

THE \$6 BILLION HEIST: ROBBING COLLEGE ATHLETES

UNDER THE GUISE OF AMATEURISM



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Robbing College Athletes Under the Guise of Amateurism

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Introduction

This study, a collaborative effort between the National College Players Association and Drexel University Sports Management Program, reveals that National Collegiate Athletic Association (NCAA) rules will deny FBS football and men's basketball players at least \$6.2 billion that they would otherwise receive in a fair market between 2011-2015. Further, while the data shows that the average full athletic scholarship is worth approximately \$23,204/year, the study estimates the average annual fair market value of big time college football and men's basketball players to be \$137,357 and \$289,031 respectively. Therefore, after counting the value received from a full athletic scholarship, the average FBS football and men's basketball player loses \$114,153 and \$265,827 of his annual fair market value, respectively. When those losses are projected over a four year career, a football player may lose on average approximately \$456,612; a men's basketball player approximately \$1,063,307. Nationwide, FBS football and men's basketball players were denied over \$1.5 billion of their fair market value in 2011-12. Ultimately, football players receive about 17% of their fair market value while men's basketball players receive approximately 8% of theirs.

In addition to denying the vast majority of these players' their fair market value, the NCAA prohibits its member institutions from providing "full" athletic scholarships that cover all of the costs associated with attending a college or university. NCAA rules allow athletic scholarships or grants-in-aid to include tuition, room and board, and books. Expenses that are allowed for academic scholarships but are prohibited from inclusion in athletic scholarships may include books that are recommended but not required, school supplies, transportation to and from school, basic necessities, and entertainment. In 2011-2012, the range of out-of-pocket expenses for a "full" scholarship athlete in the Football Bowl Subdivision (FBS) was \$1000/year to \$6904/year depending on the institution.

Meanwhile, the NCAA restricts the value of the full scholarship to a level of compensation that is at or below the poverty level for the vast majority of athletes at a time when, according to President of IMG College, Ben Sutton, "college sport is indisputably on fire" in terms of its capacity to generate revenue and television ratings.¹ In a discussion of the financial state of college football at the IMG Intercollegiate Athletics Forum in December of 2012, Sutton reported that college football programming was among the most widely viewed on television, earning the first or second spot in prime time viewing over the course of 14 consecutive weeks last fall. As Sutton put it, "college football owns Saturdays now".² During the 2012 football bowl season alone, estimated payouts will total more than \$300 million.³

The business practices of the NCAA and major conferences governing big-time football suggest that they also own the players. Findings from this study offer an indictment of the principle of amateurism used by the NCAA to enforce a system that distributes the wealth generated by big money college sport programs away from the players and redirects it to coaches, administrators,

¹ Staurowsky notes from the 2012 IMG Intercollegiate Athletics Forum, December 5, 2012. See also Lois Elfman, *Football is king*. *Diverse Issues in Higher Education* (December 9, 2012); <http://diverseeducation.com/article/50011/>

² Ibid.

³ See Brent Schrottenboer, *The Windfall Bowl: Pay for bowl directors keeps rising*. USA Today (December 11, 2012); <http://www.usatoday.com/story/sports/ncaaf/2012/12/11/bowl-bosses-pay-college-football/1762487/>. For seventeen of the bowls, directors earn between \$116,000 to nearly \$800,000 per year according to 2010 tax returns.

conference commissioners, bowl executives, colleges and universities, and corporate entities.⁴ College sport officials have created a system of inequity that exploits young people and brings dishonor to the academy by

- denying revenue-producing athletes the opportunity to negotiate on their own behalf;
- limiting their ability to transfer;
- restricting the compensation they receive and failing to compensate them for the use of their names, images, and likenesses;
- failing to provide adequate protections in the form of health benefits;
- placing extreme demands on their time, energies, and psyches;
- barring athletes from pursuing sponsorship deals; and,
- limiting athlete access to due process and fair enforcement reviews.⁵

While some may argue that athletic programs must strip football and men's basketball players of their fair market value to fund non-revenue sports, NCAA Division II is proof to the contrary. Division II athletic programs provide scholarships, hire coaches, and play complete schedules across all sports despite the fact that their football and men's basketball teams generate few revenues. In fact, this study shows that the average FBS athletic program spends almost \$2million/year on non-revenue sports compared to their Division I FCS competitors. This data indicates that the significant and excessive spending among FBS programs is not a need, it is preference.

