

NATIONAL SPORTS LAW

NEGOTIATION COMPETITION 2025

ROUND ONE

“Threading the Needle”

GENERAL FACTS FOR BOTH TEAMS

Conflicts between team sponsors and individual athlete sponsors are as old as modern sports marketing itself. One of the most prominent disputes to this end took place on the podium at the 1992 Barcelona Olympics when Michael Jordan was famously photographed draping an American flag over his shoulder on the medal stand—not out of patriotic impulse, but because the logo on his jersey was Reebok, not his partner Nike. That moment crystallized a persistent tension: teams and leagues want to protect the value of their big corporate sponsorships, while athletes want the freedom to maximize their personal brand deals.

For decades, college sports has been the rare sports space largely insulated from these conflicts... at least until July 2021, when state legislation forced the NCAA to allow college athletes to join professional athletes and Olympians by profiting off of their individual name, image, and likeness (NIL) in sponsorship and endorsement deals.

Since then, there have been few examples where athletes have signed apparel endorsement deals tantamount to ambush marketing—where a brand seeks to use sports to gain exposure without paying for official rights. In 2024, LSU star women’s basketball player and rapper Flau’jae Johnson signed a deal with Puma despite LSU’s exclusive apparel contract with Nike. Stanford—another Nike partner—allowed their golfer Rose Zhang to signed a deal with adidas despite their sponsorship. By all accounts, sponsors simply have been not been interested in these deals—despite arguably having contractual rights to push back against them—likely due to schools holding their athletes to wear the school-sponsored shoes on the court despite their individual sponsorship deals.

Still, the conflict between school apparel deals and individual athlete apparel deals is a potential flashpoint between schools, athletes, and apparel companies. As schools sign larger

and larger apparel deal packages, sponsors may potentially be much more wary about allowing athletes to constraint the effectiveness of those deals through ambush marketing deals with other apparel brands. This may be in part why some new apparel deals have included provisions facilitating NIL deals between the brand and individual athletes—both providing additional marketing value for the brand while allowing the school to utilize the House settlement revenue sharing cap exception for athlete NIL deals with for-profit companies.

Among the schools that have newly-signed and NIL-forward apparel deals is Penn State University (“Penn State”). After thirty-three years with rival Nike, Penn State on September 5, 2025, announced a new partnership with adidas for adidas to become the official footwear, uniform, apparel and sideline partner of the Nittany Lions. While the deal compensates Penn State handsomely for adidas’s exclusive rights to Penn State athletic programs—\$300 million over the ten-year term—the contract also positions adidas to provide NIL agreements with Penn State athletes in two ways. First, the agreement provides a yearly NIL fund for Penn State to distribute among their athletes willing to sign deals with adidas. Second, the agreement gives adidas a right-of-first-refusal clause that covers all Penn State athletes looking to sign NIL deals with apparel companies while requiring all “Coaches, Team members, and Staff to wear and/or use exclusively adidas Products during all Covered Program Activities.”¹

Penn State’s agreement with adidas is brand new—the ink has hardly dried on the contract. However, the agreement has already seen its first big test.

After a breakout sophomore year last year, Penn State’s star running back and Heisman hopeful Jordan Williams² was approached late this summer by Nike representatives about the possibility of a multiyear NIL contract that would run through the first few years of his NFL career. Nike has offered Williams \$150,000 per year for four years to appear in promotional campaigns and wear Nike gear on his personal social media and at select events—with an extra \$100,000 per year if Williams wears Nike products during games and practices.

However, Penn State’s compliance office has informed Williams that the deal would be denied, citing the exclusivity clause in the new adidas deal. In doing so, Penn State has cited their school NIL policy, which incorporates this language from Pennsylvania’s state NIL statute:

¹ As defined in the contract, “Covered Program Activities” includes “any official team activity, game, practice, media appearance, or other event in which the athlete is representing the university.”

² Williams is an entirely fictional person made up for the purposes of this educational exercise person and is not intended to represent any actual persons, living or dead.

