

Title: Post-House Student-Athlete Revenue Sharing: Avoiding Potential Title IX Pitfalls

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Summary: Starting July 1, 2025, the \$2.8 billion *House v. NCAA* settlement opened the door for Division I institutions to directly compensate student-athletes through a 10-year revenue-sharing model.

Direct student-athlete compensation places institutions in uncharted legal territory.

Learn more about key takeaways for member institutions, including Title IX implications of revenue sharing and mitigating Title IX liability.

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Article: Starting July 1, 2025, the \$2.8 billion [House v. NCAA settlement](#) opened the door for Division I institutions to directly compensate student-athletes through a 10-year revenue-sharing model. Per the *House* settlement, participating Division I institutions may (not must) share up to a 22% cap of the average revenue derived from media of schools within the Power 5 (ACC, Big Ten, Big 12, Pac-12, and SEC) conferences. For the upcoming 2025-2026 school year, the settlement sets the cap at approximately \$20.5 million per school. Each of the schools in the Big Ten and SEC conferences has committed to fully funding athlete revenue sharing at the \$20.5 million level beginning in the 2025 fall season. However, members of the remaining Power conferences and other Division I institutions are permitted to “opt-in” to the *House* settlement, with the amount of their respective allocations for revenue sharing also subject to their discretion.

Direct student-athlete compensation places institutions in uncharted legal territory. Shortly after the *House* settlement was approved, multiple female student-athletes challenged the settlement on the grounds that the backpay portion of the settlement violates existing Title IX requirements, arguing “[t]he settlement suggests schools would have paid male athletes over 90% of their revenue over the past six years as though Title IX didn’t apply.” The appeal is likely to delay distribution of the settlement funds as the Ninth Circuit considers this and challenges by other class members. Challenges to the revenue-sharing model under Title IX are inevitable as well, as schools must balance maintaining a competitive advantage in recruiting and retaining talent for revenue-generating sports (generally, Football and Men’s and Women’s Basketball) with their obligations under Title IX to provide equal opportunity for male and female student-athletes.

Title IX Implications of Revenue Sharing

Title IX prohibits discrimination on the basis of sex in educational programs or activities receiving federal financial assistance. In athletics, Title IX generally requires that institutions provide equal opportunities for men and women to compete in varsity sports. Title IX's regulations state that institutions "in providing financial assistance to any of its students ... shall not: [o]n the basis of sex, provide different amount or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate." The Department of Education (DOE) determines whether an institution is providing equal opportunity to male and female athletes by looking to whether the financial assistance the institution provides is proportionate to the number of male and female student-athletes participating in intercollegiate athletics. In February, the Trump administration [rescinded](#) recent guidance from the DOE that Title IX applies to name, image, and likeness (NIL) payments, though that pronouncement predated the June settlement in *House* and further noted that such a determination "would require clear legal authority to support it." Such legal support could issue upon the Ninth Circuit's determination of Title IX's application to the back-pay portion of the *House* settlement.

Mitigating Title IX Liability

Despite the novel legal landscape, there are potential solutions that institutions could consider implementing to mitigate potential Title IX exposure related to revenue sharing.

Divide Revenue Distribution Equally Per Player

Within the applicable cap, institutions could divide the revenue (or a portion thereof) equally among all student athletes. This option likely presents the least amount of risk under Title IX because it does not discriminate on the basis of sport, let alone sex. Nevertheless, this option does not take into account the success of specific sports programs, revenue generated per sport, or budgeting. This option also potentially puts institutions at a competitive disadvantage in recruiting and attracting student athletes via the transfer portal. In any event, member institutions can think of this equal revenue distribution as a "base" compensation for student athletes, notwithstanding third-party and collective NIL deals and could use this either as a standalone model or in conjunction with the approaches described below.

Align Revenue Distribution Payments with Budgets Per Sport

Institutions could also consider aligning the revenue distribution with each sport's respective budget (excluding coach salaries, which vary widely between revenue and non-revenue generating sports), which are arguably already proportional and thus in compliance with Title IX requirements. By way of example, if the women's basketball team receives 15% of the budget for sports programs, the women's basketball team shall receive 15% of the overall cap of revenue distribution and, thereafter, be divided per player in an equal fashion.

Align Revenue Distribution with the Revenue Generated Per Sport

Alternatively, institutions could align the distribution of the revenue sharing in accordance with the proportional revenue a respective sport brings into the institution. The most obvious downfall of this approach is that certain sports operate in the red year-over-year and would, therefore, potentially be excluded from receiving any revenue to compensate athletes. This compensation scheme could also preclude certain student-athletes from receiving any compensation based on the financial success of their respective sport. Nonetheless, this

approach involves a straightforward calculation that would apply equally across both men's and women's teams.

Align Revenue Distribution with NIL Evaluation Scores

With respect to the distribution of revenue proceeds, the member institutions could also average the NIL Evaluation scores per program to determine the percentage of revenue to provide to each respective sport. Depending on the results of this exercise, this approach may yield disparate results in distributing revenue between men's and women's sports, with some teams likely being excluded completely from sharing in any revenue. This, in turn, may cause additional concerns with respect to Title IX compliance, though there is a fair argument that this distribution manner is not based on sex but is instead derived from NIL valuation, which stems from other factors.

Member institutions that have opted in or are considering doing so in the future should consult with legal counsel to implement the terms of the *House* settlement in compliance with federal and state law, including Title IX. Buchanan's Higher Education, Antitrust, and NIL teams are closely following developments within the post-*House* landscape and are prepared to assist institutions with developing and implementing revenue-sharing and NIL policies.