

## CLIENT ALERT

# Unsportsmanlike Conduct: President Trump Issues Executive Order Seeking to Rein In College Athletics

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On April 3, 2026, President Trump signed an executive order titled “Urgent National Action to Save College Sports,” reflecting the administration’s growing concerns over what it describes as an unsustainable system. The order identifies several destabilizing forces: litigation; name, image, and likeness (NIL) state laws; the loosening of consistent rules or limits concerning eligibility, transfers, and pay-for-play schemes; and unregulated student-athlete compensation that the Administration asserts have collectively eroded the traditional model of college sports. The executive order builds on a prior July 2025 executive order that targeted the regulation of name, image, and likeness (NIL) transactions, protection of women’s and non-revenue-generating sports, and clarification of student-athletes’ employment status, but takes significantly more aggressive action, directing federal agencies to use their contracting, grant-making, regulatory, and litigation powers to reshape the governance of collegiate athletics. Universities nationwide must contemplate how to proceed under the executive order that impacts student-athletes, athletic programs, and the broader university community.

## What you need to know

The order applies to institutions reporting at least \$20 million in annual intercollegiate athletics revenue during the preceding academic year (inflation-adjusted). The order has one especially-significant provision:

### I. **Section Four: Protecting Women’s and Olympic Sports and Preserving Higher Education Financial Responsibility.**

Section Four is the operative heart of the executive order. It deploys several distinct federal levers to reshape college athletics governance.

**Enforcement.** Section 4(a) establishes the order’s primary enforcement tool. It directs the heads of federal agencies that “contract with or provide grants to higher education institutions” to evaluate whether violations of NCAA rules—as those rules exist on August 1, 2026—are sufficiently serious to warrant suspension of or debarment from federal contracts and grants. The specific categories of NCAA rules subject to this evaluation are (A) eligibility limits; (B) transfers between institutions; (C) revenue-sharing permitted between institutions and student-athletes; and (D) permissible and improper financial activities. Agency heads must then determine whether a violation constitutes “a cause so serious or compelling in nature to affect the present responsibility of the recipient.” The OMB Director is directed to issue guidance to “contracting and grantmaking agencies to ensure compliance with this order and to reinforce the suspension and debarment policy” for violations of this provision.

And Section 4(e) directs the FTC Chairman to “take appropriate action to enforce” The FTC Act’s prohibition on unfair or deceptive acts or practices in commerce, and the Sports Agent Responsibility and Trust Act (SPARTA), which specifically regulates the conduct of agents who recruit or solicit student-athletes to enter into agent contracts. SPARTA imposes requirements for disclosure, prohibitions on certain inducements, and a right of action for educational institutions harmed by agent misconduct.

**NCAA Rule Updates.** Section 4(b) is the substantive core of the order. It “strongly encourages” the NCAA to “update or clarify its rules before August 1, 2026,” to “adequately protect opportunities for scholarships and collegiate athletic competition in women’s and Olympic sports and ensure the financial stability of higher education institutions.” Although framed as encouragement, the substance is prescriptive, and the enforcement mechanism in Section 4(a) ensures that whatever the NCAA adopts by August 1, 2026, becomes, in effect, a condition of federal funding. The order encourages the NCAA to adopt these rules:

- **Age-Based Eligibility Limits.** The order asks the NCAA to establish “age-based eligibility limits” under which participation in college athletics is “permitted for no more than a five-year period.” Additionally, the order provides that “professional athletes cannot return to college athletics.” The order contemplates only limited exceptions to the five-year eligibility window—for military service, missionary service, and “other periods of absence from participation that are in the public interest.”

- **Transfer Rules.** The order asks the NCAA to adopt rules providing for “the ability to transfer one time during the five-year period with immediate playing eligibility, and one additional such time if the student-athlete obtains a four-year degree.” The rules should “prioritize the academic development, success, graduation, and long-term well-being of student-athletes” and “ensure that the transfer window does not incentivize interference with athletic seasons or the academic year, or otherwise undermine the integrity of participation and competition in college athletics.”
- **Medical Care.** The order asks the NCAA to require “medical care for student-athletes for intercollegiate-athletics-related injuries during their period of enrollment and for a reasonable period of time thereafter.”
- **Revenue-Sharing Rules.** The order asks the NCAA to implement “revenue-sharing between higher education institutions and student-athletes in a manner that preserves or expands scholarships and collegiate athletic opportunities in women’s and Olympic sports.” The order further asks NCAA to include provisions to “prevent revenue-sharing from being allocated in a manner that results in a reduction in scholarships and opportunities in women’s and Olympic sports.”
- **A Prohibition on Federal Funds for NIL, Revenue-Sharing, and Coaching Compensation.** The order asks the NCAA to prohibit “the use of Federal funds by higher education institutions for NIL or revenue-sharing payments or coaching or athletic compensation, in accordance with any applicable Federal law and Federal contract terms.”
- **A Prohibition on Improper Financial Activities.** The order asks the NCAA to prohibit “improper financial activities regarding student-athletes, including collectives or other entities or methods used to facilitate third-party, pay-for-play payments.”
- **National Student-Athlete Agent Registry.** The order asks the NCAA to establish “a national student-athlete agent registry and reasonable protections for student-athletes from excessive agent commissions.”

