Want College Sports Reform?  
Start with Paying Power 5 Football Players

The NCAA has made clear its opposition to athlete compensation and has maintained what the association considers to be a hard-line commitment to “No Pay” as a nonnegotiable guiding principle. “No Pay,” however, has become a meaningless-at-best, disingenuous-at-worst, and quite possibly soon-to-be-ruled-illegal objective that in real application simply works to place an artificial anticompetitive restraint on athlete compensation. We need to start by compensating football players in the Power Five conferences.

Although much of the energy around athlete compensation has focused attention nationally on the NCAA, the location of power and media rights money in college football is at the conferences, and especially with the Power 5 conferences. This is also where university presidential power for effecting change resides.

Start With Football – It’s the No. 1 Sport in College

College football is a uniquely powerful American institution. The game is played in one country, by athletes from one country. This has allowed American football to develop in a unique way, and without giving much consideration to outside sports business trends, including labor advancements, such as paying players or recognizing unions. The professional sports space that shares most in common with college football is not professional American football but the professional soccer football clubs of England and Europe, born in the same historical moment and holding similar community-serving values. Although soccer quickly became a global game, American football became a core feature of American exceptionalism rhetoric of the twentieth century, and its presence on the campuses of institutions of higher education allowed it to develop a peculiar critical tension: structuring the sport as an educational program for athletes while running and growing it like the business it is for everyone else. Any attempts at establishing guardrails to protect the educational mission by limiting business growth, however, have either been overthrown by the schools themselves or ruled violations of antitrust law by the courts.

Football has always been the driving force behind American college sports policy. At the institutional level,
athletic departments first developed around the sport, and although an individual institution might have enjoyed other popular sports programs, football has always been the core priority. At the national level, the NCAA was born out of a football crisis, and the modern bureaucracy and national college athletic policy established by Executive Director Walter Byers during his tenure in the crucial decades of the 1950s through the 1980s were designed with football primarily in mind. Athletic directors and football coaches have always been the powerbrokers in college sports, with conference commissioners joining their ranks at the turn of the twenty-first century.

Crucially, football’s economic and cultural power derives from its critical role in serving the industry of American higher education. This has given football far more power and value beyond the world of intercollegiate athletics. Since the mid-twentieth century, football game day has served as the most potent symbol in the American imagination of what it means to go to college. American higher education has increasingly been shaped by an awareness that what universities are selling is a college experience, only one part of which involves academic learning.1 Because of this, football serves the industry of higher education as much as, or even more so than, the industry of big-time college sports. And college football, of course, serves industries in the United States beyond intercollegiate athletics and higher education, driving local economies and fueling college towns.2

CRUCIALLY, FOOTBALL’ S ECONOMIC AND CULTURAL POWER DERIVES FROM ITS CRITICAL ROLE IN SERVING THE INDUSTRY OF AMERICAN HIGHER EDUCATION.

Power 5 Conferences are the Power Brokers

The Power 5 conferences have spent the last decade solidifying their control over college football. They collectively represent a 4-billion-dollar-per-year industry, thanks to structural changes in college football over the past decade. University presidents have celebrated the conference commissioners who have successfully brought college football into the twenty-first century by adopting global sports business practices. But they haven’t gone all the way there. Power 5 football’s instituting athlete compensation will be the final step.

Rising athletic conference power is a story of rising college football money and power. The story of rising college football money is part of the global story of rising live sports and media rights. The price of purchasing media rights to broadcast live sports has increased dramatically over the past ten years. With streaming companies that have disrupted traditional TV broadcast networks, sports have become the most important and popular remaining type of program people still watch live. This has raised the value of media rights for sports leagues and teams, because media companies know they will be able to sell advertising slots at high prices—those companies want to air ads during a program that will receive more eyes and one that viewers cannot skip over by fast-forwarding. Meanwhile, streaming platforms have entered the live sports scene, aggressively bidding on broadcasting rights, knowing that sports fans will sign up for the platform when it is the only place to watch their team. And traditional broadcast networks that have developed their own streaming platforms know that placing key games on them will increase subscriptions too.

Once the top football schools busted the NCAA’s TV monopoly (enabling schools and conferences to negotiate their own TV deals) in 1984, they have been able to grow the money and claim increasing control ever since, launching the Bowl Championship Series in 1996, and the College Football Playoff in 2014. The five most powerful conferences hold a precarious alliance. They benefit from acting together but compete with each other for talent and to maximize market reach and value. Conference realignment, such as when the Big Ten brought in Rutgers (NYC market) and Maryland (DC), is TV market expansion.3
College football has benefited greatly from the rising value of sports media rights. The Power 5 conferences’ collective revenue, just shy of $4 billion annually today, was only $2.1 billion in 2014-15. Over the next six years, from 2014 until the start of the coronavirus pandemic, the Power 5 experienced a remarkable rate of growth, increasing by an average of $252 million each year.

