

5.1 The roots of corruption in US collegiate sport

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The United States has one of the few educational systems in the world that integrates high-level sport into secondary and post-secondary education as a financially well supported extra-curricular programme in which teams from educational institutions compete against each other on a regular basis, including state championship competition at the secondary level and national championship competition at the post-secondary level. At the college and university level, there are over 2,000 higher education institutions in the United States with such sport programmes, called 'intercollegiate athletic programs'. While 'athletics' is a term used worldwide to describe track and field programmes, in the United States 'athletics' is synonymous with 'sport'.

Each of these institutional athletic programmes belongs to some type of regional or national governance association that offers a common set of athletic programme and academic eligibility rules and publishes or recognises sport-playing rules to guide competition between members. Each member institution also belongs to a smaller subset of members, called a 'league' or 'conference', that governs the majority of its regular season competitions against other conference members, usually within a limited geographic area. These conferences are also members of the national governance association and may conduct conference championships as qualifying events for national championships sponsored by the national governance organisation. The governance organisation may establish multiple competitive divisions, requiring member institutions to meet certain minimum and/or maximum limits with regard to the number of sports offered by the athletics programme, the number of contests in a playing season, the beginning and end dates for practice and competition seasons, the number of athletic scholarships that may be awarded in each sport, the number of coaches, and recruiting rules and

calendars; these are among the most common forms of control. The association may also establish conditions under which member institutions may participate in pre- or post-season events sponsored by third parties.

Typically, these governance associations limit or prohibit the offering of financial aid to athletes, which are usually termed ‘athletic grants-in-aid’ or ‘athletic scholarships’, setting maximum limits to the value of an individual athletic scholarship and limiting the number of scholarships that can be granted in each sport and the number of years students are permitted to receive such grants. Academic eligibility rules usually include requirements for full-time enrolment, minimum grade point averages for initial and continuing eligibility and the requirements related to normal progress towards graduation.²

The excessive cost of Division I football and basketball programmes

The largest such association is the National Collegiate Athletic Association (NCAA), which consists of 1,078 institutions. Of these 1,125 institutions, 351 conduct highly commercialized men’s football (American tackle football) and/or men’s basketball programmes as members of the NCAA’s most elite competitive division, Division I.³ This article focuses on the financial and other excesses of this group of institutions in these two sports. It should be noted, however, that the practices described herein can occur at any level of competition and within any educational institution that chooses to place an emphasis on winning at all costs in any sport. Such ‘costs’ include the loss of academic integrity, sex discrimination and the academic and health exploitation of student-athletes, and these themes are addressed later in this article.

NCAA Division I consists of three subdivisions: the Football Bowl Subdivision (FBS-128 members), the Football Championship Subdivision (FCS-124 members) and non-football-playing institutions (99 members).⁴ FBS members have the richest and most commercial athletic programmes, with annual athletics budgets ranging from US\$10.7 million to US\$138.2 million in 2012.⁵ Notably, only 23 NCAA programmes, all FBS members, representing 2 per cent of all NCAA active members, actually generated more revenues than they spent.⁶ The operating losses of the remaining FBS institutions ranged from a high of US\$44 million to a low of US\$476,000.⁷ In 2012 20 per cent of these athletic programmes were supported by institutional allocations from general funds and/or student fees.⁸

The Football Championship Subdivision athletic programme annual budgets range from US\$4.6 million to US\$44.9 million.⁹ No institution generates more revenues than it spends.¹⁰ They are heavily subsidised by institutional allocations (71 per cent of their total operating budgets).¹¹ The median operating losses in 2012 of US\$10.2 million represent a 73 per cent increase since 2004,¹² with losses ranging from a high of US\$13.9 million to a low of US\$330,000.¹³

The third Division I subdivision consists of athletic programmes that do not sponsor football. Their total operating budgets range from US\$3.5 million to US\$33.8 million. No institution generates more revenues than it spends. These athletic programmes are also heavily subsidised by institutional allocations (77 per cent of their total operating budgets).¹⁴ The median operating losses in 2012 were US\$9.8 million, ranging from a high of US\$24.5 million to a low of US\$2.8 million.¹⁵

