

Journal of

# NCAA Compliance

A sports law periodical by Hackney Publications

## The *Rashada* Lawsuit: A Wakeup Call for Compliance Offices and Coaches

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One of the first ever NIL lawsuits, *Rashada v. Hathcock, et al* (Case No. 3:24-cv-00219-MCR-HTC, N.D. Fla.), focuses on broken promises related to an NIL deal during the recruiting process. This case raises questions about the parties involved, whether the arrangement and communications adhered to NCAA guidelines at the time, and the potential impact of this significant and possibly precedent-setting case on compliance offices and coaches.

### THE RISE AND FALL OF THE RECORD-BREAKING NIL DEAL

On May 21, 2024, a former football recruit for the University of Florida (UF), Jaden Rashada (Rashada), filed a lawsuit in the Northern District of Florida against the UF's Head Football Coach, Billy Napier, and Director of Player Engagement and NIL, Marcus Castro-Walker – as well as an NIL collective and the collective's CEO – for allegedly failing to follow through on its offer to pay Rashada \$13.85 million in NIL money in return for committing to UF. According to media reports, this was rumored to be the most lucrative NIL deal at the time.<sup>1</sup>

The complaint alleges that Castro-Walker, who appeared to report to the

University of Florida's head football coach, texted Rashada's agents in October 2022 to persuade Rashada to decommit from Miami and commit to UF by offering an NIL deal exceeding the \$9.5 million he was set to receive at Miami.<sup>2</sup> As National Signing Day approached, the lawsuit alleged that head coach Napier promised Rashada \$1 million if he signed his National Letter of Intent. However, Rashada further alleges that he only received \$150,000 before transferring. The quarterback asserts that the defendants devised a "bait-and-switch" scheme, luring him to UF with a lucrative NIL deal they never intended to honor.

Notably, the named Defendants have yet to respond to the complaint by filing an answer or a motion.

### A COMPLIANCE FAILURE?

At the time of Rashada's recruitment in the fall of 2022, the NCAA banned using NIL agreements as "recruiting inducements," meaning prospective athletes could not negotiate NIL deals before committing to a member institution.<sup>3</sup> The NCAA also prohibited collectives, classified as "boosters," from engaging in NIL discussions with prospective athletes.<sup>4</sup> Collectives that engaged in recruiting conversations on behalf of a school put institutions in a difficult spot

as it would have been the institution held responsible for any impermissible recruiting.<sup>5</sup>

Fast forward a year and a half: neither UF nor any other school, will have to entertain the idea of enforcement actions from the NCAA for NIL-recruiting rules. This, of course, is due to a preliminary injunction, issued in February 2024, which prohibited the NCAA from enforcing its so-called "NIL-recruiting ban," i.e., the NCAA guidance that prohibited boosters and collectives from communicating with athletes about NIL opportunities before they committed to a particular school.

If the logic follows, and even if what Rashada is alleging is proven true, it's not likely that the University of Florida will see any significant consequences for its actions, despite the fact that those actions – per the letter of NCAA rule – were impermissible. *Basically, if the NCAA isn't investigating it, then does it really matter?*

Let's say the NCAA were to investigate: University of Florida could be looking at similar analysis and outcome as its in-state rival, Florida State University (FSU). Recall that on January 24, 2024, before the NCAA was barred from enforcing NIL-recruiting rules, the NCAA found "Florida State assistant football coach violated NCAA rules when he facilitated an impermissible recruiting contact between a transfer prospect and

<sup>1</sup> Crabtree, Jeremy. *Jaden Rashada turned down millions, will still have highest known NIL deal for recruits*, On3NIL. <https://www.on3.com/nil/news/jaden-rashada-turned-down-millions-will-still-have-highest-known-nil-deal-for-recruits/> (June 26, 2022).

<sup>2</sup> P 26, 31, 32.

<sup>3</sup> See NCAA, Interim NIL Policy (July 2021).