But the story of rising college football power is explained by more than the increased value of media rights. This is also a story of the consolidation of money and power by the Power 5 conferences thanks to their 2014 autonomy move and the launch of the College Football Playoff, which enjoyed the brilliant yet coincidental timing of happening in tandem with the broadcast media disruptions that elevated the market value of sport.

The autonomy move was not presented as an aggressive act to consolidate money and power but constructed as the solution to an existential crisis. The summer of 2014 presented a challenge to big-time college sports comparable to the summer of 2021: Congressional hearings in the aftermath of the UNC academic fraud, unionizing energy among Northwestern football and the national #AllPlayersUnited movement, the O’Bannon v. EA Sports and NCAA federal case, and a racial reckoning in support of Black lives in both college sports and broader society.

A cynical read would be that the Power 5 leveraged the crisis to create the conditions for the group’s rise, but in the moment, these conferences and their school leaders reasoned that only they could afford the high cost required to increase athlete benefits – basically adopting all the planks in Northwestern quarterback Kain Colter’s platform – and that the association had better quickly reorganize to give them enough space and the authority to act independently to do so. These new measures included a return to four- and five-year athletic grant-in-aid (replacing one-year renewable grants), lifetime scholarships (or the ability for athletes who leave school in good academic standing, say, by turning pro, to return at any time to complete their degree), increased medical care and coverage, more athlete representation in governance, and, with a little more work to make it happen, cost-of-attendance stipends that would bring athletic scholarships in line with other student scholarship opportunities.

The clearest case for athlete compensation rests with football athletes in the Power 5 conferences. Schools have been successful in their effort to separate out football from the rest of their intercollegiate athletics programs—geospatially on their campuses and in organizing their finances and reporting to the Department of Education for Title IX compliance. The schools’ conferences have been successful in their effort to separate football from NCAA governance and finances and adopt twenty-first century sports business practices to grow the market value and financial rewards. Considering the decades-long opposition by schools despite the progressive chipping away at the “No Pay for Play” line and despite the fluidity of that “No Pay” line, going narrow with the group most deserving by introducing athlete compensation for football athletes in the Power 5 conferences is the appropriate and responsible place to begin.

The Knight Commission on Intercollegiate Athletics has published a series of strong recommendations to restructure college sports, including a proposal to establish a new and independent National College Football Association by cutting all remaining loose ties to NCAA governance and financial stakes with Division I championship football. Although the Knight Commission does not go there, recommending football athlete compensation is the logical and practical next step. The report instead recommends a larger portion of football money allocated to benefits and programs to serve all athletes within an intercollegiate athletics program. But because of the unique and separate structure and financial and cultural power that makes football a sport apart, football money should stay with football athletes.
Encouraging schools to spend more money on athletes through the benefits they receive, but without revenue sharing and paying money directly to athletes, will not end the practice of irresponsible spending that has plagued college sports in the twenty-first century. Ironically, instituting paid labor could very well be the thing to end the audacious, outrageous spending of the last two decades. We have seen what the conferences’ collective average $252 million annual increase (before the pandemic) has resulted in: escalating coaches’ salaries (across the board, from head coaches all the way down, and across all sports); facilities arms races, and athletic department staff explosions.

Although the economic growth of big-time college sports has temporarily stagnated during the coronavirus pandemic, the pandemic itself has proven that Power 5 football is an industry apart and has provided a crucial lesson that must not be forgotten: Football athletes are workers. During the 2020 football season they were essential workers. Two of the Power 5 conferences, the Big Ten and the Pac-12, released statements in the summer of 2020 that all fall sports would be postponed and played in the spring of 2021. Full stop. Yet both conferences ended up walking this back and commencing with play in the fall... but only with the football. No act has more clearly exposed as myth the idea—and the idea so crucial to upholding “amateurism” or what is now called “the collegiate model”—that all sports are the same and therefore all athletes are deserving of the same benefits. The anticipated athletic department budget shortfalls, anxieties around enrollment and retention, and the perception of a recruiting disadvantage and resulting competitive and financial hits after the other Power 5 conferences greenlighted the fall season proved that football athletes were essential to the businesses of intercollegiate athletics and higher education. Correspondingly, the hundreds of sports teams cut by universities were simply collateral damage, ancillary to the core business of football and therefore expendable.