All these Division I programmes spend disproportionate amounts of their men's sport operating budgets on two sports: football and basketball. In the FBS, 78 per cent of the men's sport budgets is spent on football and basketball, 66 per cent in the FCS and 42 per cent at the basketball-only

institutions.¹⁶ With regard to the basketball institutions, this means that the 16 basketball players in these programmes are receiving an incredible proportion of the men's total sport operating expenditures.¹⁷ Athletic department budgets also significantly favour men's sports, with institutions spending two to three times more on men's than on women's. Further, in the past two decades many institutions have dropped sponsorship of many men's Olympic sports in order to fuel the seemingly insatiable 'arms race' among Division I football and men's basketball programmes.¹⁸

Notably, while FBS institutions are less dependent on institutional allocations, all Division I programmes are still dependent on institutional general-fund budgets or mandatory student fees for large annual subsidies. In the FBS, the median is US\$12.2 million, which represents a 19 per cent increase over the previous year.¹⁹ This subsidy is fairly close to the institutional subsidies, which cover median operating losses of US\$10.2 million in the FCS and US\$9.8 million in the basketball-only subdivision. Herein lies the first problem: athletics as an extracurricular programme whose costs are excessive compared to all other non-academic programmes at the institution. These subsidies have been relatively immune from the recent economic downturn affecting educational institutions worldwide. To the extent that the revenues generated are significant, they do not accrue to the larger institution. Rather, athletic programmes are allowed to use whatever they earn to compete in an 'arms race' that is unrestricted except for benefits that accrue to college athletes. Even if institutions believe that the branding and marketing benefits afforded by athletic programmes are beneficial, the enormous size of the institutional subsidies and their drain on limited resources that could be used for the primary academic purpose of the institution are difficult to rationalise.²⁰

The institutionalisation of Division I self-interest within the NCAA

The second problem is the lack of a demonstrated ability to control the growth and excesses of these commercialised programmes at the NCAA or institutional level. This loss of control of Division I sport commercialism is primarily a result of changes in the NCAA governance structure. In 1997 the full NCAA membership gave legislative and financial control to the institutions with the most commercialised athletic programmes, thereby creating a plutocracy that does not exist in amateur or professional sports governance association anywhere else in the world.²¹ Even professional sport league owners do not give majority voting power to a minority of the richest owners, enabling the rich to get richer and producing a downward decline in the parity that makes for healthy sports competition. In the United States, the blame for this increasingly unregulated and commercialised Division I sport is a direct result of two factors. First, college presidents say they are unable to control these programmes because of the political realities of alumni and trustee pressure to have winning teams and escalate coaches' salaries.²² Further, unilateral 'disarmament' is virtually impossible, because it would put the individual institution at a competitive disadvantage vis-à-vis its regular opponents. Second, the NCAA membership's loss of control is directly attributable to threats by the most powerful and successful athletic programmes to leave the organisation (thereby removing the NCAA's primary funding source) if they weren't given legislative and financial control.²³ This control was not ceded just to Division I but specifically to the FBS, the most powerful institutions in Division I.²⁴ Moreover, in August 2014 the five largest and most powerful conferences or leagues²⁵ within the FBS, consisting of 65 institutions, were given further autonomy.²⁶

This institutionalisation of Division I FBS self-interest, and now particularly the 65 institutions of the 'Big Five' conferences, is all about keeping as much national championship and other non-regular season and post-season championship revenues (the most valuable sport properties) as possible for these institutions themselves. Thus, it is important to understand the sources of this national

championship revenue, how it is distributed and who determines the distribution. The NCAA makes most of its money by owning and selling marketing rights to its national championships, and most of the remainder from national championship gate receipts. The bulk of current NCAA revenue is derived from one property: the 68-team single-elimination Division I national basketball championship. This championship generates approximately US\$770 million annually in NCAA media rights fees, and in 2013 represented 84 per cent of the NCAA's total revenues of US\$913 million.²⁷

A small percentage of this revenue is used to operate the NCAA's national office, including the operation of championship events. In the end, though, more than 90 cents of every dollar the NCAA generates are returned to member institutions, for specified purposes in support of student-athletes or based on Division I basketball championship participation, and, within this amount, approximately 90 per cent is returned to Division I institutions.²⁸ Thus, the NCAA has established a revenue distribution system that is dominated by the philosophy of returning the most money to the members responsible for earning that money rather than using it in a way that benefits the greatest number of student-athletes.

