

Press Coverage | June 21, 2025

## College Athletics' New Era, Part 3 – 'Wait Until One of Their Cash-Cow Programs is Under Investigation'

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Callan G. Stein

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Cal Stein, partner with Troutman Pepper Locke, host of the *Highway to NIL* podcast, and editor of the *NIL Revolution* blog, was quoted in the June 21, 2025 *The News-Gazette* article, “College Athletics’ New Era, Part 3 – ‘Wait Until One of Their Cash-Cow Programs is Under Investigation’.”

**Q:** What unresolved questions or doubts do you still have about the “NIL Go” clearinghouse run by auditing giant Deloitte and the interpretation of “fair market value”?

“In the recent ‘Q&A: Implementation of the House Settlement’ document released by the NCAA, the NCAA made clear that NIL Go will be used to determine whether third-party NIL deals with associated entities or individuals are made ‘to advance a valid business purpose’ and are within a ‘reasonable range of compensation.’”

“I found this language interesting because it does not use the term ‘fair market value,’ but instead uses ‘reasonable range of compensation.’ That suggests to me an acknowledgement on the part of the NCAA and Deloitte that, at least initially, it is going to be extremely difficult to peg a student-athlete’s NIL value to a specific number.”

“Using a ‘range’ raises some questions that need to be resolved, including:”

“How big of a ‘range’ will Deloitte provide student-athletes? One of the NCAA’s stated goals for NIL Go is to offer student-athletes a ‘simple’ way to ‘determine compliance with the new rules.’ In my view, the larger the ranges provided by Deloitte, the less simple things will be for student-athletes.”

“To what extent will Deloitte’s determination of a ‘range’ of compensation in one case have precedential value in others? Put another way, will Deloitte make these determinations on a case-by-case basis or will Deloitte compare each case to the determinations it made in prior cases to maintain some degree of consistency and precedent?”

There are certainly some benefits to doing the latter, including enhancing the consistency, transparency, predictability and fairness of the NIL Go system. But doing so will be difficult, including requiring a high degree of coordination among the individuals examining these NIL deals.

“What further rules or guard rails will Deloitte and the NCAA put in place for whether a third-party meets the definition of ‘associated entity or individual’? The NCAA Q&A makes clear that the College Sports Commission, ‘with assistance by Deloitte,’ will be charged with making these determinations.”

“Whether an entity or individual is deemed to be ‘associated’ or not is a critical distinction, and I expect those decisions by the commission/Deloitte to generate a great deal of attention.”

“Whether the commission/Deloitte announce any specific rules as to what makes an entity/individual ‘associated’ or not will be significant.”

“If they do not, it will be incumbent on schools and their counsel to try to discern how that question is adjudicated by looking at the various determinations the commission/Deloitte make, assuming those determinations are released publicly. This could ultimately be a major issue because, depending on how these determinations are made, entities/individuals may look to circumvent the fair market value or ‘reasonable range of compensation’ requirements.”

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