Going forward, this era of irresponsible spending from 2014 to 2022 is a bubble that must be burst. It is not, however, that the value of the product was artificially inflated. The money will remain, but its allocation must include a greater portion of the pie going to football athletes. If spending on coaches’ salaries, unnecessary facilities expenditures, and athletic department staff decreases, so be it.

A NOTE ABOUT BASKETBALL

Basketball – men’s and women’s basketball – deserves its own study and case to be made that basketball athletes deserve compensation. A section below addresses global and domestic disruptions in basketball, which may result in enough external pressure to force college basketball to adopt athlete compensation to stay competitive with other playing options for star basketball players coming out of high school and dreaming to play at the highest professional levels.

Athletic Scholarships are Undercompensation for Football Athletes

Just as football has always been a sport apart, so too have been football athletes, in their athletic and academic experiences and treatment by universities. The time demands and expectations of performance mean that football athletes face even more pressure-filled, challenging circumstances balancing athletic and academic roles and responsibilities. Graduation rates among football athletes, especially Black football athletes, are considerably lower than the overall student body, or even college athletes as a whole. Even for those who graduate, the educational degree-seeking experience can be watered down, with the preponderance of “clustering” in majors and “majoring in eligibility,” and the sports commitments that make taking certain classes,
visiting office hours, attending special events, working internships, or taking a semester abroad less likely.

As athletic facilities continue to move further from the academic core of campus, the geospatial design of football also sets football athletes physically apart from other athletes. Administratively, universities have long organized football separately in bookkeeping, and continue to do so, even when reporting numbers for compliance with Title IX.

The rhetoric upholding amateurism – today, contained by the NCAA's “No Pay” hard line – also includes the crucial notion that all sports within an athletic department, and all athletes across all teams, are the same and deserving of the same benefits. This belies the very different industries operating under the umbrella of college sports. Speaking in terms of football athlete labor, the actual price of an athletic scholarship (despite its presentation by amateur ideology as “priceless”) falls far short of the monetary value of a football athlete’s labor. Moreover, the athletic scholarship a football athlete receives is of weaker value than those enjoyed by athletes in other sports, who are more likely and better set up to enjoy a fuller range of educational experiences and opportunities that a scholarship to a university is supposed to provide.

The conflation of amateurism ideology’s morality with education has worked to place an athletic scholarship on a pedestal of pricelessness while encouraging the sentiment that pay somehow would harm education. This has also, ironically and tragically, quashed innovation in athlete education, while simultaneously successfully creating a misdirection by keeping the focus on policing compensation and perceived violations of amateurism.

“No Pay” rules are not at their core about punishing “bad” actors and “cheaters,” though that is how they end up being implemented. “No Pay” rules are about making sure athletes are not classified as employees. So, of course “No Pay” is not about protecting athletes’ education.

If the concern really were education, we would have seen a redesign of curriculum and loosening of timelines for football athletes. Why haven’t we seen the development of a football major, for those students who want it, inspired by majors in the performance arts? Why should a football player be expected to enroll in 12 or 15 credit hours (beyond football learning) in a fall season when he is working upwards of 40 hours per week, facing far more intense pressure—and from a wider range of sources—than athletes in other sports to perform well and win, and playing a physically demanding game that often causes athletes to endure a lot of pain? Because admitting sports are serious and a business and redesigning football training in line with educational and professional development principles to serve athletes would expose the professional nature of college football. The last thing colleges have wanted to do is act in a way that convinces state and national labor relations boards to classify and treat football athletes as employees.

**Conference Football Revenues Should be Shared With Football Athletes**

Everything about Power 5 conference college football has the markings of a professional sports league, with the exception of the “No Pay” principle bundled together with the “student” identity of athletes. Many professional sports leagues in the United States have adopted revenue sharing approximating 50-50 with athletes as part of collective bargaining agreement negotiations with player unions. Fifty-fifty revenue sharing has become the standard. Dropping the “No Pay” rule while keeping a requirement that football athletes be students is the right benefits move for football athletes and the right business move for colleges and their conferences.

Conferences have been handling and standardizing the distribution of football TV money (and, more recently, CFP money) since at least 1955, when the Big Ten, according to its website, “formulated a revenue-sharing
model designed to pool all football television rights of its members and share those proceeds equally. The conference and its members continue to utilize a revenue-sharing model, dividing media rights, bowl payouts and other profits among all conference institutions.”

The Power 5 conferences should see that the changes they have made to grow the business of college football into a multibillion-dollar industry have made 50-50 revenue-sharing with athletes inevitable. They should also see that 50-50 revenue sharing is coming because of broader, external forces.