The threats by Division I schools in 1997 to leave the NCAA and the subsequent NCAA restructuring to give controlling power to the FBS were all about the FBS stopping the NCAA from establishing a national FBS football championship so it could own and keep these championship proceeds for itself. Notably, the NCAA does not sponsor a FBS football championship.²⁹ The College Football Playoff, a four-team play-off accepted by the public as the FBS national championship, begins in the autumn of 2014 and is the sequel to the Bowl Championship Series and its two-team play-off, which existed from 1998 to 2013. The value of the new four-team College Football Playoff is approximately US\$470 million per year, and it is owned jointly by all FBS conferences plus Notre Dame, rather than the

NCAA.³⁰ These College Football Playoff national championship proceeds are not shared equally among all FBS members. The 65 Big Five conference members take home 75 per cent of the proceeds, and the remaining 25 per cent is distributed to the 60 remaining institutions via other FBS conferences.³¹ It is only a matter of time before the College Football Playoff is expanded to eight teams, or more, which would most likely increase its value to the US\$1 billion per year level. The goal of the 65 Big Five conference institutions is clear: they want to win, and are prepared to spend whatever it takes to win, while maintaining a resource advantage over the other 94 per cent of NCAA member institutions.

Overt exploitation of higher education and college athletes

US institutions of higher education (and the athletic programmes they sponsor) are considered under US law to be not-for-profit educational programmes. As such, they receive significant tax concessions. They do not pay the taxes that businesses or professional sports franchises do. In addition, donors to athletic programmes are permitted to claim individual and business tax deductions for such donations to non-profit organisations. Division I athletic programmes further exploit these tax preferences when they tell their alumni that they can get a better season ticket seat location at football or basketball games on the basis of their total tax deductible contributions to the athletics programme. This non-profit status also permits athletic programmes to classify athletes as students rather than employees. Further, this preferential tax status allows these institutions to provide football and basketball players with athletic scholarships covering tuition, required fees, room and board and other education-related expenses, and these athletes do not pay taxes on this income. The NCAA restricts the total amount the athlete can receive, however, and this amount is far lower than a professional athlete's salary, and lower than the actual cost of attending college. These NCAA scholarship rules permit the financial exploitation of college athlete talent.

Billion-dollar collegiate national championship sport properties, multimillion-dollar institutional athletic programmes, the full control of athlete talent expenses, a small minority of the most commercialised athletic programmes controlling NCAA rules and financial distributions, and weak presidential control at the institutional level constitute the sources of the myriad corrupt practices that taint the conduct of US intercollegiate athletics, a number of which are addressed in more detail in this article. The most prominent of these issues are briefly described here.

1. Academic exploitation

- Institutions waive normal admissions requirements for academically underprepared but highly talented athletes, thereby placing them in an academic environment in which they cannot reasonably be expected to compete.
- Athletic departments directly or indirectly control academic advising processes, placing athletes in the easiest academic majors and courses, creating a subset of students majoring in athletic eligibility rather than academic degrees with future career value.
- Athletic departments find friendly faculty and engage them as co-conspirators to offer one-on-one ‘independent project’ courses, for which athletes get academic credit and high grades for doing little or no work, or regular academic courses, in which athletes get grades they do not earn.
- Athletic departments administer their own academic support programmes and hire tutors for college athletes, looking the other way when tutors rather than athletes complete academic assignments.
- Those who report academic fraud have no ‘whistleblower’ protection. These individuals are most at risk of being chastised and retaliated against.

2. Restriction of college athletes' academic freedom

- Coaches require their athletes only to take courses that don't conflict with practice times, thereby limiting college athletes' academic choices.³²
- NCAA rules penalise athletes who transfer to other institutions with the loss of a year of athletic eligibility.³³
- Requirements to maintain a full-time student schedule of courses and to maintain academic progress over a five-year eligibility period severely limit students with lesser academic ability from trying new courses or majors for fear they may not meet academic eligibility standards for athletic competition and the retention of their athletic scholarships.

