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Executive Order Targets College Athletics Compliance, NIL Practices, and Federal Funding

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Key Takeaways

- **Federal funding and contracting risk: Covered institutions may face heightened exposure under federal suspension/debarment and "present responsibility" concepts tied to violations of certain college-athletics rules effective August 1, 2026.**

- **Name, image, and likeness (NIL) guardrails and collective scrutiny: The order defines "fraudulent NIL schemes" as above-fair market value payments connected to participation and flags pay-for-play activity and related conduct as "improper financial activities."**

- **Potential for tighter eligibility/transfer standards: The order urges the National Collegiate Athletic Association (NCAA) and College Sports Commission (CSC) to adopt a five-year participation window (with limited exceptions), structured transfer rules, and related protections by August 1, 2026.**

- **Increased reporting and enforcement: The order contemplates expanded data collection (General Services Administration (GSA)/Department of Education) and enforcement activity (Federal Trade Commission (FTC)/Department of Justice (DOJ)), including challenges to certain state laws that conflict with national governing-body rules.**

- **Immediate action item: Institutions and NIL-market participants should review NIL/collective arrangements, sourcing and use of funds, contracting practices, and documentation supporting fair market value and business purpose.**

Overview

On April 3, 2026, the White House issued the Executive Order titled "Urgent National Action to Save College Sports." The order is designed to promote a more uniform national approach to core college-sports rules – especially athlete eligibility, transfers, revenue-sharing, and pay-for-play activity – by leveraging federal grants and contracts and by pressing the NCAA to update or clarify its rules before August 1, 2026.

What the Executive Order Directs

1) Scope: The order's operative provisions apply to "higher education institutions" as defined in the Higher Education Act, but only if the institution reported at least $20 million in intercollegiate athletics revenue in the preceding academic year (adjusted annually by the Consumer Price Index). In practice, this threshold is aimed at larger athletics programs, although there is speculation that, to the extent they are upheld, smaller programs will likely adhere to the regulations as well.

2) Federal grants/contracts leverage through "present responsibility:" For covered institutions, agency heads that provide grants or contracts must (as appropriate) evaluate violations of the applicable, lawful, and operative governing-body rules in effect as of August 1, 2026, concerning: (A) eligibility limits; (B) transfers; (C) revenue-sharing between institutions and student-athletes; and (D) permissible versus improper financial

activities. The order also directs the Office of Management and Budget (in consultation with GSA) to issue guidance to reinforce suspension and debarment policy relating to such violations.

3) Urged rule updates by August 1, 2026:

- Eligibility limits: Age-based limits and a five-year participation window (with limited exceptions such as military service, missionary service, and other absences in the public interest), plus a restriction on professional athletes returning to college sports.
- Transfer rules: One transfer with immediate eligibility during the five-year period, plus one additional transfer with immediate eligibility after earning a four-year degree; transfer windows should support academic continuity and avoid disrupting athletic seasons or academic calendars.
- Medical care: Treatment for athletics-related injuries during enrollment and for a reasonable period thereafter.
- Revenue-sharing: Implementation in a manner that preserves or expands scholarships and opportunities in women's and Olympic sports.
- Federal funds: A prohibition on using federal funds for NIL or revenue-sharing payments, or for coaching compensation, consistent with applicable federal law.
- NIL collectives: A prohibition on improper financial activities, including collectives or other entities facilitating third-party pay-for-play arrangements.
- Agents: A national student-athlete agent registry and reasonable protections against excessive agent commissions.

4) Data collection and reporting:

- GSA is tasked with proposing regular information collection from institutions to evaluate compliance with the covered rule areas.
- The Department of Education is directed to consider action (including rulemaking) to require reporting on (A) roster spots by varsity team and (B) total spending on athletically related student aid/other payments, reported separately for men's and women's teams overall.
- The FTC Chair is directed to take appropriate action to enforce the FTC Act and the Sports Agent Responsibility and Trust Act (SPARTA) with respect to student-athlete agents and related entities.

5) Potential challenges to certain state laws. The order directs the Attorney General to take appropriate measures to pursue actions to invalidate state laws that conflict with NCAA rules and that (A) discriminate against or unduly burden interstate commerce, (B) impair contractual relationships, or (C) are otherwise invalid under federal law.

For questions about how this Executive Order may affect your institution or NIL practices, please contact Kordell Caldwell, Benjamin West Janke, or Lesli Harris.