Outside of higher education, the offering by sports leagues of paid compensation and free or subsidized education has become commonplace. New start-up leagues offering both pay and education have enjoyed the most success in basketball. Some, like the Professional Collegiate League and Overtime Elite (intended for elite high school juniors and seniors) have been explicit in their attempt to disrupt big-time college and high school “amateur” sports. This disruption and recalibration of expectations for U-23 athlete benefits in basketball will affect all high-revenue sports industries, and even parochial, domestic, inward-facing American football has become exposed. Improved athlete compensation and education benefits in the NBA G-League, PCL, and Overtime Elite coupled with an openness among young American stars to pursue opportunities in professional leagues beyond U.S. borders, have created an awareness among professional and developmental sports organizations that financial compensation and education benefits are not mutually exclusive. Instead, the expectation is that they should come together in a package of athlete-employee benefits.

These changes are even happening in football. While Don Yee’s attempt to disrupt college football with a pay-to-play league has failed for now, the United States Football League, set to relaunch as a spring league in April, will be providing all athletes and staff with education benefits as part of compensation packages. The NFL, like most American and European professional sports leagues and teams, offers education benefits and paid degree-seeking opportunities as well.

All three branches of the federal government also have taken interest in fixing troubling business practices of American universities’ big-time sports.

The Supreme Court, in NCAA v. Alston, has determined schools’ efforts to come together to agree to the placement of an artificial restraint on one form of athlete compensation (narrowly, tethered to education) to be a violation of antitrust law. More importantly, going forward, the Court made clear it would put an end to the NCAA’s decades of reliance on a passage in Justice John Paul Stevens’ opinion in Board of Regents that the association claimed the Court “expressly approved the NCAA’s limits on student-athlete compensation.” Writing the unanimous opinion of the Court, Justice Neil Gorsuch dismissed the NCAA’s use of the Stevens passage outright: “That is incorrect... that sort of passing comment on an issue not presented is not binding, nor is it dispositive here.”

This Court could in the near future be amenable to lifting of restrictions on other forms of athlete compensation, including the possibility of ruling in favor of revenue-sharing, and tied to schools monetizing athletes’ NIL in the media rights sold by conferences. House v. NCAA, a class-action lawsuit that also includes Oregon basketball star Sedona Prince among the athlete plaintiffs and the Power 5 conferences as defendants, is currently at the federal district court level. The case, which Judge Claudia Wilken denied an NCAA motion to dismiss,
makes an antitrust claim that NCAA rules preventing name, image, and likeness compensation from the selling of media rights by conferences and the NCAA has an anticompetitive effect.

The executive branch has been actively engaged in interventions to correct college sports business practices, too. The United States Justice Department filed an amicus brief in support of the athletes’ claims, and, after requesting to speak during oral arguments in support of the athletes in Alston, Elizabeth Prelogar, Acting Solicitor General, told the Court, “Amateurism is not its own free-floating ideal under the antitrust laws.”

In a similar vein to the Justice Department reminding American universities that they may not evade antitrust law, the National Labor Relations Board has made clear to schools that they must not use language that deters athletes from recognizing and activating their rights as employees. General Counsel Jennifer Abruzzo issued a memo explaining to universities that “misclassifying such employees as mere ‘student-athletes’, and leading them to believe that they do not have statutory protections is a violation of Section 8(a)(1) of the [National Labor Relations] Act.”

Meanwhile, Senate and House committees and sub-committees continue to hold periodic hearings, and Senators and Congresspeople have announced athletes’ bills of rights and other forms of draft legislation with proclamations of looming changes coming to American college sports. Five years ago, the place of governmental intervention appeared to be Congress, but Congress’s role in determining the future of college sports policy has become increasingly murky, and quite possibly unnecessary.

The NCAA’s “No Pay” Hard Line Will be Impossible to Hold (and Has Never Been Static)

In 2013, during the O’Bannon case and growing public awareness and attention to college sports issues, Allen Sack and Andrew Zimbalist gifted the world with a brilliant line (with which Prelogar’s pairs nicely): “Amateurism in intercollegiate athletics is whatever the NCAA says it is.” Their paper detailed the artificiality of amateurism and the history of classifying and reclassifying what fell on the clean side of the amateur line and what fell on the dirty side—including an incredible moment when forms of subsidization deemed clean (like booster payments to athletes) and methods deemed dirty (schools granting athletic grant-in-aid untethered from academic merit) had flipped.

