The NCAA'S Game Changing Antitrust Settlement: Updates Following a Long Procedural Battle

Client Alert
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Last fall, Judge Claudia Wilken granted preliminary approval of a settlement proposal between various college athletes and the National Collegiate Athletic Association (NCAA), the terms of which would reshape college sports and the business models around which they revolve ("*House v. NCAA* Settlement"). However, she simultaneously postponed her ruling from taking effect for quite some time. Over eight months later, and after nearly five years of litigation, the outlook of said settlement has finally been announced.

The Settlement

On October 7, 2024, Judge Wilken ruled in favor of a 2.8 billion dollar ($2,800,000,000) proposed settlement agreement.[1] The terms provided, among other things, for revenue sharing business models between student-athletes and the Power Five Conferences (Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference, and Southeastern Conference). A Final Approval Hearing was scheduled for April 7, 2025.

Following a slew of objections and many letters, the Court ultimately determined, at the initial Final Approval Hearing, that it needed more time to issue a final ruling. Fast forward to this past Friday, around two months later—and Judge Wilken handed down a decision that will change the world of college sports.[2]

What does the Settlement mean for student athletes?

In 2020, six individual college athletes, grouped into three separate actions, sued the NCAA for violations of the Sherman Act. Each suit was later consolidated to form the instant case. The athletes' claims revolved around the organization's absolute prohibition on third-party compensation for use of athletes'

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name, image, or likeness ("NIL"), and other restraints on Division I scholarships.

According to the terms of the Settlement approved last week, college athletes are now entitled to compensation for the use of their NILs as well as their athletic performance.[3] It will mark the first time where schools will be able to make payments to athletes for use of NILs directly, rather than through NIL Collectives. For a period of 10 academic years, Division I student-athletes may receive direct compensation and benefits totaling up to 22 percent of the Power five schools' annual athletic revenues (referred to as "the Pool Cap").[4]

These benefits will be offered "*over and above*" any of those that exist to date.[5] For reference, there are nearly 200,000 athletes and 350 schools in Division I alone and 500,000 and 1,100 schools across the entire NCAA.[6]

Colleges and universities may continue to permit student athletes to receive third-party NIL payments from brands, boosters, and other sponsors, subject to specific limitations.[7] However, as part of the settlement, third-party deals will be subject to much more scrutiny. The terms of the Settlement, allowed for the creation of an "NIL clearinghouse" to evaluate any third-party deal over $600 offered by a third-party collective, booster, or brand. "Deloitte has created software to operate the clearinghouse, called NIL Go, that will take multiple factors into account to determine whether the deal represents fair-market value."[8] In conjunction with Deloitte, the conferences (ACC, Big Ten, Big 12, SEC, and Pac-12) are creating a new entity, supposedly called the "College Sports Commission," whose primary function will be to "implement the settlement's terms and regulate revenue-sharing, third-party NIL deals and roster limits. The Commission will also regulate rules and investigate any potential violations, as well as participate in an arbitration process once violations are discovered" by Deloitte.[9] The functionality and effectiveness of this entity is notably subject to many questions, as its function seems to contradict several state laws, including one in Tennessee that allows schools and their NIL collectives to continue to pay above the Pool Cap.

Members of the Settlement class are scheduled to receive 2.8 billion dollars in damages for compensation lost because of the prior prohibition on compensation. Allegedly, this could "open the door" for other student athletes to receive payment in the net amount of around 1.6 billion dollars ($1,600,000,000) per annum.[10]

Judge Wilken's approval has further given way to the implementation of roster caps in place of scholarship limits. In short, roster caps function to provide more students with scholarship opportunities. They also limit the number of available spots on a team to a fixed quantity; but many sports will see a significant increase in roster size.

Simultaneously, students could experience a decrease in the overall amount of scholarship money received individually. Now, all colleges and universities can exercise discretion with regard to all scholarship awards, regardless of their division or sport. Consequently, some students may only receive partial scholarships while others receive full tuition awards. The only requirement is that the institution stay within the prescribed roster cap limit.

