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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE COLLEGE ATHLETE NIL LITIGATION

.

Case No. 4:20-cv-03919-CW

OBJECTORS BERG AND LYKINS AND OTHER ANONYMOUS ATHLETES' BRIEF IN REPLY TO PARTIES' MOTION FOR SETTLEMENT APPROVAL

Date: April 7, 2025
Time: 10:00 a.m.
Dept: Courtroom 2, 4th Floor
Judge: Hon. Claudia Wilken

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I. PRELIMINARY STATEMENT

This antitrust class action litigation over Division I college athlete NIL compensation rights was transformed into a different sort of legal dispute by the NCAA's back-channel roster limit rule change arrived at during negotiations for the Injunctive Relief Settlement. The roster limit rule change, with all its harmful effects, is an arbitrary and baffling non sequitur fallacy in this NIL free enterprise dispute. Instead of representing a fair, reasonable and adequate outcome to resolve an antitrust dispute, the NCAA's roster limit plan has transformed this aspect of the case into a consumer protection problem. Moreover, the inability to opt out of the Injunctive Relief Settlement Class, despite the harm, magnifies the irreconcilable problem posed by the roster limit provision.

This Reply Brief amplifies the Objection Letter submitted on January 31, 2025 (ECF No. 627)[1] and disputes the Parties' claims that the proposed settlement is a fair, reasonable and adequate outcome for the entire class. Rather than remaining anonymous, Madeline Berg and Emma Lykins (the "Ohio U Swimmers") wish to come forward through this Reply Brief[2], joining certain anonymous Division I athletes who have submitted objection letters, to make the case that the newly created roster limit represents an unlawful and unfair business practice by the NCAA – if the court were to sanction the roster limit by approving the proposed settlement in its current form. As directly shown in this Brief, and reasonable inferences from the facts presented, we submit that tens of thousands of Division I student-athletes could be directly impacted within a year. Moreover, the roster limit rule change will result in a rinse and repeat cycle year after year, as student-athletes are sacrificed for replacements annually.

Unless a revised settlement without a roster limit is arranged by the Parties, we urge the court to reject the proposed settlement in its current form.

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[1] Counsel submitted the Objection Letter on behalf of anonymous Division I athletes and class members. Those objectors remain interested parties in this Brief.

[2] Fear of retaliation was cited by their teammates as a reason for not openly joining this petition. The Objection Letter (ECF No. 627) on behalf of anonymous Division I athletes similarly referenced potential negative fallout and risks to their roster status if their identities as objectors in this matter were to become publicly known.

II. UNFAIR, UNREASONABLE, INADEQUATE AND INTOLERABLE OUTCOMES FROM THE ROSTER LIMIT PLAN ARE STARTING TO MANIFEST

Madeline Berg and Emma Lykins, like the additional anonymous objectors who join this petition and Brief, are scholarship athletes and part of the Injunctive Relief Settlement Class and the Additional Sports Class. Just weeks ago, the Ohio U Swimmers joined the Women's team in Buffalo and finished as the runners-up at the Mid-American Conference (MAC) championships, held February 26 to March 1, 2025. At the season's end, the Women's roster stood at 34 swimmers. Four days later, on March 5, 2025, the head coach individually contacted approximately one-third of the roster, including Madeline Berg and Emma Lykins, and told them that, because of the looming NCAA roster limits for Division I swimming and diving (reducing to 30 roster spots), they would lose their scholarships and roster spots, and encouraged them to enter the NCAA Transfer Portal to find a new university swim team if they desired to continue swimming in college.[3]

On information and belief, similar scholarship and roster cuts at Ohio University happened with the Women's Soccer and Men's Wrestling programs in recent weeks. The other anonymous Division I athletes, some on partial scholarship, are not Ohio University student-athletes, but have also been encouraged to enter the NCAA Transfer Portal. Madeline Berg, a freshman at Ohio University, stands to lose several ten-thousand dollars in athletic scholarship monies over the next three years, as well as placing her longstanding plans for a college swimming career at risk. Emma Lykins, a sophomore at Ohio University, similarly stands to lose several ten-thousand dollars in athletic scholarship funds, and had established herself as a reliable point earner in swim meets for the Women's program. On information and belief, despite a 10-swimmer/diver roster cut, the program has recruited one of its larger incoming freshmen classes for next season (10 incoming freshmen and one transfer student), but with less budget and fewer scholarships being offered. The

[3] When pressed to clarify the impact of roster cuts on scholarships, the coach indicated that after the April 7th court hearing in this case there would be greater clarity on whether roster cuts would affect scholarships. Emailed questions seeking clear information concerning how roster cuts would impact scholarships went unanswered from the coach. Additionally, neither athlete received notice from Verita (Settlement Administrator) concerning their rights under the proposed settlement.

other anonymous Division I athletes have also been informed that their scholarship awards and roster spots are at risk if the proposed settlement is approved.

Madeline and Emma, and some anonymous Division I athletes joining this petition, will suffer financial harm, educational and career disruptions, and other irreparable damages arising from the proposed settlement. Yet, despite each student-athlete's predicament being objectionable, this troubling fact pattern at Ohio University and the other universities represented by the anonymous athletes are not isolated matters. The Ohio U Swimmers and the others are not outliers. Daily media accounts show that universities are cutting entire programs in certain sports, and draconian roster cuts are happening across the Division I sports landscape, even among Power 4 conferences, in anticipation of the new fiscal reality from the proposed settlement.

1) The Cal Poly Men's and Women's Swim and Dive teams were shuttered by the university on March 7, 2025.[4]
2) The University of Virginia is reportedly planning to defund its diving program, which is part of the Swimming and Diving Team.[5]
3) The Southeastern Conference (SEC) is reportedly planning to limit swimming roster sizes across the conference to 22 athletes per gender.[6]
4) In an Open Letter to the Track and Field Community, recently published by the nonprofit association Running USA, 18 coaches from the nation's leading Division I programs sounded the alarm about the fallout from the proposed settlement in this case. The group stated: "Recent NCAA changes—such as eliminating scholarship limits, implementing roster size caps, and introducing revenue sharing—will have a profound impact on our sport. … If programs are eliminated, they won't return." In

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[4] *See* https://www.sfgate.com/sports/article/olympians-scramble-rescue-sport-calif-university-20217571.php (last accessed 3/15/2025)

[5] *See* https://swimswam.com/the-university-of-virginia-wont-have-a-diving-program-next-season/ (last accessed 3/15/2025)

[6] *See* https://swimswam.com/sources-sec-will-set-mens-swim-dive-roster-limits-at-22-athletes-in-wake-of-house-v-ncaa/#:~:text=Today%2C%20sources%20told%20SwimSwam%20that,and%20men's%20programs%20to%209.9 (last accessed 3/15/2025)

> highlighting the roster limit change specifically, the coaches wrote: "Without action, opportunities for student-athletes, particularly from underserved communities, could be drastically reduced."[7]

According to the arguments and declarations from the plaintiffs' experts, cut athletes cannot lose their scholarships, and roster sizes and scholarship opportunities would substantially grow from the proposed settlement. According to them:

> The upshot is that the Settlement Agreement will create more scholarships for Division I athletes—which Dr. Rascher estimates could lead to the opportunity for more than 115,000 additional scholarships available to class members annually, with more than 24,000 possible new scholarships at Power Five institutions that are most likely to spend more under the settlement. (ECF No. 717; Pla Motion at 44; citing the Rascher Final Approval Declaration)
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> * * *
>
> [Moreover] the Settlement Agreement is explicit that roster limits may not be lower than the number of scholarships previously permitted by the NCAA and otherwise **may not cause any athlete to lose his or her scholarship**. (*Id*.; citing Amended Settlement Agreement Art. 4 § 1)(emphasis supplied)[8]