3. Race and gender inequities

- Students of colour are over-represented in the sports of football and basketball and under-represented in most other NCAA sports.³⁴
- Female coaches and administrators and male and female coaches and administrators of colour are severely under-represented at all competitive levels of college sport, and even more so in the jobs with the most prestige and highest salaries.³⁵
- Despite the United States having one of the strongest gender equity in education laws in the world, female athletes are still under-represented as participants in intercollegiate sport, and schools spend less money recruiting them than they do for their male counterparts, and do not provide them with the same treatment.³⁶

4. Financial improprieties

In 40 of the 50 states in the USA, the highest paid public employee is the head coach of a collegiate athletic team

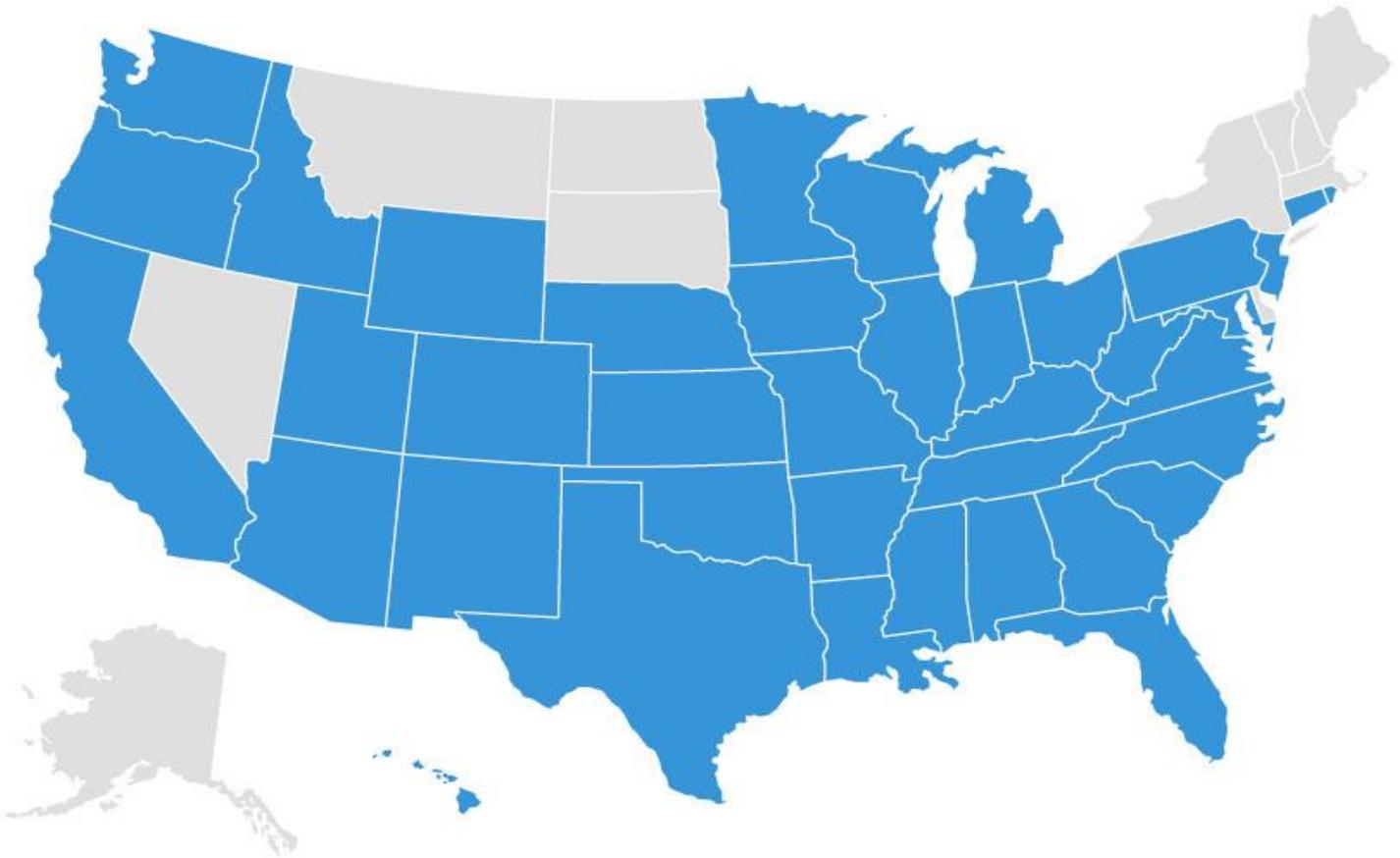


Figure 5.1 Highest paid public employee = collegiate sports head coach

Source: Based on Deadspin, 'Is Your State's Highest-Paid Employee A Coach? (Probably)', 9 May 2013, available at <http://deadspin.com/infographic-is-your-states-highest-paid-employee-a-co-489635228>.

