be leveraged to support student athletes navigating uncharted waters and licensing their NIL rights.⁹

This Essay describes one such effort—a course taught at the University of Toledo’s (the “University”) John B. and Lillian E. Neff College of Business and Innovation (the “College of Business and Innovation”) in the summer of 2024 called “Name, Image, and Likeness.”¹⁰ Three instructors—one law professor and two business school professors—delivered course content on a variety of topics connected to NIL rights in a course offered through the department of marketing.¹¹ The instructors covered three broad topics: legal and contract matters relating to NIL rights, personal branding, and basic financial planning.¹² The course aimed to equip student athletes with a better understanding of the legal framework governing NIL rights and improve their contract negotiation skills.¹³ Additionally, student athletes learned to develop their personal brands and utilize social media to generate NIL opportunities.¹⁴ Finally, the course focused on financial literacy and encouraged student athletes to avoid squandering any money they do manage to earn, and instead to save it for the future.¹⁵

I. Key Background

A. Origins of the Course

The course was offered at the University, a state-supported research university located in Northwest Ohio.¹⁶ The University operates in a metropolitan area with a population of approximately 600,000¹⁷ and serves around 15,000 undergraduate and graduate students.¹⁸ The University offers varsity teams in sixteen sports.¹⁹ These teams compete as the “Toledo

9. The median undergraduate enrollment at schools offering Division I sports is around 9,000 students. *See Our Division I Students*, NCAA, <https://www.ncaa.org/sports/2021/5/11/our-division-i-students.aspx#> [<https://perma.cc/R7TG-K6MA>] (last visited Mar. 7, 2025).

10. *See* Ainsworth A. Bailey, Geoffrey Christopher Rapp & Shawn Tysiak, Special Topics: Name, Image and Likeness (2024) (unpublished course syllabus) (on file with author).

11. *See id.*

12. *See id.*

13. *See id.* at 2.

14. *See id.*

15. *See id.*

16. *See UToledo History*, UNIV. OF TOLEDO, <https://www.utoledo.edu/campus/about/history/> [<https://perma.cc/4QG2-WUD2>] (last visited Mar. 7, 2025).

17. *See Toledo OH Metro Area*, CENSUS REPORTER, <https://censusreporter.org/profiles/31000US45780-toledo-oh-metro-area/> [<https://perma.cc/R4K3-5UUD>] (last visited Mar. 7, 2025).

18. *See* Megan Cunningham, *UToledo Announces Fall Enrollment*, UTODAY (Sept. 10, 2024), https://news.utoledo.edu/index.php/09_10_2024/utoledo-announces-fall-enrollment-5 [<https://perma.cc/HX98-YYKE>].

19. *See* Paul Helgren, *UToledo to Add Women’s Rowing as Varsity Sport in 2025-26*, UTODAY (July 2, 2024), https://news.utoledo.edu/index.php/07_02_2024/utoledo-to-add-womens-rowing-as-varsity-sport-in-2025-26 [<https://perma.cc/76C2-CFMV>].

Rockets.”²⁰ The College of Business and Innovation, the University’s business school, offers both undergraduate and MBA-level instruction in business and management, finance, and sales, among other offerings.²¹

The idea for the course came from the University’s dynamic new director of athletics, Bryan B. Blair, who joined the University in 2022.²² Blair—an attorney who got his start in collegiate athletics in an NCAA compliance role—had previously worked at Washington State University, which offered an NIL course taught by a J.D.-holding business school professor as early as 2021.²³ Blair pitched the idea of a similar offering to Dean Anne L. Balazs of the College of Business and Innovation, who supported the course offering.²⁴ After brainstorming different possibilities, the advocates for the course settled on the idea of a for-credit summer course co-taught by three instructors—Professors Ainsworth Bailey,²⁵ Geoffrey Christopher Rapp,²⁶ and Shawn Tysiak.²⁷

B. Course Attributes

The course description was as follows:

This course aims to help students understand the complex and rapidly changing state of compensation for Name, Image and Likeness rights for college athletes. The course will cover the basic legal framework of NIL rights, including their common law origins as one of the privacy torts and statutory developments. The course will cover the legal history of the NCAA’s efforts to restrict NIL compensation and the cases which helped to produce the current liberalized environment. From a marketing