Background

With each new college football bowl season we are reminded that the story of intercollegiate athletics in higher education is rich in history, anchored in tradition, and tied to the heart of university communities. As enduring as the storied rivalries, larger than life characters, bruising nature of the game itself, and fervor of fans are, so too are the issues associated with the compensation of athletes for their services.⁶ Since the beginning of the college sport enterprise

⁴ The principle of amateurism is defined in the Article 2 of the NCAA Manual as "Student-athletes shall be amateurs in an intercollegiate sport, and their participation should be motivated primarily by education and by the physical, mental and social benefits to be derived. Student participation in intercollegiate athletics is an avocation, and student-athletes should be protected from exploitation by professional and commercial enterprises. See NCAA ACADEMIC AND MEMBERSHIP AFFAIRS STAFF. NCAA DIVISION I MANUAL 2012-2013 (2012), p. 1.

⁵ In the fall of 2012, NCAA investigators were also allegedly found to have manipulated and/or manufactured evidence so as to achieve rulings that penalized athletes and institutions. UCLA first year men's basketball player, Shabazz Muhammad, appeared to be the target of an NCAA investigation where a decision to deny eligibility was made before facts were gathered in the case. See Baxter Holmes, *NCAA Investigator on Shabazz Muhammad case is said to be fired*. Los Angeles Time (December 20, 2012); <http://articles.latimes.com/2012/dec/20/sports/la-sp-1221-muhammad-ncaa-20121221>. Judge Frederick Shaller ruled in November of 2012 that the NCAA's treatment of former University of Southern California (USC) football coach, Todd McNair, was "malicious". McNair was a key link in penalties assessed to USC, decisions that led to Reggie Bush returning his Heisman trophy. See Dennis Dodds, *Documents Appear To Show Improper NCAA Involvement in USC case*. CBSSports.com (November 27, 2012); <http://www.cbssports.com/collegefootball/blog/dennis-dodd/21162720/documents-appear-to-show-improper-ncaa-involvement-in-usc-case>

⁶ See WALTER BYERS & CHARLES HAMMER, UNSPORTSMANLIKE CONDUCT: EXPLOITING COLLEGE ATHLETES (1997). See also ALLEN L. SACK & ELLEN J. STAUROWSKY, COLLEGE ATHLETES FOR HIRE: THE EVOLUTION AND LEGACY OF THE NCAA'S AMATEUR MYTH (1998); Robert A. McCormick & Amy Christian McCormick, *The Myth*

in the 1850s, the question of how to fairly compensate athletes has been on the table.⁷ Rewarded initially with prizes made from precious metals (medals, trophies and victory cups), fine dining, and luxury items (railroad trips to resort towns), the amount and forms of compensation have changed over time.⁸

Boosters possessed of wealth, creativity, and a singular commitment to program and alma mater have acted at times in isolation or in concert with coaches to effectively subvert those rules by developing an underground economy.⁹ Denied the opportunity to outright pay an athlete, the mechanisms for the delivery of money and other perks could be as innocuous as “laundry money”, as direct as a \$100 handshake, as benign as the “loan” of a car, or as deceptive as players being hired for jobs to which they never had to report and yet still earned a paycheck.¹⁰ In August of 2011, revelations that a University of Miami booster had offered players cash payments and lavish gifts served to punctuate a string of cases involving college athletes who received what the NCAA refers to as “improper benefits”, including former USC running back Reggie Bush and several Ohio State players.¹¹

The existence of the underground economy speaks to the fact that compensation for college football and men’s basketball players is not determined within a fair market. Rather, college player compensation schemes are highly controlled by the economic interests of the NCAA and major football powers. This is demonstrated in the evolving position the NCAA has taken on awarding athletic scholarships and the shifting stance it has taken on whether an athletic scholarship can cover full cost of attendance.