- There are over 100 head coaches in Division I institutions making \$1 million or more annually, and in 40 of the 50 states in the United States the highest-paid public employee is the head coach of a collegiate athletic team.³⁷ The only reason that these salaries are possible is that there is no paid athletic talent.

- The athletic department builds facilities and restricts access to these facilities to college athletes only, frequently using tax-free public bonds to finance such projects.³⁸
- Many athletics facilities are extravagant. Here are some examples.
 - The University of Oregon Ducks' Football Performance Center, a 145,000-square-foot building that cost a reported US\$68 million, contains amenities that include a lobby with 64 55-inch televisions that can combine to show one image, a weight room floor made of Brazilian hardwood, custom 'foosball' tables on which one team is Oregon and the other team has 11 players each representing the rest of the Pac-12 (league opponents), a barber shop and a coaches' locker room with TVs embedded in the mirror.³⁹ Athletics already has an indoor practice field, an athletic medical centre and a brand new basketball arena and academic study centre for athletes. The new University of Oregon football programme complex contains, among other things, movie theatres, an Oregon football museum, a players' lounge and deck, a dining hall and private classrooms for top players.⁴⁰
 - Athletics-only practice facilities at West Virginia University are utilised solely by the men's and women's athletic teams.⁴¹ In addition to top-tier practice areas, strength and conditioning space, sports medicine needs, team meeting rooms and video and facility equipment, there are first-class locker room facilities, player's lounges and study areas.⁴²
 - The Texas A&M University football programme has a 5,000-square-foot players' lounge and academic centre conveniently located one floor above the football locker room, training room and meeting rooms, and across the hall from the new, state-of-the-art, athletics-only academic centre. The players' lounge has oversized leather lounge chairs that recline to a fully prone position so that players can watch the huge widescreen high-definition television – which is equipped with a DVD player. The

lounge also contains table tennis, foosball, pool and gaming tables, and several arcade-style gaming stations feature the latest PlayStation 2, Xbox and other video games. Mounted in corners of the room are several flat-screen TVs. Immediately to the left of the lounge's entrance is a marble-top bar that contains soft drink and confectionery machines for the players' use.⁴³

- Academic support facilities for athletes are often of higher quality than those available to the student body. Weight-training facilities are often larger and include higher-quality equipment than those available to the student body. Gymnasiums or fields that are used only for basketball or athletics team practices are left unused for the majority of the day.
- Many FBS teams travel by chartered aeroplane – a financial extravagance.

5. Academic eligibility and related academic issues

- The NCAA invented its own graduation rate definition, which is less rigorous and not comparable to the federal definition of graduation rate.⁴⁴ Thus, the performance of college athletes cannot be easily compared to other students not participating in athletics.
- The initial eligibility requirements for incoming freshman athletes are low and excessively dependent on high school grade point averages, which are commonly viewed as inflated.
- The continuing academic eligibility requirements are minimal, enabling some athletes to spend only two or three semesters in college doing little academic work before leaving to play professional sports.
- Many sports permit a large number of regular season contests, resulting in an excessive number of classes being missed.

- FBS national conferences have been formed to ensure large television audience reach. As a result, cross-country or long-distance team travel is commonplace, again meaning that too many classes are missed.

6. Athletes treated as employees

- Most institutions award athletics scholarships for one year at a time, allowing coaches to pressure athletes to leave if they find better-talented alternatives (the equivalent of termination of employment).
- In season, coaches require athletes in football and basketball to put in 40 to 50 hours per week in athletics-related activities, leaving little time for academic responsibilities.
- Coaches establish team rules that allow them to control almost everything an athlete does, with penalties for violations of team rules including loss of athletic scholarship support (again, the equivalent of termination of employment).
- Due process protection of athletes is extremely limited. Athletic department employees are often involved in institutional appeals processes when athletics financial aid is terminated and then challenged by students.⁴⁵
- Because athletes are not employees, they are not permitted under US law to unionise and work together to address grievances.⁴⁶
- The NCAA does not have a code of ethics for coaches that protects athletes from verbal, mental or physical abuse or defines improper behaviour with regard to coach–athlete relationships.
- Even though US education law prohibits sexual abuse and harassment in educational settings, 20 per cent of higher education institutions allow athletic departments to investigate and adjudicate athlete or coach transgressions.⁴⁷