20. When Toledo played Pittsburgh’s Carnegie Tech, a 1920s football powerhouse, in 1923, a Pittsburgh reporter asked a Toledo student to come up with a nickname after learning that the school had none. The student suggested “Skyrockets” based on the football team’s admirable performance that day, which was shortened to the “Rockets” and stuck. *Nickname Origin*, TOLEDO ATHLETICS (Oct. 3, 2007, 3:15 PM), https://utrockets.com/news/2007/10/3/nickname_origin.aspx [<https://perma.cc/VX6E-ZWHF>].

21. See *University of Toledo*, ASS’N TO ADVANCE COLLEGIATE SCHS. OF BUS., <http://www.aacsb.edu/accredited/u/university-of-toledo> [<https://perma.cc/N9ZY-5DHX>] (last visited Mar. 7, 2025).

22. See *Bryan B. Blair*, TOLEDO ATHLETICS, <https://utrockets.com/staff-directory/bryan-blair/410> [<https://perma.cc/CEF8-99L9>] (last visited Mar. 7, 2025).

23. See *id.* Some other schools have gone even further than offering a single course, instead making certificates available to students who complete a grouping of courses relating to NIL. See John Riker, *The Rise of NIL Certificate Programs in Academic Programs*, BUS. OF COLL. SPORTS (June 17, 2023), <https://businessofcollegesports.com/name-image-likeness/inside-the-influx-of-nil-academic-certificate-programs/> [<https://perma.cc/53H2-XRDH>].

24. Email from Anne Balazs, Dean, John B. & Lillian E. Neff Coll. of Bus. & Innovation, to Geoffrey Christopher Rapp, Senior Assoc. Dean for Acad. Affs. & Harold A. Anderson Professor of L. & Values, Univ. of Toledo Coll. of L. (Aug. 28, 2023) (on file with author).

25. See *Ainsworth Anthony Bailey*, PhD, UNIV. OF TOLEDO, JOHN B. & LILLIAN E. NEFF COLL. OF BUS. & INNOVATION, <https://www.utoledo.edu/business/faculty/mib/AinsworthBailey.html> [<https://perma.cc/BW45-NSNJ>] (last visited Mar. 7, 2025).

26. See *Geoffrey Christopher Rapp*, UNIV. OF TOLEDO COLL. OF L., <https://www.utoledo.edu/law/faculty/fulltime/rapp.html> [<https://perma.cc/29KU-6FHE>] (last visited Mar. 7, 2025).

27. See *Shawn James Tysiak*, UNIV. OF TOLEDO, JOHN B. & LILLIAN E. NEFF COLL. OF BUS. & INNOVATION, <https://www.utoledo.edu/business/faculty/finance/ShawnTysiak.html> [<https://perma.cc/5CMX-MRTL>] (last visited Mar. 7, 2025).

perspective, the course will introduce students to branding and marketing. It will address the role of personal branding, as well as the development of a digital marketing strategy, in making prospects marketable to companies and brands for potential NIL deals. Students will also be exposed to the literature on sports celebrity endorsements and the factors that companies look for when assessing potential athlete endorsers, as well as the advantages and pitfalls of working with companies in brand/product endorsements, both for the companies and for the athlete endorsers. Students will also learn about being financially responsible with money earned from NIL and the investing opportunities for wealth creation. Money management using budgeting will help students achieve short-term and long-term financial goals. The course will be co-taught by professors with expertise in law, personal finance, and marketing.²⁸

As this was a new course, the instructors and advocates navigated the initial course approval process, and final approval to proceed with the summer-term course was granted in late spring.²⁹ The course was not available for registration until shortly before its start date.³⁰ Accordingly, the time to enroll students in the course was limited, and the first offering ended up with only seventeen students.³¹

The course was delivered in an asynchronous distance-learning format during the summer of 2024.³² The format was selected in part due to timing—by the time the new course was approved through various channels, many students taking summer courses had already selected other offerings. Beyond that, student athletes on campus for academic or employment reasons in the summer may have, by that time, made commitments that would have created significant scheduling conflicts with any scheduled, synchronous class.