Mirroring the plaintiffs' unbridled enthusiasm, the NCAA's Brief extols that "the implementation of the roster limits, combined with the elimination of scholarship limits, would open the door for *more* student-athletes to receive scholarships than ever before." (ECF No. 721; Def Brief at 8)(emphasis in original) Indeed, the NCAA asserts in full regalia: "*These developments, standing alone, are massive wins for the Settlement Classes*." (*Id*.)(emphasis in

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[7] *See* https://www.runningusa.org/industry-news/open-letter-to-the-track-field-community/ (last accessed 3/15/2025)

[8] With respect to improper scholarship losses, plaintiffs added in a footnote: "Three current-athlete objectors indicated that their scholarships have been impacted by the roster limits. Class counsel has reached out to all three to inform them of this protection in the settlement agreement and help them address any issue." (*Id*. at f.n. 41) As argued *infra*, it is a troubling and legally compelling circumstance that cut athletes are not aware of their guaranteed scholarship protection.

original) The 18 Track and Field coaches' more sobering assessment in their Open Letter offers a less speculative view, backed by current insights from actual athletic department budget plans: "While the elimination of NCAA-mandated scholarship limits offers flexibility to some programs, it risks reduced funding and potential cuts for Olympic sports like track and field. … While some programs may thrive, others could be forced to make difficult cuts, diminishing opportunities for development and recruitment." (*See* Open Letter, *supra* footnote 7)

The stark and startling contrast between claims of "massive wins" and "115,000 additional scholarships" that will emerge after April 7th on the one side, and the current reality asserted by coaches currently living through "diminish[ed] opportunities … for Olympic sports", illustrates that something is amiss regarding whether the proposed settlement serves the interests of all class members. The plight of the Ohio U Swimmers, who were not even notified of their rights in the class action settlement – yet face lost scholarships and roster spots[9] – also signals that the litigants' claims of "life changing" outcomes (ECF No. 717; Pla Motion at 2 and "massive wins" (ECF No. 721; Def Brief at 8) are merely hollow promises. They are patently wrong that the proposed settlement is fair, reasonable and adequate. Rather, the harms already occurring across the Olympic sports community represents an unlawful and unfair business practice predicated by the NCAA's rule change to eliminate "all limits to NCAA Division I athletic scholarships … in favor of roster limits." (ECF No. 721; Def Brief at 8)

[9] We note The New York Times quote attributed to this court during the September 5, 2024, hearing at which the court declined to preliminarily approve the proposed settlement: "I've found that taking things away from people is usually not too popular." https://www.nytimes.com/athletic/5798062/2024/09/26/house-ncaa-revised-settlement-college-sports-nil-boosters/

III. A SETTLEMENT TERM IN A PRIVATE DISPUTE THAT UNFAIRLY RESTRUCTURES A HALF-CENTURY PRACTICE[10] AND CAUSES THIRD-PARTY HARM NATIONWIDE SHOULD NOT BE COURT-SANCTIONED

The US Department of Justice submitted a Statement of Interest concerning the proposed settlement and wrote: "The NCAA … has taken the position that it may use the Proposed Settlement in the future as a defense to antitrust liability in a case brought by a future plaintiff seeking to achieve more fulsome protection for the free and fair market opportunities of student athletes than the Proposed Settlement affords." (ECF No. 595 at 10) The Statement of Interest continues: "an adjudicated monopsonist seeks the Court's imprimatur" (*Id*. at 7) in impermissible ways, by seeking to insulate certain college sport rulemaking inside a court-approved settlement and order.

There is an established method for NCAA rulemaking that ensures appropriate equities are vetted. The NCAA's governance of bylaws and rulemaking procedures indicates that its Division I Council and Board of Directors, in collaboration with member conferences, have the responsibility and authority to institute new governing rules for DI athletics. (*See* Exhibit A[11]) Here, instead of using its ordinary vetting process, the NCAA seeks to spring a disruptive new rule upon student-athletes without instituting any protections or mitigations for the harms they are about to unleash. For Division I Olympic sport programs, instituting a new roster limit imposes a unique calculus for student-athletes to navigate in making their career and financial decisions about where to attend college. Notably, far more student-athletes participate in Division I Olympic sports than in football or basketball (discussed below). Accordingly, it is not reasonable to impose such a massively disruptive change without a period of notice and adjustment.

For the Ohio U Swimmers, their notice of being cut from the roster came on March 5, 2025, less than two weeks ago. Some of the anonymous Division I athletes learned in late January

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[10] The NCAA formally approved athletic scholarships for student-athletes and started the initial regulatory system for them in 1956. *See* https://www.nytimes.com/2014/10/29/sports/colleges-shift-on-four-year-scholarships-reflects-players-growing-power.html

[11] *See also* https://www.ncaa.org/sports/2021/5/11/division-i-governance.aspx (last accessed 3/15/2025)

2025, only a week before the January 31st deadline to submit an objection letter to the court. Despite delayed awareness of the litigation-triggered structural changes to Division I sports, and a lack of notice about their legal rights, a groundswell of alarm has emerged and is rallying student-athletes, families, coaches, sport institutions, fans and the media to call "FOUL" on the NCAA and plaintiffs. A Change.org petition has gathered over 2,200 signatories[12], @roster_limit_objection sprung up on Instagram in January[13], @noroster limits launched on X in February[14], and several sport journals and advocacy groups have begun reporting on the controversy.[15]

In the face of growing objections, it is no surprise that both plaintiffs and the NCAA seek to minimize the impact of roster limits by making a comparison against the overall scale of the rest of the proposed settlement. In their own words:

1) "The roster limits are merely one aspect of a complex, interlocking settlement agreement that will undeniably benefit the class." (ECF No. 721; Def Brief at 13)
2) "The test is whether the settlement, viewed as a whole, is in the best interests of the class. … [And objections focus on] one discrete part of the settlement compromise…" (ECF No. 717; Pla Motion at 3-4)
3) "[Objectors] argue that these roster limits adversely impact non-scholarship athletes by reducing the number of available positions on various teams. Such a myopic focus on available roster spots for walk-on (non-scholarship) athletes, however, is not a basis for disapproving the settlement." (ECF No. 717; Pla Motion at 43)

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[12] *See* https://www.change.org/p/protect-ncaa-athletes-from-house-vs-ncaa-roster-limits (last accessed 3/15/2025)

[13] *See* https://www.instagram.com/roster_limit_objection/ (last accessed 3/15/2025)

[14] *See* https://twitter.com/noroster_limits (last accessed 3/15/2025)

[15] *See, e.g.*, https://swimswam.com/whats-the-chatter-3-days-into-the-post-cuts-transfer-portal-timeline/; https://www.letsrun.com/forum/flat_read.php?thread=13270612&page=11; https://www.dcurbanmom.com/jforum/posts/list/25/1261184.page; https://www.si.com/high-school/news/proposed-ncaa-settlement-threatens-non-revenue-sports-roster-caps-jeopardize-25-000-d1-roster-spots-01jfrmymg4m6 (an article co-authored by the Brief's *pro hac vice* counsel).

4) "By any measure, the tens of billions of dollars in new benefits that will be available to the injunctive class members is one of the most lucrative antitrust settlements in history." (ECF No. 717; Pla Motion at 16)

The Parties' advocacy for approval of the proposed settlement refers repeatedly to the financial recovery to those benefiting. But, it is hardly myopic to call attention to the stake of the much larger community that stands to be negatively impacted – Division I Olympic sport programs. Based upon NCAA participation data (Exhibit B):

1) Total Division I athletes in 2023 (Men's and Women's sports): 192,068
2) Men's Division I basketball and football players represented just 35 percent of the total Division I Men's sports athlete pool (2023 data).
3) Women's Division basketball players represented just 6 percent of the total Division I Women's sports athlete pool (2023 data).
4) Overall, Men's and Women's basketball and football Division I athletes represented 22 percent of the total athlete pool for all Men's and Women's sports (2023 data).[16]

Hence, this "one discrete part of the settlement" – the roster limits – actually impacts a much larger set of Division I sports. Moreover, as shown above, the risks posed by this massive structural change to NCAA Division I rules is actually an existential threat to many Olympic sports programs. That is, what is myopic is to look solely at the individual roster size changes rather than the impact to Division I sports writ large.