Though school-paid athletic grant-in-aid has been the standard form of subsidization since 1956, the NCAA’s “No Pay” line has been in constant motion since 2014, and especially over the last year. Every time the “No Pay” line has moved it has been in reaction to athlete agitation. And every time, the effort to expand athlete benefits has provoked powerbrokers—university presidents, athletic directors, coaches, and conference and NCAA executives—to declare the hoped-for increase in athlete benefits to be ruinous of “competitive balance,” a violation of the amateur or educational spirit of college sports, and a form of pay for play. But after every increase in athlete benefits, college sports have survived and those powerbrokers subsequently have taken credit.

Schools opposed increasing scholarship amounts up to the full cost of attendance, presenting COA as something that could become manipulated and transformed into extra, impermissible benefits. Then Power 5 schools voted to approve COA stipends. Same story with school-provided food and meals, with the ever-expanding rule-book even drilling down to condemn the presence of cream cheese on bagels... until the 2014 Final Four,
when UConn basketball athlete Shabazz Napier comments about going to bed hungry and subsequent public outrage motivated NCAA members to quickly vote to approve unlimited provisions and access to food.23

The arguments against the expansion of benefits provided to athletes can at times feel Orwellian, with NCAA lawyers arguing in Alston that increasing spending by schools on the schooling of athletes amounted to pay for play and would erase the demarcation between college football and professional football. Especially so, when that recent argument against increased education spending, presented before the Supreme Court, no less, is lined up alongside the latest phenomenon of in-house name, image, and likeness services provided in a systematic manner, with schools negotiating and taking a cut of the endorsement deals they broker for athletes department-wide.

It is easy to see a natural next step from in-house coordination and facilitation of name, image, and likeness deals, like what has been established at Ohio State24, to schools sharing the money they make off athletes’ NIL in the media rights they sell or the school-wide endorsement deals they pen. Moving outside the United States to look to the (global) Olympic Movement’s progressive steps out of amateurism and into outright professional athlete participation offers a useful comparison. (Though, it must be odd to be an international athlete in 2022 competing in the NCAA at an American college, when one’s home country never had any “amateurism” or “no pay” rules around sports participation and meanwhile simultaneously being unable to monetize one’s name, image, and likeness in the United States because laws around employment and student visas prevent it.)

Finally, the recent phenomenon of colleges embracing sports betting and entering in partnerships with sportsbooks would seem to place the final nail in the coffin of amateurism, or at least the sense that schools might want to protect students in educational settings from one of the most explicit markings of professional sports. One would think preventing the introduction of gambling would be an important effort in universities’ proclaimed mission to retain a clear demarcation line between college and professional sports. Instead, the embrace of gambling by institutions of higher education represents yet another way athletic departments are operating like any other twenty-first century sports entertainment business, their existence within educational institutions made inconsequential.

The Relationship Between Colleges and the NFL Will Need to be Reconfigured

The NFL and major college football have established a collection of practices that work to “keep the peace” and ensure the health and wellbeing of both “leagues.” The nature of this working agreement between the NFL and colleges, however, has left college athletes vulnerable and unprotected. With the introduction of athlete compensation and labor relations in college football, the NFL and colleges’ relationship will experience a natural renegotiation.

Scouting and draft-eligibility determination processes will need to be reworked. The NCAA serves as a direct pipeline for the NFL; in recent years, every player drafted into the league has come from the NCAA. Right now, the NFL enjoys streamlined scouting and schools effectively running player development for them. (Contrast this with the club-financed academy system of player development in European soccer football.)

For an example of peace-brokering, NFL official messaging discourages college athletes from declaring for the draft before exhausting their college eligibility. The NFL’s development pipeline website and College Advisory Committee emphasize the importance of earning degree before declaring for the draft and leaving college; this is an odd message, considering schools’ (recently forced)
adoption of a lifetime scholarship policy (as long as athlete leaves in good academic standing) and the NFL’s provision of education and degree completion funding too.\textsuperscript{25}

Another precarious balancing act that will require recalibration is that between NFL athletes and college athletes, and whether they come together as one unit to negotiate with their respective employers. NFL athletes will want to protect their jobs from expanded competition, but also should recognize that pay may encourage college athletes to stay in school longer. College athletes will need representation, and, ideally, as a collective body. Although the NFLPA holds a potential for being compromised by prioritizing NFL athletes’ interests, the union is also perhaps best positioned to become the bargaining unit considering this is a young, temporary workforce.

\textbf{Reconfiguring Football can be Community-Building Opportunity}

Just as the term “student-athlete” should be abandoned, so too should the term “booster.” Taken together, these labels have worked to transform a university relationship with community supporters into a complicated one marked with skepticism and encouraging the keeping of an eye for potential for corruption. By abandoning amateurism, American universities can begin work redesigning this relationship in the mold of English and European club football by building relationships with a collection of “Supporters” in a “Community Trust.”