Some of the impetus behind this course is that, amidst all the chaos arising from today's deregulated NIL environment, student athletes have increased opportunity. For students, learning is a primary feature of the college experience—and for student athletes, navigating this new world will give them the opportunity to “identify problems and negotiate terms” in ways that prepare them for future work as “entrepreneurs, attorneys, policymakers, and other professionals . . .”³³ This course aims to give students the tools to maximize the opportunities their NIL ventures might make available.

28. Bailey, Rapp & Tysiak, *supra* note 10, at 1.

29. Email from Anne Balazs, Dean, John B. & Lillian E. Neff Coll. of Bus. & Innovation, to Geoffrey Christopher Rapp, Senior Assoc. Dean for Acad. Affs. & Harold A. Anderson Professor of L. & Values, Univ. of Toledo Coll. of L. (Apr. 18, 2024) (on file with author).

30. Email from Anne Balazs, Dean, John B. & Lillian E. Neff Coll. of Bus. & Innovation, to Geoffrey Christopher Rapp, Senior Assoc. Dean for Acad. Affs. & Harold A. Anderson Professor of L. & Values, Univ. of Toledo Coll. of L. (May 16, 2024) (on file with author).

31. Email from Ainsworth Bailey, Assoc. Professor, John B. & Lillian E. Neff Coll. of Bus. & Innovation, to Geoffrey Christopher Rapp, Senior Assoc. Dean for Acad. Affs. & Harold A. Anderson Professor of L. & Values, Univ. of Toledo Coll. of L. (June 11, 2024) (on file with author).

32. See Bailey, Rapp & Tysiak, *supra* note 10, at 1.

33. Geoffrey Christopher Rapp, *Can College Sports Unions Save College Sports and Save Unions?*, 18 MISS. SPORTS L. REV. 16, 20 (2015).

II. CONTENT COVERED

The three instructors divided the summer course evenly, with each teaching a one-third term “module” drawing on their expertise. Accordingly, Part II.A explains the first course module, which covers the legal landscape surrounding NIL rights. Part II.B illustrates the second course module, which addresses personal branding. Part II.C examines the final module, which relates to personal finance and budgeting.

A. Legal Framework for NIL for College Athletes

Module One was taught by law professor Geoffrey Christopher Rapp. The unit covered the broad topic of NIL’s legal framework. The module was divided into four lessons: the basics of NIL and the right of publicity, the history of NCAA restrictions, recent developments and current environment, and negotiating and signing NIL deals (negotiation strategies, pitfalls, and concerns). The four stated learning outcomes aimed for students to:

- (1) Demonstrate an awareness of substantive legal issues relating to the right of publicity and Name, Image, Likeness rights and licensing
- (2) Employ problem-solving skills in connection with NIL issues
- (3) Communicate effectively in written form concerning NIL issues
- (4) Demonstrate an understanding of principled or interest-based negotiation as applied to NIL licensing.³⁴

The course was taught at the undergraduate level, and although students were asked to read some primary legal sources, the students concentrated on sections of decisions such as the procedural history, parties, and conclusion. A narrower focus prevented students from being bogged down in the details of antitrust and right-of-publicity law. Additionally, students were provided with instructional videos on how to read a legal case, which were furnished to students before any assigned primary legal materials.

The legal framework began with a background on the nature of publicity rights, including their application in several sports law cases, *Newcombe v. Adolf Coors Co.*,³⁵ *Doe v. TCI Cablevision*,³⁶ and *Gionfriddo v. Major League Baseball*.³⁷ The course then moved into a discussion of the “bad old days” of NCAA restrictions on NIL rights—*Bloom v. National Collegiate Athletic Ass’n*³⁸—and the accommodating view of NCAA restraints of trade

34. Bailey, Rapp & Tysiak, *supra* note 10, at 2.

35. 157 F.3d 686, 696 (9th Cir. 1998) (an athlete brought an NIL infringement claim against a company over an advertisement consisting of a drawing mirroring his pitching stance).