Additionally, the backchannel manner by which the rule change emerged is also telling. The roster limit provision, which purports to eliminate the previous scholarship cap system, was negotiated between Plaintiffs and the NCAA and was embedded in the Injunctive Relief Settlement. Plaintiffs' September 5, 2024, Motion for Preliminary Settlement Approval provides the timing and manner in which the roster limit rule change emerged.

[16] 2023 data drawn from the NCAA Sports Sponsorship and Participation Rates Report, September 29, 2023 (Exhibit B excerpt); full report available here: https://ncaaorg.s3.amazonaws.com/research/sportpart/2023RES_SportsSponsorshipParticipationRatesReport.pdf

> In fall 2023, this Court certified an injunctive relief class and three damages classes in House…. Settlement discussions continued in December 2023 and into the spring of 2024… The parties first focused on negotiations regarding settling the injunctive relief claims. **Only after agreeing to the principal terms of the injunctive relief settlement did the parties turn to discussions of damages**. (ECF No. 450 at 6) (emphasis added)

Moreover, as advised from the Settlement Administrator FAQ page, the answer to question 11 provides: "You cannot opt out of the Injunctive Relief Settlement".[17] Thus, regardless of the harm to roster cut athletes, their sole option is to file an objection with the court. For the Ohio U Swimmers, they were not afforded that opportunity because they were never given notice of their rights by the Settlement Administrator, and their roster cut meeting with their coach did not occur until March 5, 2025. These athletes never had an opportunity to object.

Against the backdrop of an historic, pro-competitive NIL marketplace settlement, the NCAA's insistence on nationwide rulemaking that restructures Division I sports is a non sequitur fallacy. The logical connection simply does not follow. It fails to compute. Worse, because of the harm caused to so many student-athletes and Olympic sports programs, it is an unfair and unreasonable provision. We adopt with approval the NCAA's analysis and authorities:

> A court's job is to "ensure" that "dissimilarly situated class members are not arbitrarily treated as if they were similarly situated." William B. Rubenstein, *Newberg and Rubenstein on Class Actions* § 13:56 (6th ed. 2024). (ECF No. 721; Def Brief at 14)

All athletes impacted by the roster limits are dissimilar from the athletes eligible to receive compensation, and they should not be "arbitrarily treated as if they were similarly situated." Additionally, as applied to Madeline Berg, Emma Lykins and the anonymous Division I athletes we represent, their rights have been violated. Madeline and Emma were never notified of their rights under the proposed settlement. Moreover, on information and belief, the Ohio U

[17] See https://www.collegeathletecompensation.com/house-frequently-asked-questions.aspx (question 11 answer).

Swimmers and all Division I athletes facing roster cuts were never informed that Article 4 Section 1 of the Amended Injunctive Relief Settlement guaranteed that their scholarships could not be voided, even if they were cut from the roster![18] Instead, the Ohio U Swimmers and the Division I athletes we represent were advised to voluntarily enter the NCAA Transfer Portal. That is, on information and belief, a large majority of Division I student-athletes facing roster cuts were encouraged to leave their team and university voluntarily without also advising them that their athletic scholarship would remain intact if they elected to remain at their current school. This practice was misleading and indeed unconscionable under the circumstances.

IV. CONSUMER PROTECTION LAW PROTECTS STUDENT-ATHLETES FROM ARBITRARY, UNFAIR, OR UNCONSCIONABLE BUSINESS PRACTICES BY THE NCAA THAT CAUSE HARM

Antitrust law and unfair competition law are harmonious and share common origins. In critical response to the Supreme Court's "rule of reason" rationale and holding in *Standard Oil* (*Standard Oil Co. v. United States*, 221 U.S. 1, 62 (1911)), Congress passed "the Clayton Act – which restricted or outlawed enumerated practices such as exclusive dealing, mergers, and interlocking directorates – and the [Federal Trade Commission] Act. Congress intended the FTC

[18] Additionally, the notification process, in particular the NCAA's Frequently Asked Questions (FAQ) issuance provided inadequate notice (Exhibit C) (it is entitled "Updated Question and Answer: Impact of the Proposed Settlement on Division I Institutions (Updated December 9, 2024, see Question Nos. 12 through 35)". Notably, certain FAQ items in Exhibit C discussed roster cuts, **but nowhere is there the important guidance about a student-athlete's rights to retain the awarded scholarship notwithstanding the roster limits change**. Exhibit C shows the FAQ and answers, and questions involving roster change matters include #6, #7, #13, #14, and #15. Adding to the uncertainty about these new structural changes, Question 15 created additional ambiguity, in brackets: "[**Note: additional requirements related to roster limits (e.g., whether a particular student-athlete must be included on a team's roster) are being developed.**]" (emphasis added) Might a scholarship athlete facing a cut, and concerned to keep his/her scholarship guarantee, question whether to enter the Transfer Portal or wait to learn what this bracketed language will mean after April 7th? **This presents an unfair and intolerable situation to Division I student-athletes facing a roster cut**!

to serve as an expert policymaking body that would identify and prohibit unfair methods of competition over time while being accountable to members of Congress and the public."[19]

In *FTC v. Sperry & Hutchinson Co*., 405 U.S. 233 (1972), the Supreme Court was presented with a controversy at the intersection of unfair competition and antitrust (although the single issue before the Court was the scope of Section 5 of the FTC Act). The Court quoted legislative history to show that oversight of unfair competition was intended to be more expansive than merely violating the "letter or the spirit of the antitrust laws":

> The committee gave careful consideration to the question as to whether it would attempt to define the many and variable unfair practices which prevail in commerce and to forbid their continuance or whether it would, by a general declaration condemning unfair practices, leave it to the commission to determine what practices were unfair. It concluded that the latter course would be the better, for the reason … that there were too many unfair practices to define, and after writing 20 of them into the law, it would be quite possible to invent others."
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> * * *
>
> [And quoting from the House Conference Report]: It is impossible to frame definitions which embrace all unfair practices. There is no limit to human inventiveness in this field. Even if all known unfair practices were specifically defined and prohibited, it would be at once necessary to begin over again. If Congress were to adopt the method of definition, it would undertake an endless task. *Id*. at 240.

After *Standard Oil* and Congress' empowerment of additional protections against anticompetitive practices, consumer protection has clearly become a fundamental principle of antitrust law. Indeed, the enactment of private causes of action was a core feature of the Clayton

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[19] *The Morality of Monopolization Law*, 63 William & Mary Law Review Online 119, 134 (2022) (internal citations omitted). "Although Congress enacted the Sherman Act more than 130 years ago, the courts generally have not articulated the principles informing the law's prohibition on monopolization. … **The law embodies implicit notions of fairness** and limits businesses' abilities to use their power, financial privileges, or **generally prohibited conduct to acquire or perpetuate a monopoly**." *Id*. at 139. (emphasis added)

Act. (§ 4 of the Clayton Act of 1914) While unfair competition law is understood to be different from the law associated with unlawful or unfair business practices, for both federal and state law, all of these areas of law govern harms that result from monopolistic market power.[20] Accordingly, claims of unfair competition and unlawful business practices are recognized harms that can be redressed under either antitrust law or consumer protection law. *See*, *generally*, *The Morality of Monopolization Law*, 63 William and Mary Law Review Online 119 (2022) (analysis of cases and history of antitrust law); *cf. From Rancid to Reasonable: Unfair Methods of Competition Under State Little FTC Acts*, *supra* note 20.