7. Absence of athlete health protection

- The NCAA provides catastrophic insurance, but neither the NCAA nor its member institutions provide athletes with basic injury insurance. Although NCAA rules prohibit students from participating in athletics without athletic injury insurance, most institutions require athletes and their parents to purchase these policies. Most institutions carry secondary coverage policies.
- The NCAA is facing a series of lawsuits related to concussions in contact sports such as football. Plaintiffs allege that the institutions allowed athletes to return too soon and without physician clearance or that the NCAA had knowledge of the effect of concussions but failed to adopt policies to protect athletes, with those athlete now suffering early-onset dementia or similar disabilities.⁴⁸ In the United States, professional football players are limited to no more than two contact practices each week during the season (the result of players' union agreements). There are no similar restrictions for collegiate football, however. It was only recently that the NCAA adopted a concussion treatment policy.

Is reform possible?

Given the current structure of the NCAA – one of control by the Division I FBS – it appears highly unlikely that commercialised athletic programmes will act to restrain themselves from continuing to act against the best interests of college athletes and their host higher education institutions. It has been suggested by many that only action by the United States Congress will produce the necessary reforms. Several proposals have been advanced: (1) the establishment of a federally chartered non-profit organisation that would replace the NCAA with an independent board of expert directors and strict reform instructions; (2) a federal regulatory commission; or (3) establishing US Higher Education Act reform conditions that, if not met, would result in ineligibility for federal funding or a loss of tax privileges.⁴⁹ It appears to be time for the US Congress to act.

Notes

¹ Donna Lopiano is President and Founder of Sports Management Resources, based in Shelton, Connecticut, which brings the knowledge of educational sports experts to help athletics directors solve the integrity, equity, growth and development challenges of their respective athletics programmes.

² For further information on the general structure and function of interscholastic and intercollegiate sport in the United States, see Mary Hums and Joanne MacLean, *Governance and Policy in Sport Organizations* (Scottsdale, AZ: Holcomb Hathaway, 2004). For further information on the most commercialised and problematic US college sport programmes, see Ronald Smith, *Pay for Play: A History of Big-Time College Athletic Reform* (Urbana: University of Illinois Press, 2011); Wilford Bailey and Taylor Littleton, *Athletics and Academe: An Anatomy of Abuses and a Prescription for Reform* (New York: American Council on Education, 1991); and James Duderstadt, *Intercollegiate Athletics and the American University: A University President's Perspective* (Ann Arbor: University of Michigan Press, 2003).

³ National Collegiate Athletic Association, 'NCAA Members by Division' (report run 10 April 2015), <http://web1.ncaa.org/onlineDir/exec2/divisionListing>.

⁴ Ibid.

⁵ National Collegiate Athletic Association, *Revenues and Expenses 2013: NCAA Division I Intercollegiate Athletics Program Report* (Indianapolis: NCAA, 2013), p. 44, www.ncaapublications.com/p-4306-revenues-and-expenses-2004-2012-ncaa-division-i-intercollegiate-athletics-programs-report.aspx (based on 121 members reporting). It should be noted that, while NCAA data is based on audited financial statements provided by institutions, it covers operating expenses only, thereby excluding millions of dollars of capital costs per school each year. A study commissioned by the NCAA has estimated that the average FBS athletic programme had annual capital costs of over US\$20 million: see Robert Litan, Jonathan Orszag and Peter Orszag, *The Empirical Effects of Intercollegiate Athletics: An Interim Report* (Indianapolis: NCAA, 2003), www.ncaa.org/sites/default/files/empirical_effects_of_collegiate_athletics_interim_report.pdf. These losses must be financed by university or state funds, further diminishing already thin educational and fiscal resources.

⁶ Ibid., p. 8.

⁷ Ibid., p. 46.

⁸ Ibid., p. 8.

⁹ Ibid., p. 72.

¹⁰ Ibid., p. 14.