36. 110 S.W.3d 363, 365 (Mo. 2003) (en banc) (determining that the defendant was not protected by the First Amendment when an athlete stated an NIL claim against a comic book author who named a character after him).

37. 114 Cal. Rptr. 2d 307, 312 (Cal. Ct. App. 2001) (finding the use of factual information about Major League Baseball players along with their names in a fantasy baseball game was protected by the First Amendment).

38. 93 P.3d 621, 628 (Colo. App. 2004) (holding the NCAA was protected from student-athlete claim that NIL prohibitions applied to him were arbitrary and capricious).

in *National Collegiate Athletic Ass'n v. Board of Regents of the University of Oklahoma*.³⁹ From there, the course traced the evolution of claims against the NCAA relating to NIL restrictions—*In re National Collegiate Athletic Ass'n Student Athlete Name & Likeness Licensing Litigation*,⁴⁰ *O'Bannon v. National Collegiate Athletic Ass'n*,⁴¹ and *Alston*.⁴² In addition, the class utilized secondary sources, including law review articles and media pieces, to provide students a picture of the current situation regarding NIL.⁴³

The course then turned to a section on contracts. This included some guidance from practitioners on what student athletes need to make sure they include in their contracts. The University at Buffalo School of Law Sports Law Clinic developed a model NIL agreement⁴⁴ that the students read in lieu of real-world examples. To facilitate the discussion of clauses that might be included in more sophisticated NIL or endorsement deals, the class then took a look at some prominent endorsement agreements signed by professional athletes and coaches. A good source for these is the U.S. Securities and Exchange Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database.⁴⁵ The class looked at an endorsement deal for Paul Silas for Healthcare Distribution Specialists LLC,⁴⁶ an endorsement deal for Cadillac Williams for XELR8, Inc.,⁴⁷ and Shaquille O'Neal's endorsement deal with Papa Johns.⁴⁸ Another useful reference for students in thinking about the rights at issue are the Screen Actors Guild-American Federation of

39. 468 U.S. 85, 103 (1984) (finding NCAA television restraints are subject to rule of reason rather than per se antitrust condemnation).

40. 724 F.3d 1268, 1271 (9th Cir. 2013) (holding the use of athlete likeness in video games was not protected by transformative use defense).

41. 802 F.3d 1049, 1055 (9th Cir. 2015) (finding NCAA NIL restrictions are unreasonable restraints of trade).

42. See *National Collegiate Athletic Ass'n v. Alston*, 141 S. Ct. 2141, 2166 (2021) (majority opinion) (holding restrictions on athlete compensation violate federal antitrust laws).

43. For example, students reviewed John T. Holden, Marc Edelman & Michael A. McCann, *A Short Treatise on College-Athlete Name, Image, and Likeness Rights: How America Regulates College Sports' New Economic Frontier*, 57 GA. L. REV. 1 (2022), and Daniel Erber, *Navigating Name, Image, and Likeness Policy in College Athletics—Issues and Solutions*, 17 BROOK. J. CORP. FIN. & COM. L. 105 (2023).

44. See UNIV. BUFF. SPORTS L. CLINIC, SAMPLE NIL CONTRACT, <https://www.law.buffalo.edu/content/dam/law/content/clinics/practicum-nil/sample-nil-contract.pdf> [https://perma.cc/8HNZ-624J] (last visited Mar. 7, 2025).

45. For companies with reporting obligations arising from the Securities Exchange Act of 1934, ch. 404, 48 Stat. 881, endorsement deals may be material events and thus require disclosure in annual or quarterly reports to comply with the applicable securities laws. See, e.g., 15 U.S.C. § 78(j); 17 C.F.R. § 240.10b-5.

46. See SEC EDGAR ARCHIVES, PAUL SILAS ENDORSEMENT AGREEMENT, https://www.sec.gov/Archives/edgar/data/1470915/000107878212001913/f8ka080212_ex10z1.htm [https://perma.cc/VJW8-7HZS] (last visited Mar. 7, 2025).

47. See SEC EDGAR ARCHIVES, CARNELL 'CADILLAC' WILLIAMS ENDORSEMENT AGREEMENT, https://www.sec.gov/Archives/edgar/data/1134765/000110465906021279/a06-1927_1ex10d20d1.htm [https://perma.cc/UFW9-ZQ25] (last visited Mar. 7, 2025).