At the state level, most states have enacted both antitrust and unfair competition statutes. *See, e.g.*, California Unfair Competition Law in the Business and Professions Code §§ 17200 *et seq. See also* Ohio Revised Code - Section 1345.02 Unfair or deceptive acts or practices ("No supplier shall commit an unfair or deceptive act or practice in connection with a consumer transaction"). The NCAA's arbitrary rule changes have previously been ruled to amount to an antitrust violation. *NCAA v. Board of Regents of University of Oklahoma*, 468 U.S. 85 (1984). In *Agnew v. NCAA*, in a case involving NCAA regulations, the 7th Circuit interpreted the Supreme Court's handling of the NCAA's market influence and its regulations: "The Supreme Court has not weighed in on this issue directly, but *Board of Regents*, the seminal case on the interaction between the NCAA and the Sherman Act, implies that all regulations passed by the NCAA are subject to the Sherman Act." *Id*. 683 F.3d 328 (7th Cir. 2012)(while plaintiffs' complaint was dismissed, the outcome was based on the plaintiffs not identifying a cognizable market). There is no dispute about Division I athletes and the associated market in 2025. Important to the current dispute, backchannel rulemaking by the NCAA and the circumstances of the harms caused to roster limit-impacted students is unreasonable and unfair.

[20] *See From Rancid to Reasonable: Unfair Methods of Competition Under State Little FTC Acts*, 73 American University Law Review 857 (2024) ("States that looked to the federal government as a model for antitrust and consumer protection law in the mid-twentieth century understood that they could also adopt their own laws against unfair methods of competition." *Id*. at 871-72)

In the following manner, unfair competition law and state unlawful business practice statutes either have already been violated or will be violated were the court to approve the proposed settlement and thereby authorize the NCAA to implement the roster limits.

1) While keeping its National Letter of Intent (NLI) system intact[21] and Injunctive Relief Settlement Class student-athletes already under contract and enrolled at their selected schools, on information and belief, the NCAA initiated efforts to institute the roster limit rule changes directly with Division I member institutions without any notice or protections for the affected student-athletes.[22] This was a deceptive and unfair practice to all student-athletes who signed a 2024 NLI.
2) Incorporating item 1 above, it was also deceptive and unfair to institute a rule change of this type, for a system that had been in place for decades, directly through a court-sanctioned settlement process rather than its ordinary rulemaking with the Division I Council. This was a deceptive and unfair practice to all student-athletes currently participating in Division I athletics and any high school athlete being recruited by a Division I university.
3) For the Ohio U Swimmers and the anonymous Division I athletes, and every Division I athlete affected or potentially affected by the roster limits, it was a deceptive and unfair practice by the NCAA to fail to expressly notify them of their scholarship protections guaranteed by Article 4, Section 1 of the Injunctive Relief Class Settlement.[23]

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[21] On October 9, 2024, the NCAA announced the retirement of the NLI system (Exhibit D). For academic year 2024-2025, all incoming Division I freshmen would have already signed those contracts and enrolled in college.

[22] This firm, in representation of our clients, submitted a letter (*see* ECF 711) on February 20, 2025, to alert the court and to seek an injunction concerning actions by the NCAA to implement aspects of the roster limit prior to the court's action concerning the proposed settlement. The NCAA notice to Division I membership indicated that elections to opt into the NCAA's roster limit rule change was required to be made by March 1, 2025. (Exhibit E) The injunction request was mooted when the NCAA announced on February 28, 2025, of a delay of the opt in deadline until after the court's decision on the proposed settlement.

[23] On information and belief, some affected student-athletes, including the Ohio U Swimmers, are submitting complaints to the Federal Trade Commission and under their state consumer protection laws, indicating that the harm is not speculative, and the desire to seek redress is real.

4) Incorporating item 3 above, it was also deceptive and unfair to make available the NCAA Transfer Portal for Division I student-athletes potentially affected by the roster limits, which is not yet effective as an approved rule change, without providing guidance to institutions and a clear notice to student-athletes that by electing to transfer they would be forfeiting any athletic scholarship at their current school as guaranteed by Article 4, Section 1 of the Injunctive Relief Class Settlement.

5) Incorporating items 1 through 4 above, it was also deceptive and unfair for the NCAA to announce in its published FAQ document (Exhibit C) that additional guidance on the roster limits was under development, and to date has not provided further guidance while knowing that roster cuts are harming student-athletes across the country (adding for convenience the content of Exhibit C here: "[Note: additional requirements related to roster limits (e.g., whether a particular student-athlete must be included on a team's roster) are being developed.]"

6) On information and belief, many more circumstances of individual Division I student-athletes associated with the roster limit rule change would represent a deceptive and unfair practice by the NCAA from their actions or failed duties related to the proposed settlement.

V. CONCLUSION

The Court's March 4, 2025, Order Regarding Hearing on Motion for Final Approval of Proposed Settlement instructed: "The Court cannot order changes to the agreement. Objectors should address whether they wish the Court to reject the settlement and set the case for trial." (ECF No. 723) The harm caused by the roster limits renders the Proposed Settlement fatally flawed, unless protections and mitigations for the harmed parties are addressed. Without modification, the Proposed Settlement in its current form should be rejected.

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DATED: March 17, 2025

BUCHALTER
A Professional Corporation

By: */s/ Douglas M. DePeppe*
DOUGLAS M. DEPEPPE
ROBERT HINCKLEY
Attorneys for Objectors

