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2025 College Athletics Compliance Report: A Look at the Continued (R)evolution



A Settling House Finds Its Foundation... For Now

THIRD-PARTY AGREEMENTS, DISCLOSURES, & ENFORCEMENT (CONTINUED)

Unfortunately, the approval of the settlement has solved only a minimal number of issues potentially related to booster involvement in NIL, and maybe not even those issues. Several other objections to the settlement correctly point out that remaining restrictions conflict with state NIL statutes that permit institutions to make immediate payments to college athletes and others that outright prohibit NCAA enforcement of NIL restrictions. It is unclear if, or how, the NCAA or the new "enforcement entity" will address contradictions between the settlement massive shift to and state laws. The settlement has triggered a glaring lack of clarity as to which NCAA rules will still be relevant or how those rules will be enforced. In other words, have the Power Four (plus Oregon State University and Washington State University) doubled their potential liability from both a new enforcement entity and the current NCAA enforcement process for all other issues but NIL? As such, institutions should have a clear understanding not only of the settlement agreement terms, NCAA rules, and their state law, but also of their leadership's level of risk tolerance as they establish and communicate new policies, procedures, and monitoring systems to coaches and athletes, and most significantly enter into commercial agreements with their college athletes that are allegedly not pay-for-play or employment.

"REVENUE SHARE" VS. "NIL"

Unpopular public service announcement: the payments contemplated by the *House* settlement are not actually revenue sharing. They instead are additional benefits up to a capped amount that schools can provide at their discretion. Most, if not all schools, are choosing an NIL license as the mechanism to make these additional payments. Although the pool cap was calculated based on revenue categories, the payments college athletes will receive are not shares of their institution's profits, for the few that have year-end profits, and may even come from non-institutional sources (e.g., donations from boosters for NIL payments, which would count against the pool cap). Institutions have begun entering into NIL licensing agreements with their college athletes—by which college athletes will receive payments contemplated by the *House* settlement, beginning July 1, 2025, subject to the settlement approval in exchange for the institution's license to use their name, image, and likeness. These agreements are not solely tied to economic profits, or more likely losses, of the universities' athletics teams. In addition, as part of the settlement and for the 10 years of the injunction, it is agreed that the additional payments are not related to the athletes' appearance in live sporting events, so-called broadcast NIL (BNIL). While the settlement damages are in contemplation of BNIL, the settlement specifically indicates that plaintiffs and the injunctive classes (i.e., college

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"REVENUE SHARE" VS. "NIL" (CONTINUED)

athletes) will not contest the right of schools and television partners to televise live contests and provide any portion of that revenue to the college athlete participants during the 10-year term of the settlement. The logic, as it goes, is that this 10-year term will keep the NCAA and Power Four together at least until the next round of NCAA Division I Men's Basketball Tournament and Football Playoff television contract negoti-



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Husch Blackwell's fifth-annual college athletics report provides a comprehensive guide of the major developments that are keeping athletic department leaders up at night. The NCAA's radical transformation—years in the making—is coming into focus, but uncertainties still await on the horizon.

Our downloadable report, “A Continued (R)Evolution of College Athletics,” focuses on these key areas:

The *House v. NCAA* Settlement and NIL

Changes in Eligibility

Transgender Athletes

Budget Considerations

The Impact to Division II and III

What's Next for College Athletics

Download Report

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Contact us

If you have questions about how the information in this report impacts you or your institution, contact Hayley Hanson, Jason Montgomery, TaRonda Randall, or your Husch Blackwell attorney.