48. See SEC EDGAR ARCHIVES, SHAQUILLE O'NEAL ENDORSEMENT AGREEMENT, http://www.sec.gov/Archives/edgar/data/901491/000115752322000422/a52685406ex10_1.htm [https://perma.cc/T5Z2-9Q7Y] (last visited Mar. 7, 2025).

Television and Radio Artists (SAG-AFTRA) commercials contract⁴⁹ and the SAG-AFTRA waiver for influencer-produced sponsored content.⁵⁰

Because many student athletes will be unrepresented in their NIL transactions given the low monetary value, the course also sought to pass on some basic negotiation skills to students. Students examined the principled or interest-based approach to negotiation that is the standard framework for teaching negotiation skills in most law and business schools.⁵¹

Finally, the legal framework unit took a look at some of the dangers associated with NIL created by a lack of regulation—i.e., some tax considerations, stress⁵² and mental health,⁵³ sexualization of student athletes through NIL deals,⁵⁴ and continuing infractions challenges—with a discussion of some recent NCAA investigations.

B. Personal Branding

Module Two was taught by Dr. Ainsworth Bailey, a marketing professor at the University of Toledo's College of Business and Innovation. This unit covered personal branding, digital marketing strategy, and athlete endorsements. It too was divided into coverage of four topics: personal branding in athlete marketing, marketing in an era of influencer marketing, athlete endorsements in sports marketing, and digital marketing for athletes. The four stated learning outcomes aimed for students to: “(1) Identify and explain the key elements of personal branding, digital marketing strategy, and athlete endorsements[;] (2) Demonstrate knowledge of the factors that enhance athlete-company endorsement relationships[;] (3) Perform

49. See SAG-AFTRA, 2016 SAG-AFTRA COMMERCIALS CONTRACT, https://www.sagaftra.org/sites/default/files/sagaftra_commercial_cntrct_ebook.pdf [<https://perma.cc/M3M8-CZ EQ>] (last visited Mar. 7, 2025).

50. See SAG-AFTRA, WAIVER FOR INFLUENCER-PRODUCED SPONSORED CONTENT (“THE 2021 INFLUENCER WAIVER”), https://www.sagaftra.org/sites/default/files/sa_documents/2022%20Waiver%20for%20Influencer-Produced%20Content.pdf [<https://perma.cc/5YT6-QN3 M>] (last visited Mar. 7, 2025).

51. Lara Sanpietro, *Teaching the Fundamentals: The Best Introductory Negotiation Role Play Simulations*, PROGRAM ON NEGOT. HARV. L. SCH. (Nov. 26, 2024), <https://www.pon.harvard.edu/daily/teaching-negotiation-daily/teaching-the-fundamentals-the-best-introductory-negotiation-role-play-simulations/> [<https://perma.cc/CN8G-KXAU>] (Introductory business and law school courses on negotiation “are roughly similar” and consist of “[t]eaching interest based negotiation,” among other elements.).

52. See Beth Sitzler, *NIL, Transfer Portal and Mental Health*, NAT'L ATHLETIC TRAINERS' ASS'N (Sept. 29, 2023), <https://www.nata.org/nata-now/articles/2023/09/nil-transfer-portal-and-mental-health> [<https://perma.cc/8448-CF7R>].

53. See *Are NIL Deals Proving to Be Bad for Athlete Mental Health?*, KINDBRIDGE BEHAVIORAL HEALTH (Mar. 13, 2024), <https://kindbridge.com/athletes-are-nil-deals-proving-to-be-bad-for-athlete-mental-health/> [<https://perma.cc/V358-9Y5F>].