EXHIBIT A

NCAA Division I Legislative Process

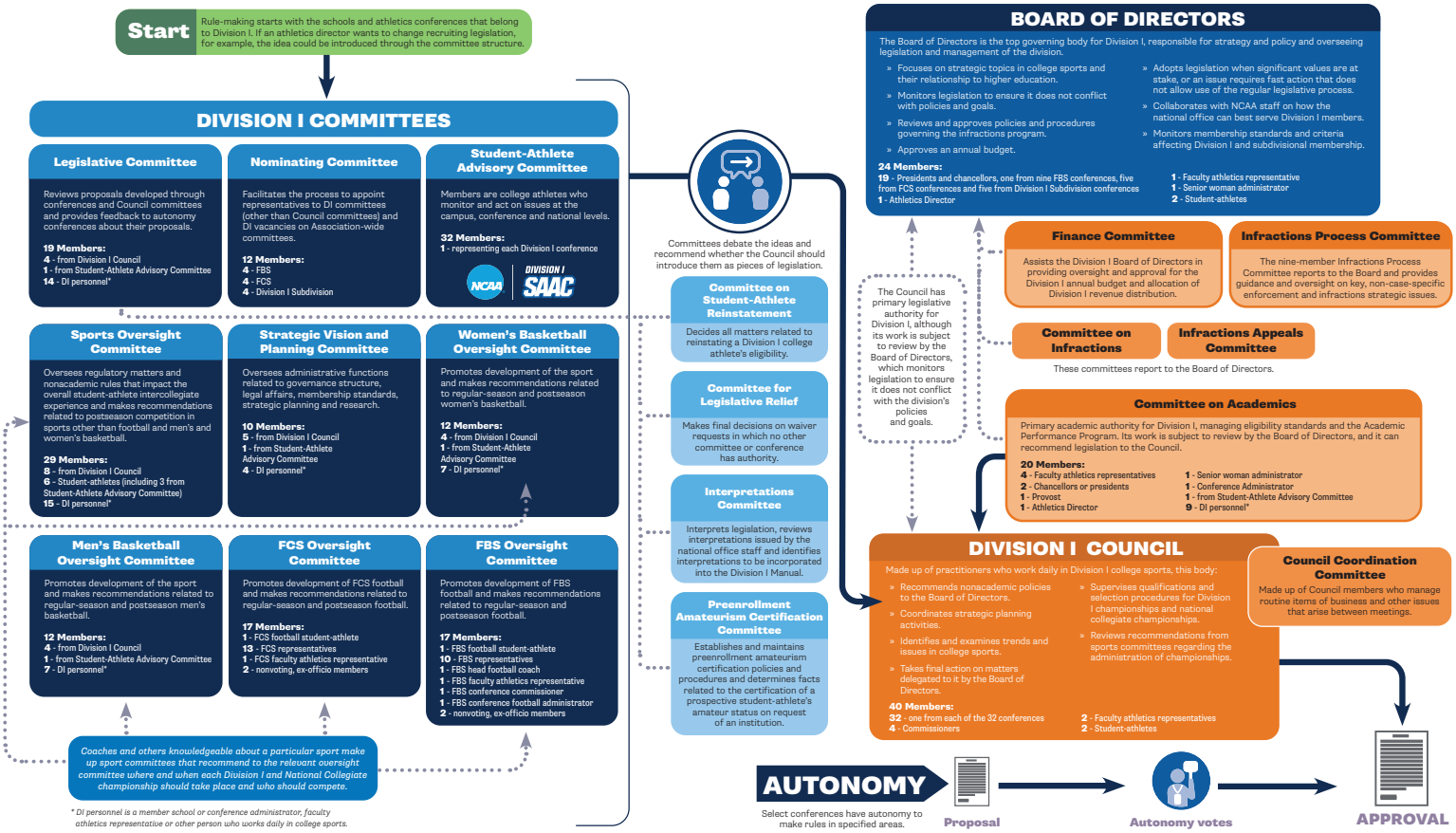

EXHIBIT B

NCAA Sports Sponsorship and Participation Rates Report

(1956-57 through 2022-23)

Updated: September 29, 2023

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
P.O. Box 6222
Indianapolis, IN 46206-6222

317-917-6222
www.ncaa.org

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NOTES:
2019-20 and 2020-21 - Some student-athletes had their competitive seasons disrupted or canceled due to the COVID-19 pandemic.

*2022-23 Participation Study - Men's Sports												
	DIVISION I			DIVISION II			DIVISION III			OVERALL		
SPORT	Teams	Athletes	Avg. Squad	Teams	Athletes	Avg. Squad	Teams	Athletes	Avg. Squad	Teams	Athletes	Avg. Squad
Championship Sports												
Baseball	295	11712	39.7	260	11616	44.7	388	15521	40.0	943	38,849	41.2
Basketball	352	5516	15.7	308	5585	18.1	417	8112	19.5	1,077	19,213	17.8
Cross Country	317	5023	15.8	279	4086	14.6	396	5678	14.3	992	14,787	14.9
Fencing*	21	384	18.3	2	35	17.5	11	219	19.9	34	638	18.8
Football				170	20414	120.1	242	26068	107.7	412	46,482	112.8
FBS	130	16671	128.2							130	16,671	128.2
FCS	124	14051	113.3							124	14,051	113.3
Golf	295	2889	9.8	216	2349	10.9	298	3364	11.3	809	8,602	10.6
Gymnastics	12	249	20.8	0	0	N/A	3	55	18.3	15	304	20.3
Ice Hockey	58	1649	28.4	9	271	30.1	84	2468	29.4	151	4,388	29.1
Lacrosse	72	3657	50.8	79	3526	44.6	244	8847	36.3	395	16,030	40.6
Rifle*	17	88	5.2	2	9	4.5	3	18	6.0	22	115	5.2
Skiing*	11	160	14.5	6	65	10.8	17	225	13.2	34	450	13.2
Soccer	203	6441	31.7	210	7564	36.0	413	13279	32.2	826	27,284	33.0
Swimming/Diving	131	3821	29.2	79	1778	22.5	239	4346	18.2	449	9,945	22.1
Tennis	235	2370	10.1	154	1691	11.0	312	3488	11.2	701	7,549	10.8
Track, Indoor	269	10516	39.1	194	7212	37.2	309	10809	35.0	772	28,537	37.0
Track, Outdoor	292	11399	39.0	236	8512	36.1	336	11367	33.8	864	31,278	36.2
Volleyball	25	528	21.1	34	617	18.1	114	1788	15.7	173	2,933	17.0
Water Polo	26	666	25.6	9	195	21.7	16	295	18.4	51	1,156	22.7
Wrestling	77	2672	34.7	69	2205	32.0	121	3432	28.4	267	8,309	31.1
SUBTOTAL	**2,962**	**100,462**		**2,316**	**77,730**		**3,963**	**119,379**		**9,241**	**297,571**	**32.2**
Other												
Archery	0	0	N/A	0	0	N/A	0	0	N/A	0	0	N/A
Badminton	0	0	N/A	0	0	N/A	0	0	N/A	0	0	N/A
Bowling	0	0	N/A	6	63	10.5	1	8	8.0	7	71	10.1
Esport	1	35	35.0	3	106	35.3	13	307	23.6	17	448	26.4
Equestrian	0	0	N/A	0	0	N/A	3	7	2.3	3	7	2.3
Rowing	31	1446	46.6	2	76	38.0	24	721	30.0	57	2,243	39.4
Rugby	3	177	59.0	1	35	35.0	4	125	31.3	8	337	42.1
Sailing	12	248	20.7	1	13	13.0	10	174	17.4	23	435	18.9
Squash	11	163	14.8	0	0	N/A	21	293	14.0	32	456	14.3
SUBTOTAL	**58**	**2,069**		**13**	**293**		**76**	**1,635**		**147**	**3,997**	
TOTAL	**3,020**	**102,531**		**2,329**	**78,023**		**4,039**	**121,014**		**9,388**	**301,568**	

NOTES:

1. *Coed Championship Sport.
2. Participation totals are adjusted to reflect all institutions sponsoring each sport.
3. Provisional members are included in these numbers.
4. Coed sport teams from the sports sponsorship database were added to both the men's AND women's team data. The following sports had coed teams: equestrian; fencing; golf; rifle; sailing; skiing; and outdoor track and field.
5. The total row contains data from the championship sports subtotal row added to the nonchampionship sports subtotal row.
6. N/A=Not Applicable.