Learning the lessons of European football—and seeing how much European football clubs and communities have in common with American college football teams and college towns\textsuperscript{26}—will embolden university leaders to recognize that by losing their “unpaid” identity, athletes will by no means lose their appeal to fans. Even the “student” identity of athletes may eventually no longer matter, though that does not mean that schools can abandon their commitment to providing free education for life to football athletes. It could mean that the free education is enjoyed by the football athlete at a later time.

College football always will have a unique product and feel, thanks to the students who attend games as fans, the season falling at the beginning of the school year, and the memories and ideas of football in college town communities and what that has long meant to Americans. Likewise, American colleges will continue to be able to sell the idea of college to American families and prospective students with the image of a college football game. The “paid” or “unpaid” identity of athletes will have no effect on the feel of a football game on a college campus in the fall.

\textbf{Football Reform Will Benefit Women’s Sports and Olympic Sports}

Having football treated separately, with football athletes in an organized labor revenue-sharing agreement, benefits women’s sports and Olympic sports as well. It frees up Olympic sports for a redesign too. The separate basketball study recommended as a next step will determine whether men’s and women’s basketball should be placed organizationally with football or Olympic sports, or should operate in a third category of their own.\textsuperscript{27}

Conferences should work in partnership with National Governing Bodies and Coaches’ Associations to create new subsidization models in a sport-by-sport manner.\textsuperscript{28} They can partner with schools to develop sports infrastructure on university campuses as community assets and promote Olympic sports for the valuable global assets they are, thereby expanding the conference’s and member schools’ global reach. All these directives align with universities’ local, national, and global strategies.
The domestic focus of football has held back the global market growth of Power 5 Olympic sports. Power 5 conference championships in the Olympic sports are like mini-Olympics, or previews of Olympic Games, only with athletes from many countries participating together as school teammates rather than representing their national teams. Again, European football provides a model for global brand and market growth strategy.

There is opportunity to redesign Olympic development and American college sports in tandem. Next steps involve studying practical possibilities for rethinking subsidization and the potential for universities’ sports infrastructure to be publicly subsidized as Olympic development centers and community-serving assets and spaces of community use. The United States Olympic and Paralympic Committee, amid growing concern around colleges cutting Olympic sports teams, launched a College Sports Sustainability Think Tank, bringing together American Olympic sports and college sports stakeholders to brainstorm ideas for protecting Olympic sports on college campuses.29 This effort could be legitimized and empowered through conferences.

“But what about the women” has regularly been deployed as a Title IX shield to defend the amateur status quo, and often, as women’s sports advocates have noted, by the very people often working to stymie the growth of women’s sports. Organizing Olympic sports separately could enable schools to comply with the gender equity law in substantive ways that expand participation opportunities in line with a scholastic model of sport.

It could also work to bring back men’s teams cut because of the focus on football yet blamed on Title IX.30

A quick practical note: One way to remain in compliance with Title IX after the adoption of football revenue sharing at the conference level would be to have conferences separate out (and make public) media rights in a sport-by-sport manner. (Or dividing in three groups: football, men’s and women’s basketball, and Olympic sports.) As National College Players Association Executive Director Ramogi Huma has been advocating, adopting 50-50 revenue sharing in a sport-by-sport manner would keep schools in compliance with Title IX. Another option is to spin off football.31

There is irony in advocating for the separate treatment of football from other sports teams on college campuses. Early resistance to a broad application of Title IX in college sports settled on working for an exemption for football (after the attempt to get an exemption from compliance for all of intercollegiate athletics failed). While Senator John Tower’s 1974 football-exemption amendment also failed, the pressure placed by football powerbrokers did result in schools’ ability to essentially run football separately and treat it differently from other sports.

But Congress passed Title IX and the Department of Health, Education, and Welfare drafted regulations in the 1970s, before the massive business growth of college football began its upward trajectory. Football has for a long time no longer fit with a scholastic model of sport (think high school sports writ large). At the same time, the obligation of schools to provide scholastic sporting opportunities and equal educational opportunities on the basis of gender will remain. School sports will not disappear when football athletes get a portion of the revenues they generate.