54. For a general discussion of these issues, see Kurt Streeter, *New Endorsements for College Athletes Resurface an Old Concern: Sex Sells*, N.Y. TIMES (Nov. 8, 2022), <https://www.nytimes.com/2022/11/08/sports/ncaabasketball/olivia-dunne-haley-jones-endorsements.html> [<https://perma.cc/NF54-H5GN>]; *Sex Sells: The Self-Sexualization Pressures on Female College Athletes and the “Othering” of Women in Sports*, VILLANOVA L. INST. TO ADDRESS COM. SEXUAL EXPLOITATION (Dec. 14, 2022), <https://cseinstitute.org/sex-sells-the-self-sexualization-pressures-on-female-college-athletes-and-the-othering-of-women-in-sports/> [<https://perma.cc/4HFY-2C6E>].

marketing-related assessments including personal branding and digital persona audit[;] (4) Draft plans to promote their personal brands.”⁵⁵

Students began with reading and discussion about personal branding. This included discussion of the branding process—i.e., establishing awareness, developing a brand image, establishing brand equity, and then reinforcing brand loyalty. This process was then applied to personal brands and to the specific circumstances of professional athletes and student athletes.

During the second part of this section of the course, students also explored the impact that developments such as social media influencer marketing were having on the marketing communications landscape and the extent to which several college athletes pursuing NIL deals were operating in this domain. Students were also introduced to the issue of brand endorsements, particularly endorsements involving athletes, and some of the factors that influenced attractiveness of athletes as brand ambassadors. Some of the potential pitfalls that both athletes and brands involved in endorsements must navigate formed a part of this discussion.

Because many of the student athletes benefiting from NIL deals, as well as professional athletes, have a large social media presence and following,⁵⁶ it was important to address the use of social media in developing the student-athlete brand and in serving as a vehicle for communicating with various stakeholders.⁵⁷ Based on the participants’ feedback on discussion board posts, several of the participants had been using various social media platforms as part of their personal branding strategy.

C. Personal Finance and Budgeting

Professor Shawn Tysiak, in the University’s department of finance, taught Module Three. Student athletes licensing NIL rights may have earnings that students in the past would not have enjoyed. As such, this module aimed to give them a basic understanding of how to develop a budget and consider the benefits of savings. The five stated learning outcomes aimed for students to: “(1) Describe how to create a budget[;] (2) Create a budget that can meet short-and-long-term financial goals[;] (3) Identify different strategies of retirement planning[;] (4) Identify different plans of retirement such as 401ks, 403bs, 457[(b)]s, and IRAs[;] (5) Distinguish types of IRAs and how they work.”⁵⁸

During the course, students took a look at smart approaches to personal budgeting. Students explored budgeting theory and practical guidelines to follow when creating a budget. The fifty-thirty-twenty budget was discussed

55. Bailey, Rapp & Tysiak, *supra* note 10, at 2.

56. See Anne Katherine Clemmons, *A Whole Different Audience: College Athletes Are Now Online Influencers, Too*, GLOB. SPORTS MATTERS (Feb. 8, 2023), <https://live-global-sport-matter.ws.asu.edu/business/2023/02/08/whole-different-audience-college-athletes-online-influencers-too/> [https://perma.cc/G7L6-8MYS].

57. Jin Park, Sungwook Son & Antonio Williams, *Social Media as a Personal Branding Tool: A Qualitative Study of Student-Athletes’ Perceptions and Behaviors*, 2 J. ATHLETE DEV. & EXPERIENCE 51 (2020) (discussing concept of personal branding via social media).

58. Bailey, Rapp & Tysiak, *supra* note 10, at 2.

in detail and students practiced creating a personal budget using this method.⁵⁹ The fifty-thirty-twenty budget can help the students achieve short- and long-term financial goals.⁶⁰ Students also learned about the most common budgeting problems and how to avoid falling into financial traps.

Saving for retirement could create opportunities for students to turn early NIL returns into assets, having a more lasting effect on their lives. Students learned about the various retirement-savings vehicles available under current tax laws. Each retirement vehicle has advantages and disadvantages which will have significant impacts on spending in retirement years.⁶¹

III. COURSE OUTCOMES

This part will examine the lessons learned from the first go-around of this course. Part III.A reviews the suitability of the course for undergraduate students, including those who do not participate on athletic teams. Part III.B discusses the opportunities for collaboration in the course. Part III.C explores the efficiencies of offering the course with three instructors. Part III.D explains how the instructors managed students' expectations. Finally, Part III.E suggests methods for expanding and improving similar offerings.

