

LEGAL UPDATES

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5th Year Eligibility Pendulum Swings in Favor of the NCAA

Following the NCAA's adoption of the new 5-for-5 eligibility model, dozens of lawsuits were filed. Notably, in three wide-sweeping cases, preliminary injunctions were granted in the student-athletes' favor. This week, appellate courts have stayed two of the three injunctions, resulting in last-minute chaos on campus.

Breaking News This Week

Filip Borovicanin, et al., v. NCAA

On August 17, 2026, the Ohio Court of Appeals granted the NCAA's motion to stay the preliminary injunction previously granted by the Ohio trial court on July 9, 2026, until resolution of the case. In making its ruling, the Appellate Court determined that the NCAA demonstrated irreparable harm to student-athletes and institutions who have been following NCAA rules absent a stay.

Brock Wisne, et al., v. NCAA

On August 21, 2026, the Tenth Circuit Court of Appeals granted the NCAA's motion to stay the nationwide preliminary injunction previously granted by the Colorado District Court on July 31, 2026. This essentially granted a fifth season to all Division I athletes who graduated from high school in 2022 and competed in four seasons of competition by 2025-26.

In plain language, the injunctions previously granted in these two cases are no longer valid, and the affected student-athletes will return to the status quo.

Case	Terms of the Injunction	To whom does this apply?	Limits of the Injunction
<i>Borovicanin v. NCAA</i> (State Court, OH) *Injunction stayed (Aug. 17, 2026)	Plaintiffs cannot be excluded from the 5-for-5 model. NCAA shall recognize plaintiffs as eligible for 26-27. Plaintiffs can enter Portal at any time.	24 named MBB Plaintiffs (HS Class of 2022)	Seasons of competition, House roster and NIL caps and Rule of Restitution are NOT enjoined.
<i>Washington v. NCAA</i> (State Court, TN)	Plaintiffs cannot be excluded from the 5-for-5 model. NCAA shall recognize plaintiffs as eligible for 26-27. Plaintiffs can enter the Portal Aug. 3-10. No enforcement Rule of Restitution or ghost transfer rule.	19 named MBB Plaintiffs (HS Class of 2022)	No requirement for schools to provide roster spots, scholarships, or admissions.
<i>Wisne v. NCAA</i> (Federal Court, CO) *Injunction stayed (Aug. 21,	Plaintiffs cannot be excluded from the 5-for-5 model.	Certified Class (Any HS Class of 202,2 Division I SA who competed	Seasons of competition, House roster and NIL caps, transfer portal rules, and Rule of

2026)	NCAA shall recognize plaintiffs as eligible for 26-27.	in 4 seasons by 25-26)	Restitution are NOT enjoined.
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What This Means for You

There continues to be a heightened level of inconsistent application of the NCAA eligibility rules. It is important to note that decisions related to temporary restraining orders and preliminary injunctions are (1) not decisions on the merits of either party's case; and (2) may affect student-athletes differently, depending on the court that issued the order and the details of that order. Also, although the temporary injunction in *Wisne* applied to all class of 2022 high school graduates who exhausted eligibility, the stay of that injunction does not invalidate the dozens of other temporary restraining orders and temporary injunctions that may have been successfully granted in other state courts across the country. As coaches and institutions ramp up for the 2026-27 season, especially those who are or have been considering bringing back fifth-year athletes subject to these eligibility court orders, it is critical to understand which lawsuit, injunction, and/or court order applies to which student-athletes and what the implications are for rosters, athletics scholarships, and institutional NIL agreements.

Contact Us

For more information about the legal and regulatory decisions affecting your institution, please contact Jason Montgomery, TaRonda Randall, Kristina Minor, or your Husch Blackwell attorney.