How should colleges and universities move forward?

The new business models permitted by the *House v. NCAA* Settlement will not come into effect until July 1, 2025. However, NCAA Division I schools who wish to participate in (aka "opt in") to these opportunities must commit to doing so by the end of this week.[11] They were asked to declare their intent to opt in by March 1, 2025. But the final opt in date is not until June 15, or this Sunday.

If an institution decides to opt in, it becomes subject to the rules as approved by Judge Wilken. Every NCAA member school will be subject to the same terms and provisions.[12] Each must abide by the roster limits as explained in the Settlement, certify that any additional benefits being paid to athletes comply with the Pool Cap, and report all benefits issued in accordance with the Settlement.[13] Such a quick turnaround between the approval date and final opt in date leaves little time for institutions to finalize their revenue sharing models and other policies.

Additionally, concerns remain in college athletics regarding discrepancies in state and federal law, the classification of student athletes as employees, Title IX, and more. Most notably, " the settlement may conflict with existing state NIL laws and will likely spark new litigation against the NCAA."[14] For example, in Michigan, MCL Section 390.1733 states that "[a] postsecondary educational institution, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not. . . [p]rovide a prospective college athlete who will attend a postsecondary educational institution with compensation in relation to the athlete's name, image, or likeness rights."

With state laws like Michigan in mind, "Congress is discussing legislation that will clear these obstacles by preempting state NIL laws and granting an antitrust exemption to the NCAA."[15] Allegedly, US Senator Ted Cruz of Texas is leading a bipartisan group to develop federal NIL legislation.[16] However, as of right now, the likelihood of federal NIL legislation remains unknown. In the meantime, colleges and universities should work closely with general counsel and other legal support to ensure their policies are up to date and that they are prepared for whatever changes come next. A commitment to doing so will prevent and mitigate future challenges.

What can Butzel do to help?

Our Sports and Entertainment Law Team at Butzel is equipped to guide clients through these new changes and help them make informed choices with respect to updated requirements. Due to the significant adjustments already experienced and those to come within the foreseeable future, many questions and/or concerns may develop within the upcoming months. Butzel attorneys help colleges, universities, athletes, collectives, and donors alike. As always, feel free to reach out to our Team should you require any guidance or assistance in navigating the complex field of Sports and Entertainment Law. We are here to help ensure that clients are not only well-informed about the matters with which they are involved, but also in a position to thrive.

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[1] In Re College Athlete NIL Litigation, No. 4:20-cv-03919 (N.D. Cal. Oct. 7, 2024).

[2] Opinion Regarding Order Granting Motion for Final Approval of Settlement Agreement, In Re College Athlete NIL Litigation, No. 20-cv-03919 CW (N.D. Cal. June 6, 2025).

[3] *Id.*

[4] *Id.* at 11.

[5] *Id.*

[6] *Judge Approves Settlement in Concussion Lawsuit Against NCAA*, Associated Press, June 10, 2025.

[7] *In re College Athlete NIL Litigation*, *supra* note 2; *see also* NCAA Division I | Educational resource, Guide for Schools (2025).

[8] Amanda Christovich, *There's a New NIL Enforcement Entity in College Sports.* "Front Office Sports (June 09, 2025, 12:39 pm)."

[9] Alex Byington, *Greg Byrne Highlights Purpose of College Sports Commission, Value of Addition*, On3 (June 11, 2025).

[10] *In re College Athlete NIL Litigation*, *supra* note 2.

[11] Pete Nakos (@PeteNakos_), X.com (June 6, 2025, 10:34 PM).

[12] *Id.* at 38.

[13] NCAA Division I | Educational resource, Guide For Schools (2025).

[14] Austin Reid and Andrew Smalley, *What the NCAA Settlement Means for Colleges and State Legislatures*, National Conference of State Legislatures (June 9, 2025).

[15] *Id.*

[16] *Id.*