An institution of higher education may prohibit a college student athlete's involvement in name, image or likeness activities that conflict with existing institutional sponsorship arrangements at the time the college student athlete executes a contract or discloses a contract to the institution of higher education as described under subsection (f).³

Penn State also points to language in the standard Big Ten *House* settlement revenue sharing contract signed by Williams, which states in relevant part:

b. Prohibited Categories. The Athlete agrees not to authorize any third party to use the Athlete's NIL in connection with any of the following categories, which are agreed by the Athlete to be likely to cause irreparable harm to the Institution's reputation ("Prohibited Categories"): (i) alcohol, tobacco, e-cigarettes, marijuana (or marijuana-related product) or any other controlled substances (or related paraphernalia) or NCAA-banned supplements; (ii) adult entertainment; (iii) gambling, sports wagering, or other games of chance for stakes or wagers; (iv) associations with products, services, or activities that are deemed illegal or involve dishonest, deceptive, or unethical practices; or (v) any other category the Institution, in its reasonable discretion, determines will dilute or harm its reputation or the goodwill of the Institution or its intellectual property.⁴

Given the gravity of his potential Nike deal, Williams and his representation has pushed back hard against Penn State, threatening to file a lawsuit over the deal's denial. He has made clear that while he values his NIL opportunities, he does not want to transfer. He values Penn State for athletic and academic reasons, sees the NFL pathway it offers, and considers transferring a last resort. But he will fight Penn State's denial through legal and public channels if necessary, arguing that their breach of contract theory is faulty and that denying him the right to endorse the brand he wants to endorse might even violate the First Amendment.⁵

With the possibility of litigation looming, Williams and Penn State have agreed to have their representatives meet to explore the possibility of resolution outside of court. Both Williams and Penn State have given their representatives full authorization to be as creative as they can to try to find a solution that fits both sides' needs and allows the parties to avoid moving forward with the litigation.

³ 24 Pa. Stat. Ann. § 20-2006-M(e) (West 2024).

⁴ Penn State interprets item (v) as including deal categories that conflict with university partners.

⁵ See Sam C. Ehrlich & Neal C. Ternes, *Ambushing NIL Restrictions: How NIL "Conflict Language" Policies Conflict with the First Amendment*, 41 CARDOZO ARTS & ENT. L.J. 859 (2022), available at <https://drive.google.com/file/d/17fVjiBg45ok3m1LCc4BVaJC7J1NIgffy>.

CONFIDENTIAL FACTS FOR JORDAN WILLIAMS

Jordan does not understand why his potential partnership with Nike is such a big deal. Sure, he understands that Penn State just switched away from Nike to adidas and that there was some bad blood at the end of the thirty-three-year Penn State/Nike partnership, but taking those hurt feelings out on him feels petty and frankly immature.

It's not like Jordan would be the first athlete to enter into an NIL deal with a competitor. Not only is Flaujae Johnson's deal with Puma a thing despite LSU's deal with Nike, but even at Penn State, plenty of his teammates have partnerships with local gyms despite Planet Fitness being the official gym of Penn State Athletics. It makes no sense why this deal in particular is such a big problem.

Jordan keeps coming back to the same basic point: he didn't sign the Penn State–adidas contract, so why should it control his personal endorsements? Maybe the pushback is from adidas instead of from Penn State, but that would not make much sense either. If adidas wanted him, they could have made him an offer like Nike did. Instead, they want to use their deal with Penn State to keep him from making money with someone else? Jordan doesn't see how that's fair—or even enforceable.

And while yes, he freely signed his *House* settlement contract, he does not understand how a partnership with Nike could “harm the reputation or the goodwill” of Penn State. Restricting his commercial NIL opportunities based on that vague language feels fundamentally unfair to him. And Jordan's agents have even floated the idea that because Penn State is a public university, there may be constitutional limits on how far it can go in restricting students' speech—including, possibly, endorsement deals like this one.

