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Insights

SEC Weighs Escalating Fines for Schools Exceeding Athlete Revenue-Sharing Cap

Article
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11.16.2026

According to reporting by Ross Dellenger of Yahoo Sports, the Southeastern Conference (SEC) is circulating a proposal among the other power conferences that would fine schools for spending more on athlete compensation than the $21.6 million revenue-sharing cap set by the *House v. NCAA* settlement. For college athletes, businesses, sponsors and collectives involved in name, image and likeness (NIL) agreements, the key issue is which payments could count toward that cap. The proposal has not been adopted.

The plan uses a tiered, cumulative penalty structure modeled loosely on professional sports luxury taxes. Reported fines start below 1% for roster spending under $50.5 million. They rise to 1% for spending between $50.5 million and $60.5 million, 3% for $60.5 million to $70.5 million, and 10% above $70.5 million. As a result, a school spending $70.5 million would owe more than $10 million. The rates also go up each cap year: the top two tiers would increase to 5% and 15% in the following cap year, and the top tier would reach 20% the year after. One power league athletic director told Yahoo Sports that the practical effect is that "the new cap would basically be $70 million." It is not yet clear how the fine money would be distributed.

Which NIL Deals Could Count Toward the Revenue-Sharing Cap

The proposal's central change is that some school-affiliated, third-party NIL deals would count as "institutional pay." According to the reporting, that would enforce House settlement terms that have not previously been enforced. These deals typically involve corporate sponsors, multimedia rights partners and possibly apparel brands that redirect athletic department revenue to rosters.

Under the plan, schools may no longer need approval from the College Sports Commission's (CSC) NIL Go clearinghouse for these deals. Officials describe the current approval process as costly, and some leaders say schools pay intermediaries as much as 20% to "wash money" through it. A

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retroactive implementation date of October 1, 2026, is under discussion. As reported, fully independent NIL deals between athletes and businesses would fall outside the cap.

Because the proposal would sharply reduce the number of NIL deals reviewed through the CSC, it has raised questions about the commission's role. The CSC has a 30-person staff and more than a dozen active inquiries, but it has not yet penalized any program. Open questions remain, including whether payments through booster-backed collectives would count toward the cap.

How the SEC Proposal Compares with Big Ten Rules

The SEC's approach differs significantly from the Big Ten's rules, adopted in October 2026. Those rules begin fining schools that spend more than $49 million, allowing the $21.6 million settlement cap plus $27 million in affiliated NIL. They impose a league fine of up to $25 million once spending passes $60 million. House plaintiffs' attorneys Jeffrey Kessler and Steve Berman contend the Big Ten's plan violates the settlement.

Both conferences' policies could also raise antitrust concerns, even as the power conferences try to align their rules to avoid competitive imbalance without running afoul of collusion laws. Lower-resourced programs, especially in the Big 12 and Atlantic Coast Conference (ACC), worry that the SEC's penalties are too mild. They note that MLB's luxury tax ranges from 20% to 50%, and one Big 12 administrator called for a "1-for-1 tax" above $50 million to $60 million. Any change to the settlement terms would require agreement from the NCAA, all five original defendant conferences (including the Pac-12), and the plaintiffs. That process could stretch past the January 2027 football transfer portal window.

The proposal comes as administrators describe a "chaotic" environment in which court rulings and state laws have weakened NCAA rules on player movement, compensation and eligibility. College leaders have lobbied heavily for the Protect College Sports Act, which would grant the NCAA and CSC an antitrust exemption. The bill passed the Senate with bipartisan support, but it faces a difficult path in the House, which has only five working weeks left before a new Democrat-controlled Congress takes office in January. Some administrators are now open to an employment and collective bargaining model. For now, conferences are turning to "Plan B": writing and enforcing their own rules. SEC Commissioner Greg Sankey urged Congress to act, but said that without a bill, conferences "perhaps individually, to the extent they can legally, will have to be involved in addressing those issues directly."

What Athletes, Businesses and Athletic Organizations Should Consider

For businesses, sponsors, collectives and athletic departments, the proposal raises practical questions about whether NIL payments could be attributed to a school and how agreements address changes in approval requirements or compensation rules. The proposed retroactive effective date also makes existing arrangements relevant to that review. Those issues remain subject to the final terms of any adopted policy.

Athletes and their representatives should likewise review existing and future agreements for provisions addressing changes in approval requirements, compensation structures and the treatment of school-affiliated NIL compensation.

For guidance on how evolving college sports compensation rules could affect your NIL agreements, contact ***Adam Lewis*** *at adam.lewis@lowndes-law.com or 407.418.6464.*