Recent revelations exposing gender inequity as a feature, not a bug, of NCAA championships planning, funding, and marketing also suggest opportunity in removing women’s sports from the imposing shadow cast by football. Kaplan, Hecker & Fink’s gender equity review exposed the myriad ways in which the NCAA has held back the growth of women’s sports, and not just in colleges. The NCAA active manipulation of markets, like underselling the women’s basketball national tournament’s media rights and preventing the sport from

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SCHOOL SPORTS WILL NOT DISAPPEAR WHEN FOOTBALL ATHLETES GET A PORTION OF THE REVENUES THEY GENERATE.
negotiating its own corporate partnerships, has worked to create a (mis)perception that women’s sports represent an unpopular money drain, and affecting women’s professional sports in the United States too.32

Relatedly, conferences have not received similar attention as NCAA and schools for their attention to gender equity. A conference restructuring including an initiative to redesign Olympic sports conference organization, championships, and the packaging and selling of media rights would benefit women’s and Olympic sports, too. Power 5 university presidents should recommend that their conferences make public previously undisclosed information related to organizational charts, championships planning, and finances, much like the NCAA agreed to do with the KHF gender equity review.

The neglect of women’s sports demonstrates another way in which amateurism has held American college sports back while global sports business advances on. The Deloitte Sports Industry Outlook for the last two years has highlighted women’s sports as the greatest growth area in the global sports industry. If women’s sports are able to partner with the brands that want to work with them, if the NCAA and conferences adopt gender equity in championships beyond football as a guiding principle, women’s college sports will (finally) be given the opportunity to develop and thrive with their own business cultures.

In addition to serving elite athletes, expanding school sports participation opportunities to more students and opening up facilities for community use are in line with the educational and community-serving mission of universities.

**Football Beyond the Power 5 Faces Different Future**

The Group of 5 conferences will have some decisions to make. They could choose to follow the Power 5 conferences and adopt this model of 50-50 revenue sharing with football athletes coupled with an Olympic sports redesign. But should the Group of 5 challenge the Power 5’s adoption of revenue sharing citing competitive balance, they will face considerable difficulty. The College Football Playoff’s current distribution model sends far less money to Group of 5 conferences than the Power 5.33

Furthermore, Group of 5 university presidents will need to consider whether it is in the best interest of their universities and their students to continue to sponsor a football team. They should question the viability and ethics of continuing to get paid to play football against Power 5 schools, then using that money to subsidize athletic department operations and other teams’ playing opportunities. Football can be harmful to brains and bodies, and having less college football teams (and less bowl games) could be a good thing.34

Much like Olympic sports among the Power 5 conferences, a recalibration and the restoration of a scholastic model of sports among Group of 5 schools provides opportunity to reimagine what school sports participation means in a university setting.
What Becomes of the NCAA

These reforms will have substantial impact on the NCAA as well. Football—and football power residing with conferences—has long been the existential threat to the NCAA, not the end of “amateurism” and athlete pay for play. The NCAA will also need to address the changes soon coming to elite U-23 basketball that could compromise the association’s lucrative men’s national championship basketball tournament (not to mention the women’s tourney it has neglected).

If the NCAA does not establish a leadership role in sports governance by setting standards and enforceable principles around academic integrity, race and gender equity, health and safety (including protection from sexual assault and abusive coaching), or beginning to work with Olympic sports NGBs and coaches’ associations to develop national championships in a coordinated way, it may cease to exist, or at least see in its future a similar loss of power in sports governance as the Amateur Athletic Union experienced in the 1970s.

College sports and national championships participated in by elite world-class athletes will continue to exist without an NCAA. It will be up to NCAA leadership whether the NCAA continues to play a role in organizing championships and executing governance in American college sports.

About the Author

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 ENDNOTES


3 The Big Ten has a second office in New York City, with no school member in New York state.


USA Today College Football Coaches Salary Database, [https://sports.usatoday.com/ncaa/salaries/football/coach](https://sports.usatoday.com/ncaa/salaries/football/coach); USA Today College Football Strength Coaches Salary Database, [https://sports.usatoday.com/ncaa/salaries/football/strength](https://sports.usatoday.com/ncaa/salaries/football/strength); Steve Berkowitz, Dan Wolken and Tess DeMeyer, “NCAA’s Power 5 schools see steep raise in pay for non-revenue coaches,” August 12, 2019: [https://www.usatoday.com/story/sports/2019/08/12/ncaa-power-5-schools-steeply-raising-pay-non-revenue-sport-coaches/1946843001/]


All athletes are spending more time on athletic activities than the 20-hours-per-week limit. Football athletes, for example, self-reported 40 hours per week in season, in a 2019 NCAA study. Baseball athletes reported 42 hours per week, the highest number reported. 2020 NCAA “GOALS” Study of the Student-Athlete Experience. [https://ncaao.org.s3.amazonaws.com/research/goals/2020D1RES_GOALS2020con.pdf](https://ncaao.org.s3.amazonaws.com/research/goals/2020D1RES_GOALS2020con.pdf)