Jordan is not a lawyer so he has no idea about the viability of this theory, but he knows his agents would love to test this theory if Penn State keeps blocking the deal. But, at the same time, nobody on his team is pretending this would be a simple or guaranteed legal win. The constitutional angle is entirely untested, meaning that it is entirely unpredictable whether a judge would agree with the theory. And even if a lawsuit were filed, given that Williams only has so much time left at Penn State he would really need a preliminary injunction so that he could clear the Nike deal before the season ends.

Regardless, at the end of the day, Jordan does not want to sue Penn State. He came to play football, not to spend the next year tied up in depositions and court filings. What he really wants is to wear Nike, get paid, and focus on his season without Penn State or adidas breathing down his neck. His agents have been far more vocal about the possibility of litigation, warning that Penn State's position might not hold up under serious legal scrutiny. Jordan isn't so sure—and he'd rather not burn bridges with his own school—but if Penn State keeps blocking the deal with no middle ground, he knows the lawsuit option will stay on the table, even if it's a last resort.

Of course, the easiest way for the two sides to avoid litigation is simply for Penn State to approve his Nike deal. The contract he submitted to Penn State was fairly extensive and all-inclusive, but he has talked to Nike and they would be willing to consider some modifications if it helps get the deal done. For example, Nike—probably looking at their own exclusive deals at other schools—offered Jordan upfront the opportunity to simply work with them on an off-field basis while allowing him to wear adidas during games, practices, and other team activities.

This is far less desirable to Jordan, however. The extra money Jordan would receive would be helpful, but more than that the honest truth is that he just strongly prefers Nikes to their adidas equivalents. Jordan has worn the same style of Nike football cleats since high school, and the fact that Penn State was with Nike when Jordan was debating schools really helped Penn State's recruiting pitch. He has tried out some adidas shoes over the past few weeks during practices and he just isn't a fan. If it were up to him, Penn State never would have made the switch to adidas—he understands the financials and the hurt feelings about Nike always prioritizing Big Ten foes Oregon, Ohio State, and Michigan over them, but the shoes are just better for him. It's that simple.

If Penn State is insistent on costing him \$100,000 and his comfort by making him wear adidas shoes during games, practices, and other team activities, Jordan would like to see them (or adidas) cover most of that lost money to make it worth his trouble. Compensating him for that potential loss could happen several different ways. For example, Jordan would be open to a compromise where adidas pays him directly for wearing their gear during games and practices, while Nike keeps the broader sponsorship rights for off-field promotions, social media, and appearances. This way, adidas can protect its exclusivity during team activities, Nike can still feature Jordan as a Nike athlete in its marketing campaigns, and Jordan both gets the \$150,000

from Nike and gets at least some of the \$100,000 tied to on-field usage from adidas. He knows this arrangement might be complicated—he cannot imagine either brand likes sharing athletes—but if both companies agree to stay in their respective lanes, it could preserve the value he brings to each while avoiding a zero-sum fight over his endorsement rights.

Alternatively, Penn State could make up the difference on their own. Jordan's *House* settlement revenue sharing contract with Penn State currently pays him \$750,000—not a small figure at all, but a figure that he knows is less than some of the other star running backs in the Big Ten. With a good season he knows he would already be in line for a healthy raise for his senior year, but even that raises some concern. Maybe he is overthinking things, but he is not even sure he would be able to perform to his full ability after switching shoes, so Penn State agreeing to bump up his revenue sharing deal now would help him feel better about potentially losing money there or in his NFL draft stock.

Jordan is also willing to explore options where he is allowed to wear Nike during team activities but has to make considerations to make sure it is not an ambush marketing issue. He usually prefers his cleats open, but he would absolutely be willing to switch to wearing spats and cleat tape to cover up any Nike logos while he is on the field. He has not run this by Nike yet, but it may be a solution to avoid hurt feelings on either side. Of course, Nike would have to approve this plan and there is no guarantee they would do so; Jordan's agent who negotiated the Nike deal highly doubts they would be willing to pay any part of the \$100,000 he has been promised for on-field usage (and is skeptical they would allow this at all), but it may be the best solution for both sides.