**Reporting.** Section 4(c) creates the informational infrastructure for enforcement. It directs the Administrator of General Services to “propose, consistent with law, an appropriate, regular collection of information to evaluate compliance” with the rules covered by Section 4(a)(i)(A)–(D) “for completion by appropriate higher education institution officials.”

In this connection, Section 4(d) directs the Secretary of Education to “consider taking appropriate action, including through rulemaking where necessary,” to require regular reporting by institutions on two specific data points: (1) “the total number of roster spots by varsity team, as of the day of the first scheduled contest for the team,” and (2) “the total amount of money spent on athletically related student aid or other payments, separately for men’s and women’s teams overall.”

## II. What's Next for Colleges and Universities?

Although the order attempts to resolve some uncertainty, many questions remain unanswered:

- **Evaluation of “Improper Financial Activities”:** This is the trigger for debarment risk. The order defines the term to include: (1) “intentionally devising or participating in a fraudulent name, image, and likeness (“NIL”) scheme”; (2) “knowingly accepting contributions, financial or otherwise, from persons who intentionally devise or participate in a fraudulent NIL scheme”; (3) “using Federal funds for NIL or revenue-sharing payments or for any type of payment or benefit to a coach, assistant coach, general manager, recruiter, or other person engaged in coaching or managing an athletic team”; and (4) “tortiously interfering with a contract between a student-athlete and another federally-funded higher education institution, including a scholarship agreement.” “Fraudulent NIL scheme” is defined as paying “above the actual fair market value” of goods or services in connection with a student-athlete’s participation. The order does not further define “fair market value.” Additionally, “tortiously interfering with a contract” is a state-law cause of action with varying elements across jurisdictions, making uniform federal enforcement challenging. This provision may give rise to litigation brought by institutions, NIL collectives, marketing agencies, or student athletes.
- **Potential Antitrust Issues:** Several potential antitrust issues must be considered. The order encourages the NCAA (the “interstate intercollegiate athletic governing body”) to impose caps or limits on revenue-sharing, restrict player transfers, set eligibility limits, and prohibit certain NIL arrangements. In *Nat’l Coll. Athletic Ass’n v. Alston*, 594 U.S. 69 (2021), a unanimous Supreme Court held that certain NCAA restrictions on education-related benefits violated Section 1 of the Sherman Act. By directing the NCAA to impose or tighten rules governing athlete compensation and mobility—and then backstopping those rules with federal contracting consequences—the order raises antitrust questions, including, but not limited to, whether it facilitates horizontal restraints on competition among universities for student-athlete talent. Additionally, the order does not grant the NCAA a statutory antitrust exemption, and the executive branch cannot unilaterally create one. Any NCAA rules adopted at the order’s directive—and universities’ compliance with those rules—would still be subject to antitrust scrutiny. Any future NCAA rules may give rise to litigation brought by institutions, NIL collectives, or student athletes.
- **Potential Delegation Issues:** The order effectively delegates federal regulatory power to the NCAA by making compliance with the NCAA’s rules the benchmark for federal contracting eligibility. The NCAA is a private, voluntary membership organization, and tying federal funding consequences to its internally adopted rules raises potential nondelegation concerns, especially as the order encourages the NCAA to adopt specific rules (e.g., five-year eligibility limits, one-time transfer rules)—and then, according to the order, the government will enforce what the NCAA enacts, though presumably only to the extent that the NCAA accedes to the government’s “encouragement.” The order links compliance with athletic governing body rules to eligibility for *all* federal contracts and grants—not just education-related funding. The order itself uses Department of Defense, HHS,

NIH, and NSF contracts and grants as examples for what is at risk of cancellation. This provision may give rise to litigation brought by institutions, especially ones with a lot of federal grants and contracts at risk.

**Final Thoughts**

In practical terms, the order gives institutions one more factor to worry about when making decisions about athletics. Institutions should consult with counsel as part of their planning for how to proceed under the order, and to be prepared for the potential changes in NCAA rules and agency guidance. Schools should consider how structural changes to their athletic program will allow them to avoid potential liability.

The outstanding issues identified above will present ongoing challenges and require interpretation, evaluation, and thoughtful implementation—a process that may be assisted by legal and other professionals. Willkie can assist university and conference personnel with navigating these changes and monitoring the evolution of the rules surrounding college athletes. Our skilled higher education, regulatory, and litigation teams have experience with universities and entities in the private sector who are at the forefront of the evolution of these and other issues facing college athletics. We are available to assist as you consider the impact of these issues on your organization.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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