The NBA collective bargaining agreement includes approximately 51-49 revenue sharing in favor of players, and the NFL collective bargaining agreement places revenue sharing at 51.5-48.5 in favor of owners, with the players’ share slightly more mobile but not less than 48 percent through 2030. NBA Collective Bargaining Agreement, January 19, 2017: [https://cosmic-s3.imgix.net/3c7a0a50-8e11-11e9-875d-3d44e94ae33f-2017-NBA-NBPA-Collective-Bargaining-Agreement.pdf](https://cosmic-s3.imgix.net/3c7a0a50-8e11-11e9-875d-3d44e94ae33f-2017-NBA-NBPA-Collective-Bargaining-Agreement.pdf); NFL-NFLPA Collective Bargaining Agreement, March 15, 2020: [https://nflpaweb.blob.core.windows.net/website/PDFs/CBA/March-15-2020-NFL-NFLPA-Collective-Bargaining-Agreement-Final-Executed-Copy.pdf](https://nflpaweb.blob.core.windows.net/website/PDFs/CBA/March-15-2020-NFL-NFLPA-Collective-Bargaining-Agreement-Final-Executed-Copy.pdf)
As I wrote in March, 2021, “NCAA lawyers have long pointed to a passage in Justice John Paul Stevens’s Board of Regents decision, in 1984, that busted the NCAA’s TV monopoly, allowing colleges and conferences to negotiate (and enjoy the revenues of) their own TV contracts. In the passage (one that many legal scholars and the plaintiffs consider to be dicta), Stevens wrote that NCAA colleges should be able to uphold the “revered tradition of amateurism in college sports” that makes it distinctive from professional sports. Stevens continued: “In order to preserve the character and quality of the ‘product,’ athletes must not be paid, must be required to attend class, and the like.” Victoria Jackson, “The NCAA’s Farcical Anti-Athlete Argument,” The Chronicle of Higher Education, March 29, 2021: chronicle.com/article/the-ncaas-farcical-anti-athlete-argument


Troy Vincent, Sr. executive vice president of NFL Football Operations: “While some like to debate the advantages of declaring early for the draft, one thing is for certain: Completing your education affords you more opportunity and financial freedom beyond football.”

Unlike American professional sports franchises that pick up and move, European soccer clubs are grounded in place, belong to their communities, and were born in the same historical moment as American college football teams (the turn of the twentieth century). The beloved history, traditions, songs, generational attachments, and century-long rivalries that form the elements of college football fandom find their closest relative and kindred spirit in European club football.

Conferences could create a new position at the top of the org chart alongside the Commissioner (for football): Conference Co-Commissioner for Olympic Sports.

Tennis is providing the model here, particularly the work of the Intercollegiate Tennis Association, in partnership with the United States Tennis Association. https://www.wearecollegetennis.com/
USOPC College Sports Sustainability Think Tank. https://www.teamusa.org/usopc-think-tank

A scholastic model should increase playing opportunities. The focus on football has created a culture of supporting only elite playing opportunities by universities, which used to field freshman, sophomore, and junior varsity teams.

As I’ve written elsewhere, privatization would still keep teams within arm’s reach, so schools can continue to enjoy all the marketing and community benefits they have come to depend on. And football players in a dangerous sport might finally get paid compensation and unionized labor rights — and, by including lifetime scholarships in compensation packages, the quality educational experiences they truly deserve. Victoria Jackson, “Cancel the Fall College Football Season,” Boston Globe, June 23, 2020: https://www.bostonglobe.com/2020/06/23/opinion/cancel-fall-college-football-season/


The College Football Playoff sent, on average, 57 million to each of the Power 5 Conferences in spring 2021 for the 2020-21 bowl season. By contrast the CFP sent a total of approximately 83 million to the other 5 conferences of Division I. (Independent Notre Dame received 2.5 million; the other three independents received 1.85 million, collectively.) Finally, the CFP sends 2.85 million total to “certain” conferences within the College Championship. College Football Playoff Revenue Distribution. https://collegefootballplayoff.com/sports/2017/9/20/revenue-distribution.aspx

This is a trend at the high school and community college level. For example, the community college system of Maricopa County, Arizona collectively dropped football after the 2018 season. Some Division III schools seem to be moving in the opposite direction; a recent development among DIII schools with enrollment concerns has been to add football as a mechanism to guarantee 100 tuition-paying students.