A. *An NIL Course for Student Athletes Suitable for Non-student Athletes*

Word-of-mouth solicitation for enrollment in the course targeted an audience of student athletes (including many incoming student athletes who start courses in the summer before their freshman year to get a jump on the adjustment to college).⁶² But the course was not limited to student athletes—and likely could not be under applicable accreditation agency and NCAA rules.⁶³ This meant that there ended up being an interesting mix of

59. See CONSUMER FIN. PROT. BUREAU, MY SPENDING RULE TO LIVE BY, https://files.consumerfinance.gov/f/documents/cfpb_worksheet_my-spending-rule-to-live-by.pdf [<https://perma.cc/93JZ-HPG2>] (The fifty-thirty-twenty budget instructs students to “apply fifty percent of [their] take home pay to needs, twenty percent to savings and debt payments, and no more than thirty percent to [] wants.”).

60. See *id.*

61. See Patrick Villanova, *Difference in Types of Retirement Plans*, SMART ASSET (July 11, 2024), <https://smartasset.com/retirement/difference-in-retirement-plans> [<https://perma.cc/WU8K-46AY>].

62. Incoming freshmen were included in the course in part because the University used the existence of the course as an incentive to land some student athletes late in its athlete recruiting cycle. But some of the freshmen found the experience (perhaps including being taught by professional school professors) a bit daunting. They also found reading expectations to be heavy.

63. The NCAA Division I Manual in effect for the summer of 2024 provided that a distance-learning course may be used to establish a student athlete's eligibility for competition if “[t]he course is available to any student at the institution.” NAT'L COLLEGIATE ATHLETIC ASS'N, DIVISION I 2023-24 MANUAL 146 (2023). Regional accrediting agencies typically include broad “integrity” provisions in their standards. See, e.g., S. ASS'N OF COLLS. & SCHS. COMM'N ON COLLS., THE PRINCIPLES OF ACCREDITATION: FOUNDATIONS FOR QUALITY ENHANCEMENT 12 (2023). The University of North Carolina at Chapel Hill, for instance, was placed on probation by the Southern Association of Colleges and Schools Commission on

students—approximately 75 percent were student athletes, most of whom had relatively little NIL licensing activity, along with 25 percent which were non-student athletes. Some non-student athletes had particular interests in sports management or sports law careers, but others had simply selected the course because of its modality, departmental elective status, familiarity with the instructors, and the like.

A similar course would likely need to be cognizant of how to balance those different levels of experience. Ideally, the diversity of students could be leveraged to enhance the learning experience. For instance, students with personal NIL experience looking to hone their understanding might use their own experience as an example that other members of the class could study. Teams could be built to perform practical exercises in which some students play the role of the client, others legal or contract representatives or agents, and others the NIL-licensing counterparties.

B. Collaborative Work Among Student Athletes

For discussion-board components of asynchronous learning, instructors may provide students a discussion question to address in a bulletin board response. It is important that collaboration occurs in the course web portal, and not in “real space” prior to students posting their comments on a distance-learning platform. Instructors whose asynchronous experience is limited to the graduate or law school level may not be sensitive to the need to set clear expectations about the importance of individual work. Graduate students may be working or otherwise geographically scattered while completing distance-learning assignments and not be in a position where real-world collaboration could occur prior to posting on discussion boards.

At the host university, student athletes receive significant academic support. Among those support mechanisms are “study tables” in which student athletes, perhaps on a particular team, gather at a scheduled time to work on school projects.

C. Assessing Efficiencies Across Different Instructor Methodologies

Universities have a special ability to bring together interdisciplinary resources to provide student athletes with a baseline understanding of the issues they will face as “sellers” of NIL licenses. But with any

Colleges for one year after an academic scandal based on this and other accreditation standards violations. See *Accrediting Body Places UNC on Probation*, INSIDE HIGHER ED (June 11, 2015), <https://www.insidehighered.com/quicktakes/2015/06/12/accrediting-body-places-unc-probation> [https://perma.cc/KKX6-A9AR]. University of North Carolina at Chapel Hill had offered “phantom” classes involving little academic work and inflated grades, which, although not limited to student athletes, involved student-athlete enrollment in the suspect classes at wildly higher rates than their representation on campus. See KENNETH L. WEINSTEIN, A. JOSEPH JAY III & COLLEEN DEPMAN KUKOWSKI, INVESTIGATION OF IRREGULAR CLASSES IN THE DEPARTMENT OF AFRICAN AND AFRO-AMERICAN STUDIES AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL 98 (2014).

interdisciplinary collaboration, different instructors will bring with them different norms for instruction.