*2022-23 Participation Study - Women's Sports												
	DIVISION I			DIVISION II			DIVISION III			OVERALL		
SPORT	Teams	Athletes	Avg. Squad	Teams	Athletes	Avg. Squad	Teams	Athletes	Avg. Squad	Teams	Athletes	Avg. Squad
Championsip Sports												
Basketball	350	5065	14.5	308	4835	15.7	429	6768	15.8	1,087	16,668	15.3
Beach Volleyball	65	1156	17.8	18	334	18.6	8	125	15.6	91	1,615	17.7
Bowling	36	322	8.9	38	368	9.7	25	199	8.0	99	889	9.0
Cross Country	349	5789	16.6	299	3756	12.6	408	5076	12.4	1,056	14,621	13.8
Fencing	27	487	18.0	2	25	12.5	15	251	16.7	44	763	17.3
Field Hockey	77	1927	25.0	40	987	24.7	169	3542	21.0	286	6,456	22.6
Golf	265	2245	8.5	200	1641	8.2	239	1847	7.7	704	5,733	8.1
Gymnastics	61	1265	20.7	5	115	23.0	17	335	19.7	83	1,715	20.7
Ice Hockey	34	877	25.8	7	179	25.6	72	1832	25.4	113	2,888	25.6
Lacrosse	122	4179	34.3	115	3089	26.9	285	6213	21.8	522	13,481	25.8
Rifle	22	148	6.7	2	8	4.0	2	12	6.0	26	168	6.5
Rowing	90	5142	57.1	14	394	28.1	42	1171	27.9	146	6,707	45.9
Skiing	11	146	13.3	7	64	9.1	17	198	11.6	35	408	11.7
Soccer	337	10239	30.4	267	8225	30.8	431	11495	26.7	1,035	29,959	28.9
Softball	295	6737	22.8	286	6476	22.6	405	8433	20.8	986	21,646	22.0
Swimming and Diving	191	5863	30.7	106	2289	21.6	263	5107	19.4	560	13,259	23.7
Tennis	302	2781	9.2	211	2015	9.5	345	3547	10.3	858	8,343	9.7
Track, Indoor	334	13339	39.9	220	6871	31.2	316	9181	29.1	870	29,391	33.8
Track, Outdoor	341	13597	39.9	266	8107	30.5	350	9771	27.9	957	31,475	32.9
Volleyball	334	5791	17.3	297	5326	17.9	427	7452	17.5	1,058	18,569	17.6
Water Polo	36	816	22.7	11	225	20.5	19	296	15.6	66	1,337	20.3
SUBTOTAL	**3,679**	**87,911**		**2,719**	**55,329**		**4,284**	**82,851**		**10,682**	**226,091**	**21.2**
Emerging Sports												
Acrobat and Tumbling	4	153	38.3	26	667	25.7	7	147	21.0	37	967	26.1
Equestrian	19	745	39.2	3	62	20.7	26	636	24.5	48	1,443	30.1
Rugby	10	380	38.0	9	278	30.9	10	187	18.7	29	845	29.1
Triathlon	8	71	8.9	13	109	8.4	13	69	5.3	34	249	7.3
Wrestling	2	33	16.5	19	378	19.9	30	358	11.9	51	769	15.1
Other												
Archery	0	0	N/A	0	0	N/A	0	0	N/A	0	0	N/A
Badminton	0	0	N/A	0	0	N/A	0	0	N/A	0	0	N/A
Esport	0	0	N/A	3	11	3.7	12	59	4.9	15	70	4.7
Squash	11	155	14.1	0	0	0.0	20	248	12.4	31	403	13.0
Stunt	1	56	56.0	0	0	0.0	1	21	21.0	2	77	38.5
Sync. Swimming	2	33	16.5	0	0	0.0	1	4	4.0	3	37	12.3
SUBTOTAL	**57**	**1,626**		**73**	**1,505**		**120**	**1,729**		**250**	**4,860**	
TOTAL	**3,736**	**89,537**		**2,792**	**56,834**		**4,404**	**84,580**		**10,932**	**230,951**	

NOTES:

1. *Coed Championship Sport.
2. Participation totals are adjusted to reflect all institutions sponsoring each sport.
3. Provisional members are included in these numbers.
4. Coed sport teams from the sports sponsorship database were added to both the men's AND women's team data. The following sports had coed teams: equestrian; fencing; golf; rifle; sailing; skiing; and outdoor track and field.
5. The total row contains data from the championship sports subtotal row added to the emerging sports subtotal row.
6. N/A = Not Applicable.

EXHIBIT C

Updated Question and Answer: Impact of the Proposed Settlement on Division I Institutions

Updated December 9, 2024, see Question Nos. 12 through 35

The NCAA, Atlantic Coast Conference, Big Ten Conference, Big 12 Conference, Pac-12 Conference and Southeastern Conference entered into a proposed settlement with the plaintiffs in the *House, Hubbard* and *Carter* cases which has been preliminarily approved. This document was developed to provide guidance to the Division I membership on the status of the proposed settlement and its potential impact on and enforcement of Division I bylaws.

While this document has been updated, it is not exhaustive. NCAA staff have a complete inventory of the questions submitted and are prepared to release additional versions of the Q&A when circumstances are appropriate.

Question No. 1: Will it be permissible for any school in Division I to provide the additional benefits contemplated in the proposed settlement?

Answer: Any Division I institution may provide benefits to student-athletes permitted by the proposed settlement. If an institution provides Pool payments or additional benefits (e.g., scholarships) to student-athletes beyond what was permissible in Division I before the settlement, the institution is subject to all obligations and limitations of the settlement.

Question No. 2: Is an institution that provides direct name, image and likeness (NIL) payments to a student-athlete subject to the terms of the settlement?

Answer: Yes.

Question No. 3: Under the proposed settlement, does every Division I institution have to provide additional benefits to student-athletes?

Answer: No. Each Division I institution may decide whether and how much of any new benefit to provide to student-athletes, up to the Pool limitations. Additionally, each Division I conference may set rules or guidelines for its members on the provision of additional benefits as long as those rules or guidelines are set independently and not by agreement with any other conference.

However, if a Division I institution provides additional payments or benefits to student-athletes beyond what is currently permitted, the institution is subject to all obligations and limitations of the settlement including, but not limited to roster limits, reporting and the Pool.

Question No. 4: Can an institution opt into the settlement on a team-by-team basis?

Answer: No. For institutions providing additional payments or benefits to student-athletes beyond what is currently permitted, the terms of the settlement apply to all programs at an institution and may not apply on a team-by-team basis.

Question No. 5: Will all student-athletes in Division I be required to disclose third-party NIL agreements in excess of $600 or only student-athletes enrolled at institutions that provide or facilitate payments or benefits pursuant to the settlement?

Answer: All Division I student-athletes will be required to report to (a) the member institution in which they are enrolled and/or (b) the designated reporting entity any and all third-party NIL contracts or payments with a total value of $600 or more.

Question No. 6: Will Division I institutions be required to provide full athletics scholarships in any particular sport after final approval of the settlement?

Answer: No. All Division I athletics scholarships will be equivalency awards and institutions may provide any portion of a scholarship.

Question No. 7: Will Division I adopt legislation that establishes a roster limit for each Division I sport for institutions awarding benefits afforded by the proposed settlement?

Answer: Yes. Division I will adopt legislation that establishes roster limits consistent with those reported to the Court as part of the settlement.

Question No. 8: Does the proposed settlement impact access to qualification for Division I championships and existing revenue distribution formulas?

Answer: No.

Question No. 9: What steps are remaining before the proposed settlement is finalized?

Answer:

EVENT	DEADLINE
Notice Campaign and Claims Period Begins ("Notice Date").	October 18, 2024.
Allocation Estimate Available.	December 17, 2024 (60 Days after Notice Date).
Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards.	December 17, 2024 (60 Days after Notice Date).
Exclusion and Objection Deadline.	January 31, 2025 (105 Days after Notice Date).
Claims Period Closes.	January 31, 2025 (105 Days after Notice Date).
Motion for Final Approval and Response to Objections.	March 3, 2025 (135 Days after Notice Date).
Final Approval Hearing.	April 7, 2025, at 10:00 a.m. (to be held remotely and in person).

Question No. 10: Where should I go if I have questions about the proposed settlement and its impact on my campus?

Answer: This Q&A is intended to provide guidance on national issues. Issues that are campus-specific or conference-specific should be addressed at a local level. Questions about the application of the settlement to existing legislation may be submitted to settlementquestions@ncaa.org.

Question No. 11: Where should institutions or conferences direct student-athletes who have questions about participation in the settlement?

Answer: Student-athletes with questions about the settlement should visit www.collegeathletecompensation.com.

Question No. 12: What is the process for an institution to indicate whether it has opted-in or opted-out of the settlement?

Answer: Division I institutions that intend to provide settlement-related benefits must provide notice of intent no later than March 1 of each year, beginning March 1, 2025. The defendant conferences are responsible for developing the institutional payment management and reporting system. This system will include the platform that tracks institutional payments to student-athletes as contemplated by the settlement.