Things get more complicated if Penn State refuses to allow Jordan's Nike deal at all and push him to just make a deal with adidas. Jordan would be strongly hesitant to enter into a deal with adidas for a simple reason: as stated before, he does not like their shoes or their brand, and does not want to endorse a product he does not believe in. He has always seen himself as a "Nike athlete"—just like his namesake Michael Jordan, most of the top running backs from last year's draft (including Ashton Jeanty), and his best friend from last year's Penn State team, Tyler Warren. Even if the quality of the shoes were equal, thinking of himself as an adidas athlete just feels wrong.

As such, Penn State would have to push adidas to make the switch worth his while. Jordan would prefer that adidas beat the full \$250,000 that Nike was willing to offer him. It

would be one thing for adidas to match the deal—it would certainly save him money on legal fees if it prevents a lawsuit—but as a matter of principle Jordan would strongly prefer that adidas pay more than what Nike offered. If Penn State offers to make up the difference themselves that would be totally fine, at least to a point; Jordan knows that their ability to compensate players directly is limited to the \$20.5 million *House* settlement revenue sharing cap, and Jordan would be furious if he found out Penn State deprived his teammates of a single dollar to protect adidas.

Jordan would also love for adidas to allow him to design his own shoes. This is not an opportunity that Nike is not offering, but Jordan does not need it with Nike; he wants to make sure he can be comfortable and play his best while wearing adidas cleats. Jordan would also like any deal with adidas to be nonexclusive, allowing him to wear whatever shoes and apparel he wants outside of team activities—including Nike—even if he is not allowed to formally endorse whatever brand he wears.

Jordan does have mixed feelings on how long a potential adidas deal would last. On one hand, if he is begrudgingly pushed into an adidas deal he would like it to only cover the rest of his college career so that he can potentially switch back to Nike if he so chooses when he starts his NFL career. On the other hand, a multiyear contract with a similar length as the Nike deal would provide him stability; he is a running back, after all, and with that position comes significant risk to his draft status or even staying healthy enough for an NFL career at all. Ultimately, if adidas were to allow him freedom to design his own cleat that would make him feel a lot better about a longer-term contract, since he knows that it would be much more likely he would be able to find something he would be comfortable with in the long term.

Ultimately, Jordan is willing to work with Penn State to find a solution to this dilemma. He loves his school and has had a great relationship with members of the athletic department until now, and would love nothing more than to return to that loving relationship. He is upset by this whole ordeal, but is willing to see the bigger picture if he feels like he is in a situation where Penn State is adequately addressing his frustration. As such, he is more than willing to listen to any sort of creative proposal that meets his needs.

CONFIDENTIAL FACTS FOR PENN STATE UNIVERSITY

Penn State's athletic department feels stuck in an impossible situation. The school just celebrated a major victory: a ten-year, \$300 million partnership with adidas after more than three increasingly frustrated decades with Nike. The deal was meant to signal a new era for Penn State athletics—a financial windfall, expanded NIL opportunities for athletes, and a commitment from adidas to treat Penn State like a flagship program rather than the afterthought they often felt they were under Nike. But now, before the ink on the contract has even dried, the school is facing a confrontation with its biggest football star that threatens to turn a win into an early headache.

From Penn State's perspective, this should not even be a debate. The contract with adidas is clear: exclusivity for team activities, a right of first refusal for individual NIL deals, and a financial structure that assumes Penn State will protect the value adidas is paying for. The school's leadership feels it has a legal, contractual, and ethical obligation to stand by the deal—both to adidas and to its own athletic department budget, which depends on relationships like this one. Allowing a player to undermine all of that nearly a full year before the first football season under the new deal even kicks off feels like it would set a disastrous precedent.

