

# Changes in Antitrust Law May Signal Increased Scrutiny for Long-Standing Eligibility Rules in Pro Sports

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Eligibility rules have long been the sovereign territory of professional sports leagues. However, recent decisions have called this tradition into question. In this article, we discuss three recent cases involving former Junior College athletes seeking to compete notwithstanding their ineligibility under NCAA (the “National Collegiate Athletic Association”) rules. As antitrust law continues to develop alongside collegiate sports’ rapid evolution in the NIL (“Name, Image, and Likeness”) era, professional and collegiate sports leagues should take note of these new decisions and the impact they might have on league governance rules more broadly. In two of those cases (*Pavia* and *Elad*) the courts subjected the NCAA’s eligibility restriction to a rule of reason analysis before granting the requested preliminary injunction enjoining application of the rule. In the third, the court declined to subject the eligibility rule to antitrust scrutiny, finding the rule to be non-commercial in nature and going on to say it would survive antitrust scrutiny even if the rule was commercial in nature.

## ***Pavia v. NCAA* and *Elad v. NCAA*: Successful Challenges to Eligibility Rules Impacting Former Junior College Athletes**

Junior College athletes have been increasingly successful in obtaining preliminary injunctions that allow extra years of eligibility at a Division I school, calling into question the enforceability of the NCAA’s long-standing “Five-Year Rule.” The Five-Year Rule permits college athletes to compete in up to four competitive seasons within five years, inclusive of time spent at a Junior College. This “JUCO Rule” means that a recruit transferring to a Division I institution after graduating from a Junior College will have two fewer seasons of eligibility than a recruit enrolling directly at a four-year institution out of high school.

Diego Pavia, a quarterback who transferred to Vanderbilt after two seasons at New Mexico State University, obtained an injunction that will allow him to suit up for Vanderbilt this fall. Pavia sought the injunction because, prior to joining New Mexico State University, he led the New Mexico Military Institute to a Junior College National Championship victory in 2021. Application of the JUCO Rule would have resulted in his 2024 season at Vanderbilt having been his last. Pavia sued to enjoin that rule, and the

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Court found that the JUCO Rule's restrictions on eligibility "necessarily have anticompetitive effects" in the NIL era. Judge William Campbell of the Middle District of Tennessee explained that "the NCAA's assertion that restrictions on the length of eligibility have a net neutral affect ignores the new economic reality in the age of NIL compensation." The Court further characterized NCAA Eligibility Rules as "restrictions on who can compete (and earn NIL compensation) and for how long." The NCAA subsequently granted a waiver to permit similarly situated former JUCO players to play a fourth year of Division I sports in fall 2025 or spring 2026. This ruling left student-athletes who weren't similarly situated to Pavia in an uncertain situation.

Enter Jett Elad. Elad transferred to Rutgers University from the University of Las Vegas after playing at Garden City Community College in Kansas. Although Elad had hoped that the NCAA might grant him the same waiver that benefitted Diego Pavia and other similarly situated athletes, the NCAA denied Elad's application for such a waiver. Elad then filed for a preliminary injunction against the NCAA in April, arguing that counting his year of Junior College competition against his NCAA eligibility violates Section 1 of the Sherman Antitrust Act by unreasonably restraining trade in the labor market for college athletes.

Judge Zahid N. Quraishi of the District of New Jersey agreed, finding that Division I college football players are part of a "labor market" where compensation takes the form of lucrative NIL deals. Players, Quraishi explained, also use Division I football to prepare for the NFL. Recognizing that an injunction was "potentially Elad's only opportunity to complete his Division I career and transition into the NFL," the court found that "the JUCO Rule is commercial in nature" and that "the JUCO Rule limits who is eligible to play and therefore to negotiate a NIL agreement."

Like the court in Pavia, Judge Quraishi's decision reflected the new NIL reality. He noted that "Elad's NIL agreement is a real-life example of a wider phenomenon [in which] older, more experienced players generally receive more NIL compensation than younger, less experienced players at the same position. Selectively limiting JUCO students from that pool necessarily has a commercial effect." Judge Quraishi further stressed that Elad's decision to enroll at Rutgers "was based in part on a NIL deal for \$550,000 compensation, with an additional \$100,000 incentive bonus if he is named to the All-Big Ten First Team."

The changes in NIL within the market for college football and the broader recognition that the NCAA is engaged in a commercial enterprise was critical for *Pavia* and *Elad's* determination that the NCAA's long-standing eligibility restrictions were commercial in nature and should be enjoined. As such, both cases show the judiciary's increased willingness to review sports league eligibility rules under antitrust law.

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**Goldstein v. NCAA: Tempered Expectations for Wholesale Elimination of the Five-Year Rule**

Not all student-athletes' Antitrust challenges of NCAA eligibility rules have prevailed. In *Goldstein v. NCAA*, a student-athlete's petition for injunctive relief to increase his eligibility was denied by Judge Tillman "Tripp" Self of the Middle District of Georgia. Judge Self ruled that the NCAA eligibility bylaws are "non-commercial" and, therefore, are not subject to antitrust law. Unlike Elad who was offered over half a million dollars in NIL funds, Goldstein "did not have a single dollar amount on . . . [his] current or potential NIL compensation." In addition, while *Pavia* and *Elad* both concerned college football eligibility, *Goldstein* and other similar rulings in favor of the NCAA concerned college baseball players who were not economically similarly situated. While the determination that the eligibility rule is not commercial in nature is hard to square with the contrary opinions in *Pavia* and *Elad*, it appears that the outsized revenue and NIL funds in college football drove the differing outcomes.

**Broader Implications on Professional Sports**

For years, the NCAA largely prevailed against antitrust challenges. That changed in a dramatic way following plaintiffs' victories in *O'Bannon v. NCAA* and then in *Alston v. NCAA*. But those cases addressed restrictions on athletes' ability to receive compensation. *Pavia* and *Elad* signal that the antitrust scrutiny of NCAA rules is unlikely to end with *Alston* and that rules previously considered to be non-commercial and aimed at preserving parity in sports are also in plaintiffs' sights.

These challenges to NCAA league rules should not be viewed as siloed and limited to college sports. In the past year there have been several high-profile antitrust challenges in the sports world targeting league rules, as we have previously discussed in our updates on [NASCAR](#) and [US Soccer](#).

It may be that we are seeing a shift in how the courts view sports leagues, with judges less reticent than they have been in the past to interfere with a tradition viewed as deeply rooted in our nation's collective consciousness, and therefore less willing to defer to league rules even where the leagues assert that they are best suited to decide the rules required for competition. As the case law continues to develop, professional sports leagues should anticipate the possibility that their traditional governance models may suddenly be subjected to antitrust scrutiny.

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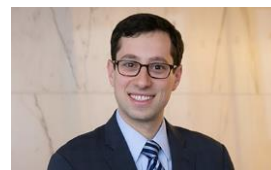
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