Question No. 13: May an institution that initially opts out of the settlement decide to opt in to the settlement during a subsequent academic year during the remainder of the ten-year term?

Answer: Yes. An institution may make a decision to opt in to the settlement (e.g., providing additional benefits to student-athletes) at any point during the ten-year term of the settlement.

The settlement also allows an institution who previously offered benefits contemplated by the settlement to return to awarding benefits at pre-settlement levels. However, institutions will be accountable to any agreements entered into with their students and the Division I core guarantees continue to apply. A school that opts out of the settlement must be fully compliant with the settlement terms if it decides to opt back in. The settlement terms tie roster limit compliance to the awarding of the additional benefits. Therefore, the settlement does not require an institution to comply with the roster limits contemplated by the settlement after it reverts back to providing benefits currently allowed.

Question No. 14: What are the obligations for institutions who opt in to the settlement?

Answer: An institution that opts in to the settlement must fulfill obligations that apply to defendant conferences and their members under the settlement, including, at minimum:

- Ensure that any additional benefits being provided comply with the Pool cap.
- Report to the designated entity:

- All licenses between the institution and its student-athletes for name, image and likeness; and
- Any other payments or benefits provided beyond what is currently permitted by NCAA rules.

- Report all benefits that count against the Pool within 60 days after the close of each academic year (i.e., June 30) (specifics being developed). For members of the defendant conferences, these reports will be provided to their respective conference.
- Adhere to the roster limits established by the defendant conferences.

In addition, all Division I schools, including but not limited to those that opt in to the settlement, must ensure compliance with disclosure obligations for student-athlete NIL agreements (e.g., disclosure of all agreements of $600 or more). The precise details of these reporting mechanisms are still being developed.

Question No. 15: When must schools be in compliance with new roster limits?

Answer: Beginning in the 2025-26 academic year, for fall sports, schools must be at or below the roster limits prior to the first date of competition that counts for championships selection in the relevant sport. For winter and spring sports, schools must be at or below the roster limits not later than December 1 or the first contest that counts for championships selection in the relevant sport (whichever is earlier).

[Note: additional requirements related to roster limits (e.g., whether a particular student-athlete must be included on a team's roster) are being developed.]

Question No. 16: What are the implications if an institution does not opt in to the settlement?

Answer: All existing Division I legislation remains effective unless and until modified, other than scholarship limits for Division I, which will be eliminated as part of the settlement. Further, institutions that choose not to provide benefits contemplated by the settlement are not bound by the requirements of those schools that opt-in, except all Division I student-athletes must disclose all third-party NIL deals worth $600 or more, with the specific details of the reporting mechanisms still being developed.

Question No. 17: If an institution that is not subject to the terms of the settlement increases the number of scholarships offered in a sport but remains under the number of scholarships currently permitted in that sport by Division I legislation, does the increase in the number of scholarships offered subject the institution to the terms of the settlement?

Answer: No.

Changes to Division I Legislation.

Question No. 18: What is the process for reviewing and modifying the Division I legislation to be consistent with the proposed settlement?

Answer: Consistent with duties and responsibilities associated with litigation, the Division I Board of Directors will act on necessary legislation to comply with the settlement.

Question No. 19: When will the process for reviewing, modifying and/or eliminating Division I legislation begin?

Answer: Modifications to the Division I legislation will be considered following final approval of the settlement. Identification of required modifications and proposal drafting have begun as a collaborative effort between defendant conferences and NCAA staff.

Question No. 20: Which Division I bylaws will be modified or removed as a result of the proposed settlement?

Answer: NCAA staff and defendant conferences are working collaboratively to identify rules that will need to be modified, may need to be modified and rules that simply should be reviewed during the normal course of Division I business. A comprehensive review of Division I legislation will be done to ensure future bylaw provisions align with the intent and substance of the proposed settlement. Changes will be made no later than the effective date of the settlement.

Based on the terms of the proposed settlement, modifications likely will be made in the areas including, but not limited to:

- Amateurism and athletics eligibility;
- Academic eligibility;
- Financial aid;
- Recruiting;
- Awards, benefits and expenses; and
- Name, image and likeness.

Question No. 21: What will be the effective date of modifications to the Division I legislation to effectuate the proposed settlement?

Answer: The presumed effective date of the modifications will be aligned with the effective date of the settlement. For any exceptions, specific communication will be provided to the membership.

Revenue Distribution, the Pool and Name, Image and Likness.

Question No. 22: What is the Pool?

Answer: The maximum dollar value of additional payments and/or benefits (e.g., new payments and/or benefits not currently permitted by NCAA rules or in amounts above those currently permissible under NCAA rules) a Division I institution may provide to its student-athletes during a single academic year.

Question No. 23: How will the initial Pool be calculated?

Answer: The Pool will be set by totaling up eight of the Membership Financial Reporting System Reports (MFRS) revenue categories for each institution from the five defendant conferences and Notre Dame, then dividing the total by the number of institutions from the five defendant conferences plus Notre Dame, then taking 22% of the resulting dollar figure. The defendant conferences' defendants estimated the 2025-26 cap to be approximately $20.5 MM. The actual cap number will be determined in Q1 of 2025.

The MFRS revenue categories include ticket sales, input revenue from participation in away games, media rights revenues, NCAA distributions and grants; non-media conference distributions; direct revenues from participation in football bowl games, as well as conference distributions of football bowl revenues; and athletics department revenues from sponsorships, royalties, licensing agreements and advertisements.

Question No. 24: Will the Pool change for each academic year?

Answer: Yes. Typically, the Pool will be recalculated every three years using the same formula. In the second and third year of each three-year period, the Pool will increase by four percent from the previous year.

Question No. 25: How do benefits provided to student-athletes above and beyond what was previously permitted in Division I count toward the Pool?

Answer: Institutions opting into the settlement must comply with the Pool and not allow any payments that exceed the Pool limit. All additional payments and benefits provided to student-athletes by the Division I institution that are not currently permissible will be counted to the Pool, except:

- *Alston* academic achievement awards (set at a value of up to $5,980) count up to $2.5M per year; beyond $2.5 M per year, such awards do not count toward the Pool.
- Athletic scholarships above the number currently permitted by NCAA Division I rules for a particular sport count up to $2.5M per year; beyond $2.5M per year, such scholarships do not count toward the Pool.
- No third-party payments to student-athletes count against the Pool, including third-party payments procured by a school for the student-athlete, acting as a marketing agent for a student-athlete.
- Payments or benefits currently permissible through SAF and education-related benefits (other than *Alston* awards) do not count toward the Pool.

Question No. 26: Do education-related benefits for student-athletes that are currently permissible (other than *Alston* payments) count toward the Pool?

Answer: No.

Question No. 27: Do payments permitted under the current rules to student-athletes from a student assistance fund count toward the Pool?

Answer: No.

Question No. 28: Do benefits from the NCAA to the student-athletes count toward the Pool?

Answer: No.

Question No. 29: Under the proposed settlement, can a Division I institution enter into an NIL deal with a current student-athlete?

Answer: Yes, an institution may enter into an NIL deal with a student-athlete, provided it does not extend beyond the student-athlete's NCAA competition eligibility. NIL and other benefits cumulatively across all student-athletes cannot exceed the stated cap.

Question No. 30: May an institution offer a prospect or current student-athlete benefits consistent with those contemplated by the settlement?

Answer: Yes. Schools may not make payments prior to July 1, 2025, and can make payments after that date only if the court has granted final approval of the settlement. An institution may make offers, contingent on final settlement approval, to prospects or current student-athletes that involve the provision of benefits contemplated by the settlement. These additional benefits may not be awarded unless and until the settlement is adopted by the court.

Question No. 31: How and when will a student-athletes' third-party NIL deals be subject to the fair-market-value assessment contemplated by the settlement?