Here, for instance, the law professor member of the team had asynchronous online experience mostly in small, pre-COVID-19 courses where discussion boards constituted the core learning space for students. The business school team members had more experience in larger asynchronous classes. That led them to employ different assessment tools, such as quizzes and assignments, rather than just discussion board posts.

While exposing students to different methodologies and academic cultures is an advantage of interdisciplinary teaching, it would be understandable that some students may have felt a whipsaw in expectations as they shifted from one module to the next. With more planning time in a future iteration of the course, the instructors might adopt a unified superstructure for instruction that was then adapted per disciplinary norms to each component of a co-taught course.

At a most basic level, students sometimes seemed to be asking, “who is the professor?” Students would email one professor about assignments in another’s unit, without any seeming connection to which instructor was actually teaching that material. Some of that might be reduced in an in-person delivery, but it is also something to anticipate and be prepared to deal with in any co-taught course.

D. Managing Student Expectations

Students were enthusiastic when the course began about taking what they learned and using it to get NIL deals. The application of learned knowledge from a college course to a career or business venture is an obvious benefit but not always the singular goal of higher education. Although the course was something the instructors were quite confident would not *hurt* a student athlete’s chances of obtaining NIL revenue, it was not intended as a “how to” guide. Instructors in a course like this can help manage student expectations upfront but will want to do so without bursting the bubble of their enthusiasm. Similarly, appropriate disclaimers are likely needed to the extent legal topics are being discussed, and any comments on NCAA rules are simply offered for academic purposes but not as institutional advice for NCAA compliance.⁶⁴

E. Room for Expansion—Well-Being and Possibly a Clinician

Evidence suggests that college athletes may be more vulnerable to mental health struggles because of the intense balancing act required to juggle both

64. The disclaimer the instructors included in the course syllabus: “Not providing legal advice; no attorney-client relationship or other principal-agent relationship exists between any instructor in this course and any student. . . . Not providing guidance as to NCAA eligibility—consult with Department of Athletics Compliance Officers and your coaches (‘They said it was okay in my summer NIL class’ won’t cut it with the Division 1 Committee on Infractions).” Bailey, Rapp & Tysiak, *supra* note 10, at 6.

studies and competitive athletics. NIL adds a new dimension to this challenge, where athletes may now also be dealing with negotiations, contracts, deadlines for posting influencer content, and the like. Colleges have the resources to offer instruction on how to deal with these challenges. Inclusion of a unit on balance and well-being might be a valuable addition—something akin to a module version of Yale University’s famous “happiness” course.⁶⁵ In some ways, adding a module like this evokes a suggestion one author of this Essay has made about how to improve college athletes’ compliance with NCAA rules more than a decade ago—i.e., to encourage student athletes to think about developing strategies for improved cognitive control as a way of resisting temptation and potentially self-destructive decisions.⁶⁶

CONCLUSION

The instructors enjoyed teaching the course and students reported generally positive experiences. Universities can embrace the mission of whole-person education for student athletes by ensuring that available resources are directed to preparing students to engage in business deals without making decisions contrary to their long-term interests. A course offered on a recurring basis would provide the opportunity for instructors to experiment and innovate and would create a structure for universities to adapt continuously as the world of NIL rights continues to evolve.

65. See Alaa Elassar, *Two Years into the Pandemic, Yale’s “Happiness” Course Is More Popular Than Ever*, CNN (Jan. 23, 2022), <https://www.cnn.com/2022/01/23/us/yale-happiness-course-pandemic-wellness/index.html> [<https://perma.cc/D37G-2B3Z>].

66. See Rapp, *supra* note 6, at 154.