What frustrates Penn State even more is the sense that Nike is playing a longer game. The timing of Nike's NIL offer to Jordan—coming suspiciously soon after Penn State told Nike they were closing in on a deal with adidas—strikes many in the department as deliberate rather than coincidental. To Penn State officials, it looks like Nike is trying to stir the pot, using Jordan as leverage to embarrass both Penn State and adidas while creating a PR headache for the school. If Penn State caves here, they worry Nike will smell blood in the water, other athletes will follow Jordan's lead, and the entire adidas deal could start to unravel before it even gets off the ground.

Legally, Penn State knows it has tools at its disposal. Pennsylvania's NIL law explicitly allows schools to prohibit deals that conflict with existing sponsorships, and Penn State's attorneys believe the law gives the university a strong foundation to stand on. They are aware that Jordan's camp has hinted at a possible First Amendment argument, but since no court has ever ruled on it, Penn State has no way of knowing whether the theory would gain any traction—or how quickly it could be resolved if raised. And while the *House* settlement revenue sharing contract is perhaps not the most cleanly drafted contract in the world for this particular situation, Big Ten attorneys have informally confirmed they intended conflicts like this one to fall under its

“institutional reputation” clause. If things escalate, Penn State could even argue Jordan is breaching his own agreement—but they would much rather avoid going down that road.

What makes this particularly awkward is that Penn State genuinely values Jordan Williams. He has been a model player since the day he arrived in State College. The school doesn’t want a courtroom battle with its Heisman candidate—or the media circus that would come with it. From Penn State’s standpoint, this should be readily solvable: adidas is ready to make Jordan a featured athlete with serious money and marketing opportunities on the table. If he signs with adidas, everyone wins—Jordan gets paid, the university protects its new partnership, and Penn State avoids opening the floodgates for future conflicts.

However, Penn State does feel like they have to be clear: adidas cannot offer the same amount that Nike is offering Williams. Frankly, paying \$250,000 for an endorsement deal with a college running back seems absurd; while the college athlete NIL market is still new, nobody in the Penn State athletic department nor their contacts at adidas can think of any non-quarterback getting anything close. In an open market, adidas estimates that they would be willing to offer Williams about \$50,000—and they apparently did after Williams was approached by Nike. Unsurprisingly, Williams was not swayed by that offer.

However, Penn State knows that this is not an open market transaction. There are two competing dynamics that significantly complicate any sort of apparel deal valuation. First, of course, is adidas’s exclusive rights. If they feel like that clause is defensible (and if Penn State is willing to defend it), then they have no reason to offer Williams his true value since there is no competition to push that offer any further. If adidas took that exclusive access into account when making an offer to Williams, it could perhaps explain the difference between adidas’s \$50,000 offer and Nike’s \$250,000 offer. Of course, Nike simply acting in bad faith to try and mess with Penn State’s new adidas deal is a reasonable explanation as well.

The second dynamic, on the other hand, perhaps offers some room for Penn State to find middle ground with Williams: adidas’s dedicated NIL budget negotiated into the new partnership agreement with Penn State. While adidas has made clear that any NIL package drawn from that budget is subject to their approval, they have also said that Penn State has significant freedom to divide up that money as they see fit, and using that money to convince their star running to resolve this debate by just signing with adidas could be a worthy use of that fund. As part of the agreement, adidas agreed to devote \$5 million per year to Penn State athlete NIL packages that

can be used to compensate Penn State athletes beyond the \$20.5 million that Penn State can pay athletes directly before hitting the *House* settlement cap. That, of course, does not mean that Penn State can or should offer \$2 million to Williams—they have dozens of other athletes and recruits that they want to use that money on—but the athletic department can certainly use up to around \$200,000 on Williams if it will save a legal headache. Penn State hopes that adidas will be able to pitch in the \$50,000 they were willing to offer Williams on their own to fully match his Nike offer, but they cannot guarantee this.

