



# NCAA's Student-Athlete Settlement Signals Big Changes Ahead: 3 Things Higher Education Institutions Need to Know

Insights

8.01.24

The NCAA and its power conferences recently approved a multi-billion-dollar agreement to settle several antitrust claims brought by student-athletes, taking the next step towards reshaping the collegiate sports landscape. The trio of class-action lawsuits challenged various NCAA rules, including a prior ban on student-athletes profiting from their name, image, and likeness (NIL), as well as limits on their pay and benefits. The settlement (if approved by the court) would create a new system where colleges and universities — for the first time in history — may pay student-athletes through a revenue-sharing framework. While the settlement, which is in the process of being finalized, has generated considerable excitement among student-athletes, many issues must still be resolved before schools can hand out paychecks. Here are the top three things colleges and universities need to know as you prepare for this sea change.

## 1. What Happened?

The NCAA's \$2.8 billion agreement is set to take effect in the Fall of 2025 and would be funded by the NCAA and Division I institutions. The settlement would provide funds to student-athletes for the years 2017-2020, a period during which athletes were prohibited from earning NIL revenue.

Beyond compensating past athletes, the settlement includes a future revenue-sharing model where schools may share a portion of their athletic revenue with athletes. Previously, academic scholarships represented the primary form of "compensation" available to student-athletes. Under the settlement, universities may share up to 22% of their sports-related revenue — such as TV contracts, ticket sales, and corporate sponsorships — with their players. [You can read more about the settlement in \*House v. NCAA\* here.](#)

## 2. What Are the New Title IX Implications?

The financial landscape of the college sports world is now in a state of flux, and you'll want to focus on compliance as you navigate these uncharted waters. As you may know, Title IX of the Education Amendments of 1972 was enacted to ensure equal opportunity in college and athletic programs. Under the statute, compliance is measured by:

- equal benefits, opportunities, and treatment given to men's and women's teams;

- equal awarding of athletic scholarship and financial assistance; and
- how a school is meeting students' athletic interests and abilities.

Historically, Title IX violations did not trigger employment-based litigation, but this may change in light of the recent settlement. This is especially true considering that a federal appeals court in July became the first to rule that student-athletes at NCAA Division I schools can bring a lawsuit claiming they are employees and may be entitled to minimum wage and overtime payments under federal law. While not a final decision on the issue, the ruling paves the way for continued litigation and a potential trial, while also opening the floodgates for copycat litigation throughout the country. [You can read more about that lawsuit here.](#)

Meanwhile, schools will need to work through some compliance issues before they start paying student-athletes under the new revenue-sharing model. Most importantly, to avoid potentially costly legal issues, schools must ensure that all compensation paid to athletes is compliant with Title IX. Consider the following questions:

- **If revenue sharing is based solely on the respective sports, do the allocations disproportionately advantage certain students, such as male students playing football and basketball?** This may result in a Title IX violation based on disparate treatment or disparate impact by treating people differently based on their membership in a protected class.
- **Does your revenue-sharing plan lead to unequal opportunities for benefits?** Courts may be inclined to find Title IX violations, for example, if male athletes receive premium benefits — due to their receipt of higher revenue shares — that would otherwise be unavailable to female players. Some of these benefits may include better housing, personal equipment and training, or other general lifestyle upgrades.
- **Are you prepared for potential employment-based litigation?** Practical considerations, such as budget restructuring to reserve future legal defense funds, may also be necessary to protect institutions from the dramatic changes to the college sports economic landscape.

### 3. What Should You Do Now?

While colleges and universities can expect to face challenges as the new revenue-sharing framework is rolled out, you should consider taking the following key steps to comply with Title IX:

- **Focus on Equity:** Ensure funds allocated to athletic scholarships are proportionate to the participation of male and female athletes, relative to the gender enrollment ratio for each institution.
- **Carefully Plan Budget Adjustments:** Athletic departments may need to cut certain athletic programs to free up budget space for settlement payments, revenue sharing, or future compensation to student athletes on an equitable basis. When determining such budget or

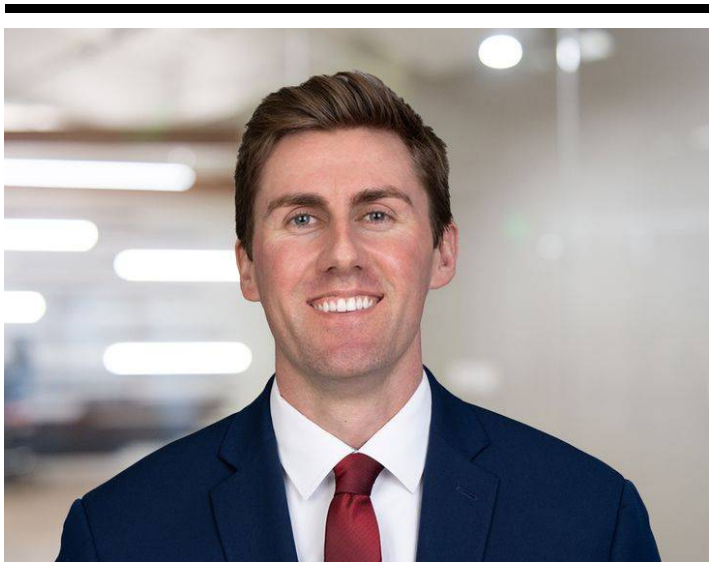
program cuts, institutions must carefully evaluate whether the resulting opportunities and benefits available to their male and female athletes are proportionate.

- **Ensure Benefits Are Balanced:** Male and female athletes should have equal access to comparable equipment, travel allowances, coaching, facilities, academic tutoring, recruiting, and other similar on-campus resources. Courts have found that inequalities in these benefits may represent Title IX violations.
- **Work with Your Attorney:** Colleges and universities should consult with legal counsel prior to issuing any payments to their student-athletes to ensure compliance with applicable state and federal laws.

## Conclusion

We will continue to monitor developments as they unfold. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox. If you have any questions on how these developments may impact your operations, please do not hesitate to contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Sports Industry Group](#), [Higher Education Team](#), or [Wage and Hour Practice Group](#) for additional guidance.

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