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Client Alert: Designing Defensible NIL Sponsorship Structures in the Revenue-Share and Cap Environment

Athletics departments that delay establishing clear structures for name, image, and likeness (NIL) sponsorship review risk several practical consequences: the cost of defending challenged deals, lost opportunities when transactions stall in review and student-athletes miss time-sensitive commercial windows, and the possibility of outright disapproval. Recent reporting indicates these pressures are already emerging.

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The College Sports Commission (CSC) has acknowledged that the NIL Go review system is experiencing strain as deal volume and complexity increase, raising concerns about review timelines and institutional processing capacity. Separate reporting has also described early instances of NIL transactions being rejected under the new oversight framework, underscoring the importance of carefully structuring agreements to be defensible from the outset.

Athletics departments are now operating in an environment where NIL activity, roster construction, donor strategy, contract architecture, and revenue-share compliance are no longer discrete issues handled by separate offices. They are interdependent components of the same practical, financial, and regulatory framework. Decisions about how NIL sponsorship is structured today may directly affect cap flexibility tomorrow, donor engagement in the next cycle, and institutional audit posture in the months that follow.

One of the most consequential questions institutions are confronting is how to best facilitate sponsorship-driven NIL opportunities adjacent to the institution while preserving the defensibility of third-party treatment under current oversight standards.

The Structural Distinction That Now Matters

Current review frameworks place significant weight on where funds originate and how they flow. Institutions are permitted to identify opportunities, introduce sponsors to student-athletes, assist with contract formation, and ensure that agreements satisfy reporting requirements. Facilitation, standing alone, does not transform a third-party NIL agreement into institutional compensation.

The analysis changes, however, when payments are routed through institutional accounts or through entities owned, controlled, or operated by the institution. In that circumstance, oversight bodies may treat the funds as institutional in origin, regardless of the underlying commercial relationship. The audit trail, not the label attached to the transaction, becomes the determining factor.

You cannot use shell companies to hide where money comes from.

Substantive Review, Not Procedural Compliance

Oversight review is no longer limited to confirming that a contract exists or that a disclosure form was submitted. Agreements are evaluated substantively. Payments must serve a legitimate commercial purpose tied to the promotion or endorsement of goods or services provided to the public. Compensation must reflect fair market value when compared to similarly situated individuals. Contracts must contain specific activation obligations rather than generalized references to “NIL access.” Reporting timelines and documentation standards must be met.

Blanket arrangements lacking specificity regarding deliverables, timing, and use of NIL rights are increasingly vulnerable to being denied. The absence of clear activation language or documentation separating sponsorship rights fees from NIL compensation creates avoidable exposure.

Institutions that approach NIL as structured marketing with defined deliverables, market-based valuation support, and transparent payment mechanics are better positioned to withstand review.

Payment Processing as a Strategic Decision

In practice, the most defensible models share a common characteristic: sponsor funds are clearly self funded and do not pass through institutional accounts. Where administrative logistics require a processor, that processor’s role is limited to payment execution and compliance tracking, such as verifying that deliverables were performed, rather than acting as a broker or funding source.

When sponsor funds are first deposited into institutional accounts and then disbursed to athletes, even if reimbursement occurs later, the structure invites reclassification arguments. Similarly, bundling NIL compensation with broader sponsorship rights fees without clear delineation may blur the distinction between institutional revenue and third-party marketing activity.

The structural objective is to maintain a clean financial chain demonstrating that the sponsor is the originating source of compensation and that the institution’s role is facilitative rather than financial.

The Broader Institutional Implication

These structural decisions do not occur in isolation. They intersect with multi-year cap planning, roster budgeting, and donor fatigue mitigation. Institutions are now managing professionalized roster and salary cap systems while simultaneously navigating compliance frameworks that require detailed documentation and rapid reporting.

Departments frequently describe the current environment as building the plane while flying it. Rising expectations have not been matched with proportional staffing expansion, and much of the day is spent responding to urgent questions rather than advancing coordinated planning.

In that context, NIL structure cannot be treated as a narrow compliance task. It must be integrated into a unified, institution-wide strategy that aligns legal, financial, and competitive considerations. That strategy requires consistent communication among the athletics director, general counsel, compliance leadership, advancement personnel, and other institutional stakeholders. It also requires continuity across the full competitive calendar rather than episodic review tied only to high-pressure periods.

Institutions that develop cyclical processes are less likely to confront last-minute structural risk. They are also better positioned to negotiate sponsorship arrangements with clarity regarding how NIL compensation will be separated, funded, and documented.

Moving From Reactive to Structured

The modern NIL environment does not reward institutions that avoid involvement. It rewards those that structure involvement deliberately. Clean payment flow, market-supported valuation, contract specificity, and coordinated internal oversight are no longer optional best practices; they are foundational elements of risk management.

As departments evaluate their NIL sponsorship models, the most important question is not whether the structure is administratively convenient. It is whether the structure preserves third-party defensibility, aligns with cap strategy, and withstands substantive review.

Institutions that embed NIL architecture within a broader, year-round legal and strategic framework will spend less time untangling structural issues after the fact and more time advancing competitive and financial objectives with confidence.

For more information, please contact a member of Shumaker's Sports Law Team.

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