<sup>4</sup> See NCAA, Interim Name, Image and Likeness Policy Guidance Regarding Third Party Involvement (May 9, 2022).

<sup>5</sup> See NCAA Constitution 2.1.2 and 2.8.1, and Division I Bylaw 13.01.2 – Institutional Responsibility.

a booster” and the booster was the chief executive officer of an NIL collective.<sup>6</sup>

It seems as though the FSU case just serves to shine a spotlight on what the NCAA once found egregious enough to punish but is now curtailed from pursuing. So if what Rashada alleges is true, the booster’s involvement – with the help of University employees – in negotiating an NIL deal would likely constitute violations of NCAA recruiting bylaws *that were in place at the time*. *Key phrase being: at the time.*

### WHAT CAN COMPLIANCE OFFICES DO TO MONITOR HEAD COACHES COMPLIANCE?

While Rashada’s recruitment is likely water under the bridge for the NCAA, this fact pattern serves as a wakeup call for coaches and compliance officers.

For compliance officers, it offers an opportunity to reassess how their institution is monitoring NIL compliance. It is no surprise that the guidance and rules surrounding NIL are changing in real-time based on lawsuits, rewriting of state laws, and shifting NCAA guidance. The flexibility of the guidance also oftentimes lends itself to a considerable amount of discretion and institutional risk, making any sort of uniformed approach unlikely.

One NCAA bylaw that does hold true is Head Coach Responsibility. Known as being one of the most frequently violated bylaws, under NCAA Bylaw 11.1.1.1, head coaches are presumed responsible for violations that occur under their

watch (within their program). To promote compliance:

- Hold educational sessions to remind coaches and staff of boundaries and expectations related to NIL, collectives, recruiting, and other relevant bylaws;
- Keep an open line of communication and encourage coaches and staff to ask about the permissibility of an act before acting;
- And more, as outlined by the NCAA.<sup>7</sup>

In light of the Rashada case and given that NIL is often linked to recruiting, it is a good time to review the institution’s obligations related to NIL under the NCAA bylaws and form an approach to monitor compliance.

### COACHES COULD FACE MORE DIRE CONSEQUENCES

As for coaches, the lawsuit has the possibility of holding University employees personally liable for the promises they make during the course of recruiting a prospective athlete. Coaches could also face serious employment repercussions. Generally all head coaching contracts contain some type of language where they can be fired for cause if they are “fraudulent or dishonest” in their duties (which almost always lists recruiting).

This begs the question: if a head coach (or staff) provides fraudulent information during the recruiting process as it relates to available NIL money, as alleged by Rashada, does that give the institution ample reason to terminate a head

coach for cause?

The answer: *Possibly.*

We have yet to see a head coach terminated for violating any type of NIL rule or law, but we have seen plenty of examples in the past where coaches were let go for violating NCAA rules. In the *Rashada* lawsuit, it is difficult to determine whether the University employees’ alleged conduct – including the head coach – could serve as the basis for a “for cause” termination because it was arguably impermissible at the time but, now, unenforceable.

While a federal court has forced the NCAA to turn away from enforcing NIL-recruiting related rules, this lawsuit may set impactful precedent for coaches, athletic department staff, and NIL collectives negotiating NIL deals.



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<sup>6</sup> NIL-related recruiting violation occurred in Florida State football program, NCAA (January 11, 2024), <https://www.ncaa.org/news/2024/1/11/media-center-nil-related-recruiting-violation-occurred-in-florida-state-football-program.aspx>

<sup>7</sup> Head Coach Responsibility Educational Document, NCAA, [https://ncaa.org.s3.amazonaws.com/enforcement/d1/D1ENF\\_HeadCoachResponsibilityEducationalDocument.pdf](https://ncaa.org.s3.amazonaws.com/enforcement/d1/D1ENF_HeadCoachResponsibilityEducationalDocument.pdf)