¹¹ Ibid., p. 8.

¹² Ibid., p. 19.

¹³ Ibid., p. 70.

¹⁴ Ibid., p. 8.

¹⁵ Ibid., p. 96.

¹⁶ Ibid., pp. 32, 36 (FBS), pp. 58, 62 (FCS), pp. 84, 88 (non-football). This is not to suggest that the players are receiving the funds. In fact, player benefits are strictly limited by the NCAA to the value of an athletic scholarship, while no such restrictions apply to coaches' salaries, which may be in the multiple millions of dollars.

¹⁷ National Collegiate Athletic Association, *Student-Athlete Participation: 1981-82-2013-14* (Indianapolis: NCAA, 2014), p. 76. The average number of athletes on a Division I men's basketball team is 15.7.

¹⁸ Ibid, Institutions usually do not try to eliminate female sports programmes, because of a fear of lawsuits. Females are significantly under-represented at most institutions, in violation of US education law.

¹⁹ Ibid., p. 12.

²⁰ Drake Group, position statement, 'Student fee and institutional subsidy allocations to fund intercollegiate athletics', 2 March 2015, <https://drakegroupblog.files.wordpress.com/2015/04/position-statement-student-fees-final-3-2-15.pdf>.

²¹ Donna Lopiano, 'Fixing Enforcement and Due Process Will Not Fix What Is Wrong with the NCAA', *Roger Williams University Law Review*, vol. 20 (2015).

²² Knight Commission on Intercollegiate Athletics, *Quantitative and Qualitative Research with Football Bowl Subdivision University Presidents on the Costs and Financing of Intercollegiate Athletics: Report of Findings and Implications* (Baltimore: Art & Science Group, 2009), www.knightcommissionmedia.org/images/President_Survey_FINAL.pdf; Amy Perko and Rick Hesel, 'A

Sustainable Model? University Presidents Assess the Costs and Financing of Intercollegiate Athletics', *Journal of Intercollegiate Sport*, vol. 3 (2010).

²³ Lopiano (2015).

²⁴ Ibid.

²⁵ These conferences are the Atlantic Coast Conference (ACC), the Big 12, the Big Ten, the Southeastern Conference (SEC) and Pac-12.

²⁶ ESPN (US), 'NCAA board votes to allow autonomy', 8 August 2014, http://espn.go.com/college-sports/story/_/id/11321551/ncaa-board-votes-allow-autonomy-five-power-conferences.

²⁷ *Indianapolis Star* (US), 'NCAA approaching \$1 billion per year amid challenges by players' 27 March 2014, www.indystar.com/story/news/2014/03/27/ncaa-approaching-billion-per-year-amid-challenges-players/6973767.

Note that the data is based on NCAA tax forms, NCAA bond prospectuses, NCAA financial statements and interviews and is consistent with 2013 NCAA financial statements: see www.ncaa.org/sites/default/files/NCAA_FS_2012-13_V1%20DOC1006715.pdf; see also US News, 'The case for paying college athletes', 6 January 2014, www.usnews.com/opinion/articles/2014/01/06/ncaa-college-athletes-should-be-paid.

²⁸ National Collegiate Athletic Association, '2014 Finances', www.ncaa.org/about/resources/finances (accessed 15 June 2014).

²⁹ Lopiano (2015).

³⁰ *USA Today* (US), 'Power Five's college football playoff revenues will double what BCS paid', 16 July 2014, www.usatoday.com/story/sports/ncaaf/2014/07/16/college-football-playoff-financial-revenues-money-distribution-bill-hancock/12734897.

³¹ *Chronicle of Higher Education* (US), 'The "Big Five" power grab: the real threat to college sports', 19 June 2014, <http://chronicle.com/article/The-Big-Five-Power-Grab-/147265>.

³² Robert A. McCormick and Amy Christian McCormick, 'The Myth of the Student-Athlete: The College Athlete as Employee', *Washington Law Review*, vol. 81 (2006), p. 71.

³³ National Collegiate Athletic Association, *2014–15 NCAA Division I Manual* (Indianapolis: NCAA, 2014), www.ncaapublications.com/productdownloads/D115.pdf; see article 14.5.1, p. 168.

³⁴ National Collegiate Athletic Association, 'Race and Gender Demographic Search', <http://web1.ncaa.org/rgdSearch/exec/main>.