Of course, money might not be the only problem here. In conversations with Penn State's running back coach, Penn State officials have learned that Williams has been wearing Nike shoes since high school and was visibly displeased with the adidas shoes he had a chance to try out in a practice held shortly after the adidas deal was announced. Based on their conversation with the coach Penn State sees this as more of a comfort and familiarity issue than a real performance risk, but they still plan to push adidas to work directly with Williams to address it—customized cleats, new prototypes, whatever it takes. Regardless, while his coach does wonder how much his performance would be affected by shoes he is not comfortable with, he acknowledges that with enough time Williams will get used to the new cleats and get over it.

There is not a lot that Penn State can do if Williams pushes for more money beyond the Nike deal in a potential adidas substitute. Yes, they have a whole \$2 million NIL budget with adidas, but, as mentioned, that money is already earmarked for other recruits. Williams may also point to the \$20.5 million Penn State has to spend under the *House* settlement. However, the \$20.5 million *House* settlement number is a bit of a misnomer; that number also includes up to \$2.5 million in any added scholarships, and Penn State added scholarships up to that full amount, making their *House* settlement cap actually closer to \$18 million. And between the hundreds of athletes on Penn State's thirty-one varsity programs, that \$18 million is already entirely spoken for and carefully allotted. Williams himself is getting about \$750,000 from that fund. Penn State officials want to make clear that if Williams demands more money—either from adidas's NIL budget or from Penn State directly—he will be taking money from his teammates to do so.

If Williams insists on keeping the Nike deal, he should know that the only way Penn State would be able to allow that is with heavy restrictions. From the university's perspective, allowing a competing apparel deal during the first year of a \$300 million exclusive sponsorship risks undermining the entire agreement. Penn State cannot be in the business of telling its

corporate partners one thing—that they are receiving exclusivity for their multi-million-dollar investments—only to water that exclusivity down the moment a single athlete pushes back.

However, Penn State has broached the issue with adidas. They are not thrilled that Penn State is even considering allowing Williams to take the Nike deal and pushed Penn State officials to just push Williams to take some of their allotted NIL money instead. With some prodding, Penn State was able to work it out with adidas where they would be comfortable allowing Williams to proceed with the Nike deal if several significant changes are made to the contract.

First, adidas is adamant that Williams should not be allowed to wear non-adidas shoes during practices and games. Taping up or otherwise covering competitor logos is not enough; the *absence* of an adidas logo on a star player's cleat is enough to make adidas feel that they are not getting their money's worth. Second, Williams would not be permitted to use any Penn State logos, colors, or other trademarks during any commercial activities with Nike. This is a restriction that Penn State very much agrees with—there is no conceivable way either adidas nor Penn State would be ok with Nike being allowed to take advantage of Penn State's good reputation, especially after Penn State and Nike ended a very messy relationship. Third—and along similar lines as the second restriction—Williams would not be permitted to advertising Nike products in any other way that raises the possibility that anyone would see Penn State and Nike as connected. This means that Williams would have to be off-campus when making any visual content for Nike. Additionally, Nike's content featuring Jordan would need to be clearly separated from his Penn State identity, focusing on him rather than on Penn State football.

On financial terms, Penn State would refuse to cover any of the money Jordan loses by giving up on-field Nike rights. Penn State's position is that while restrictions on NIL deals in general could raise interesting legal questions, there is no plausible argument that Williams has a right to wear Nike during games so Williams never had the option to bargain away those rights in the first place. If Jordan agrees to wear adidas gear for all team activities, Penn State expects that Nike's off-field-only offer will be reduced accordingly, and they do not see a problem with that fact. From the school's standpoint, that is between Jordan and Nike; Penn State has no intention of redirecting university or adidas funds to make up for the narrower scope of the deal.

Ultimately, Penn State is willing to work with Williams to find a solution to this dilemma. Williams is an incredibly valued athlete and person for Penn State and officials would

like nothing more than to return to a purely supportive relationship. As such, they are more than willing to listen to any sort of creative proposal that meets the school's needs.