Answer: All Division I student-athletes will be required to report third-party NIL deals worth $600 or more, whether or not their institution opts in to the settlement. All agreements with associated entities and associated individuals with payments occurring after July 1, 2025, will be subject to the fair-market-value assessment contemplated by the settlement. Also, all new agreements with associated entities and associated individuals executed after settlement approval (which could occur any time after April 7, 2025) will be subject to a fair-market-value review.

In addition, if there is a challenge to determinations related to fair-market-value, third-party arbitrators approved by the plaintiffs, the defendant conferences and the NCAA will render a decision.

Question No. 32: Will the NCAA national office maintain a record of the current and upcoming Pool amounts?

Answer: Yes.

Question No. 33: Will the NCAA maintain a record of the currently permissible benefits from institutions to student-athletes so institutions subject to the terms of the settlement can accurately calculate the value of any additional payments and benefits offered to student-athletes?

Answer: The NCAA will maintain a record of the currently permissible benefits on LSDBi (e.g., 2024-25 Division I Manual) so that institutions who choose not to be bound by the terms of the settlement can understand what benefits would subject them to the terms of the settlement for the full length of the settlement and institutions who choose to be bound by the terms of the settlement can calculate the value of additional payments and benefits offered to student-athletes.

Question No. 34: When will the technology behind the cap-reporting and NIL fair-market-value platforms be developed?

Answer: The defendant conferences have reached agreement with vendors who will develop, test and provide appropriate training for the platforms. LBi has been selected as the vendor for the cap reporting platform and Deloitte has been selected for the NIL fair market value platform. The defendant conferences will be responsible for the build-out of the cap-reporting system and related enforcement of complying with the cap. The defendant conferences also are responsible for overseeing the administration of the fair-market-value system. Schools should not contact vendors directly with questions at this time. More information will be forthcoming about the development of both platforms.

Question No. 35: How will student-athletes be educated on the impact of the settlement?

Answer: Student-athletes can learn more about the settlement from the attorneys representing the student athlete classes and/or at the following website: **www.collegeathletecompensation.com.** A separate Q&A is being developed for student-athletes and will be distributed via a variety of methods, including through national and conference student-athlete advisory committees.

EXHIBIT D

NCAA.org

DI Council approves changes to notification-of-transfer windows in basketball, football
Council also transitions NLI into NCAA signing rules
Meghan Durham Wright
Media Center
Posted: 10/9/2024 2:26:00 PM

The Division I Council on Tuesday approved changes to the notification-of-transfer windows in football and men's and women's basketball from a total of 45 days to 30 days, effective immediately.

The changes, which were initially introduced in June, are intended to provide greater stability to student-athletes and programs, in better alignment with academic terms and, in some cases, professional league draft rules.

"With several years of data now available, we know that the vast majority of student-athletes are entering the portal within the first four weeks of it opening," said Josh Whitman, athletics director at Illinois and chair of the council. "The NCAA remains committed to adjusting to the rapidly changing collegiate athletics landscape while continuing to keep student-athletes at the forefront of our decision-making process. These window adjustments met that standard."

Moving forward, the notification-of-transfer windows in basketball will be open for 30 days, starting the day after the conclusion of the second round of each NCAA Division I championship, when 91% of teams in both men's and women's basketball have concluded their season. For the 2024-25 academic year, the window will be

open March 24-April 22 for men's basketball and March 25-April 23 for women's basketball.

In both the Football Championship Subdivision and the Football Bowl Subdivision, the notification-of-transfer windows will be a total of 30 days spread over two windows. The first window will open the Monday after the FBS conference championship weekend for 20 days, and the second window will open in the spring for 10 days. For the 2024-25 academic year, the windows will be open Dec. 9-28 and April 16-25.

The changes were recommended and supported by the Division I Men's and Women's Basketball Oversight Committees and the Football Oversight Committees on Tuesday before the council meeting and were adopted Tuesday by the council — which includes a voting representative from each Division I conference, as well as student-athlete representatives.

Student-athletes seeking to transfer and be recruited by other schools to compete the following year must provide their current school with administrative notice during the window for their sport. The window is for notice only and does not impact the amount of time a student might need to decide whether to ultimately transfer and to what school.

In all sports, student-athletes whose head coach leaves the school would continue to have an additional 30-day transfer window beginning the day after a coach's departure.

National Letter of Intent

The council also adopted changes to NCAA signing rules that transition the National Letter of Intent program protections into signing and recruiting rules, effective immediately. The change was made at the recommendation of the Conference Commissioners Association, which previously had administrative oversight of the NLI program.

Moving forward, written offers of athletics aid will replace the NLI, and the previous formula for determining signing dates will be applied to those written offers. Transfer prospects may be signed by a new school once their names are permissibly entered in the Transfer Portal. After a prospect signs a written offer of athletics aid, other schools that offer athletically related financial aid will be prohibited from recruiting communications with that prospect.

MTEs in basketball

The council received an update from the Division I Men's and Women's Basketball Oversight Committees, which approved a blanket waiver for the 2024-25 season for multiple-team event rules that otherwise limit each event to one team per conference and limit teams from participating in the same event more than once in a four-year period.

Both oversight committees will conduct a thorough review of MTE requirements in the next year, including whether to extend the blanket waiver for 2025-26.

Proposal for reclassification requirements

The council introduced a proposal that would change reclassification rules for schools transitioning from Division II or Division III into Division I. The proposal is expected to be considered for a vote during the council's January meeting at the 2025 NCAA Convention in Nashville, Tennessee.

If adopted in January, the proposal — which was recommended by the Division I Strategic Vision and Planning Committee — would reduce the transition period for schools reclassifying from Division II to Division I to three years (down from four years under existing rules). For schools reclassifying from Division III to Division I, the transition period would be four years (down from five under existing rules).

EXHIBIT E

NCAA Division I Educational Resource

House Settlement: Opting In

APPLIES TO ALL DIVISION I SCHOOLS

1. Division I schools are permitted but not required to provide new benefits (e.g., direct name, image and likeness (NIL) payments, scholarships above limits permitted in the 2024-25 Division I manual) to student-athletes made available through the settlement. For schools that opt in, each school may determine the level of benefits to provide up to the limit set forth in the settlement.

2. General release of legal claims by student-athletes against NCAA, conferences and Division I schools.

3. All scholarships will be converted to equivalencies and for all schools that opt in, NCAA Division I scholarship limits will be eliminated.

4. All student-athletes must report third-party NIL deals worth $600 or over.

STEP ONE: DETERMINE WHETHER YOUR SCHOOL OPTS IN*

Does your school plan to provide payments or additional scholarships made available through the settlement?

YES — Your school is opting in.

In this scenario, your school is bound by new roster sizes and should determine which benefits it will provide to student-athletes. Continue to step two.

**Schools must notify the NCAA it will opt in by March 1 of each year, beginning March 1, 2025.*

NO — Your school will not provide direct NIL payments to any student-athletes.

Your school will not exceed current Division I scholarship limits in any sport outlined in the Division I 2024-25 rules manual.

Your school may provide Alston payments up to $5980 per student-athlete.

If your school plans to provide direct NIL payments to student-athletes or your school exceeds current equivalency maximums, your school is opting in.

STEP TWO: PROVIDING BENEFITS

Determine the level of benefits your school provides to student-athletes.

Examples of opting in

- Your school provides educational incentives and graduation bonuses to student-athletes in addition to existing Alston payments capped at $5980.
- Your school does not provide any additional benefits or scholarships but wants the flexibility to provide additional benefits or scholarships during an academic year.
- Your school exceeds the equivalency maximum in any sport in the Division I 2024-25 rules manual.
- Your school provides direct NIL payments to student-athletes.

QR code to the comprehensive question-and-answer document for schools.