³⁵ Ibid.

³⁶ Amy Wilson, *The Status of Women in Intercollegiate Athletics as Title IX Turns 40* (Indianapolis: NCAA, 2012), www.ncaapublications.com/p-4289-the-status-of-women-in-intercollegiate-athletics-as-title-ix-turns-40-june-2012.aspx. Even if one argues that schools are spending most money in the sports that generate the most revenues, with male and female athletes in non-revenue sports suffering equally, there can be no economic justification for violating federal laws prohibiting discrimination. If economic justifications were permitted, wealthy individuals and institutions would be allowed to violate discrimination laws.

³⁷ Deadspin, 'Infographic: is your state's highest paid employee a coach? (Probably)', 9 May 2013, <http://deadspin.com/infographic-is-your-states-highest-paid-employee-a-co-489635228>.

³⁸ Drake Group, position statement, 'Establishment of a presidential commission on intercollegiate athletics reform', 31 March 2015, <https://drakegroupblog.files.wordpress.com/2015/03/final-presidential-commission-position-paper.pdf>.

³⁹ *Business Insider* (US), 'Oregon's new \$68-million football facility is like nothing we've ever seen in college sports', 31 July 2013, www.businessinsider.com/new-oregon-football-building-photos-2013-7#; *The Register-Guard* (US), www.registerguard.com/rg/news/local/30050174-75/football-autzen-oregon-center-building.html.csp.

⁴⁰ *Inside Higher Ed* (US), 'Money still talks', 23 July 2012, www.insidehighered.com/news/2012/07/23/criticism-athletics-spending-wake-penn-state-unlikely-slow-growth.

⁴¹ Mountaineer Athletic Club (US), 'Current Projects', www.mountaineerathleticclub.com/page.cfm?storyid=103.

⁴² Ibid.

⁴³ Texas A&M University, 'Athletics', www.aggieathletics.com/ViewArticle.dbml?DB_OEM_ID=27300&ATCLID=205237707.

⁴⁴ The Federal Graduation Rate (FGR) for all students includes all entering full-time students but excludes transfers in or out. The NCAA's Graduation Success Rate (GSR) adjusts institutional rates for transfers, however, even though there is currently no method of verifying that athletes who transfer out actually graduate. The FGR is also inflated compared to the GSR because it includes entering full-time students who drop down to part-time status and take longer to graduate, whereas athletes are required to be full-time students making normal progress towards a degree. The GSR also includes 11,000 Ivy League and military academy students

who (1) do not receive athletic-related aid, (2) are not admitted as athletes and (3) are considered properly as regular students in the FGR. In other words, the GSR is 'spin' and 'padded'.

⁴⁵ Drake Group, position statement, 'Fixing the dysfunctional NCAA enforcement system', 7 April 2015, <https://drakegroupblog.files.wordpress.com/2015/04/tdg-position-fair-ncaa-enforcement.pdf>.

⁴⁶ Currently under appeal is a Region 13 National Labor Relations Board decision that ruled that Northwestern University football players were employees and would be permitted to unionise: see www.nlr.gov/news-outreach/news-story/nlrb-director-region-13-issues-decision-northwestern-university-athletes for the full text of the decision.

⁴⁷ US Senate Subcommittee on Financial Contracting and Oversight, 'Survey of campus sexual violence policies and procedures', www.mccaskill.senate.gov/pdf/McCaskillSurveyCampusSexualAssaults.pdf.

⁴⁸ In July 2014 the NCAA negotiated a US\$75 million settlement to resolve the initial group of these lawsuits, which is currently being challenged. The settlement proposes a 50-year medical monitoring programme, estimated to cost US\$55 million, and US\$5 million for concussion research, with up to US\$15 million designated for attorney's fees. The settlement proposes that plaintiffs as a class give up their rights to seek personal injury damages. In August 2014 formal objection to the settlement was filed, and the objection is still under consideration at the time of this writing. See USA Today, 'Opposition to NCAA concussion settlement filed in federal court', 23 August 2014, www.usatoday.com/story/sports/college/2014/08/23/objection-to-ncaa-concussion-settlement-filed-anthony-nichols/14490501.

⁴⁹ Drake Group, 31 March 2015 position statement.