An Abbreviated History of the Grant-in-Aid or Athletic Scholarship

In the NCAA’s first constitution, the hallmark of college sport amateurism prohibited athletes from competing if they had received money and other considerations either directly or indirectly. That principle would be radically changed in 1952 when the NCAA adopted rules that permitted athletes to be compensated with multi-year scholarships that covered the cost of attendance and could not be revoked if an athlete no longer participated. Twenty years later, in 1972, multi-year awards would give way to one year, renewable scholarships that guaranteed a shortfall between what the scholarship covered and full cost of attendance. Under this new arrangement, athletes were vulnerable to losing their scholarships for a variety of reasons such as the inability to produce because of injury, failure to perform as desired on the field, and/or a change in coaching staff or coaching philosophy.¹²

of the Student-Athlete: The College Athlete as Employee, 81 WASH. L. REV. 71 (2006); RONALD SMITH, *PAY FOR PLAY: A HISTORY OF BIG-TIME COLLEGE ATHLETIC REFORM* (2011).

⁷ See RONALD SMITH, *SPORTS AND FREEDOM: THE RISE OF BIG-TIME COLLEGE ATHLETICS* (1990).

⁸ *Ibid.*

⁹ A football player from Mississippi State was reported to have received \$200 after shaking hands with a booster of the program. See ESPN.com News Service. *Coach Claims Booster Paid Recruit*. ESPN.COM (September 12, 2012); http://espn.go.com/college-football/story/_/id/8368424/coach-claims-booster-paid-mississippi-state-bulldogs-recruit

¹⁰ See SMITH, 1990. Also, DAVID RIDPATH, *TAINTED GLORY: THE CORRUPTION OF COLLEGE SPORTS AND ONE MAN’S FIGHT FOR JUSTICE* (2012).

¹¹ Pete Thamel, *College Football’s Ugly Season, Facing Scandals of Every Stripe*, THE NEW YORK TIMES (August 20, 2011), <http://www.nytimes.com/2011/08/21/sports/ncaaf/college-football-more-embattled-than-ever.html?pagewanted=all>

¹² See BYERS; SACK & STAUROWSKY; SMITH (2011).

In effect, the athletic scholarship became a tool in controlling player behavior, movement, and value.¹³ As these changes occurred, so too did the Association's commitment to paying athletes, but only under the terms and conditions most favorable to NCAA leadership. As stated in the 2012-2013 *NCAA Division I Manual*, "A grant-in-aid administered by an educational institution is not considered to be pay or promise of pay for athletics skill, provided it does not exceed the financial aid limitations set by the Association's membership."¹⁴ Because players have no voting power within the NCAA, those terms and conditions are dictated to them rather than arrived at through a negotiated process with player advocates arguing on their behalf. As a consequence, the NCAA has historically exercised unilateral authority in establishing the value of athletic scholarships and, in the process, suppresses the value of the athletes who are the marketable commodities on which the college sport enterprise is built.

College Athletes Seeking Relief in the Courts:

White v. NCAA, In re: NCAA Student-Athlete Names & Likeness, Owens v. NCAA, & Rock v. NCAA Left with few alternatives, players have sought relief in the courts in order to simply get the NCAA to allow schools to offer full scholarships that cover the cost of attendance. In 2006, former Stanford football player Jason White and others sued the NCAA alleging that the limits on athletic scholarships constituted a form of anti-competitive price collusion that violated anti-trust law.¹⁵ Settled before trial, the NCAA agreed to increase funds to compensate former athletes denied the full cost of attendance by \$10 million.¹⁶

The number of former athletes who benefitted from this settlement, however, is unclear because the NCAA was not compelled to reveal publicly how much it paid out to former athletes. What is clear, however, is that the NCAA did not distribute the full amount of money set aside for that purpose. With \$4.3 million left at the end of the settlement date, despite an industry understanding that the full cost of attendance has not yet been addressed and athletes continue to exhibit need because of the scholarship shortfall, the NCAA redirected the remaining money into a short term grant program for low revenue schools.¹⁷

The narrow scope of the White settlement did not adequately address other compensation and player protection issues. As a consequence, three pending lawsuits raise significant issues on behalf of college players.

The question of whether NCAA restrictions on the number and amount of athletic scholarships constitutes an illegal restraint that limits the ability of college athletes to market their services in a free and open market is at issue in former Gardner Webb captain and quarterback, John Rock's

⁹ Ibid.

¹⁴ See NCAA ACADEMIC & MEMBERSHIP AFFAIRS STAFF, p. 59.

¹⁵ *White v. NCAA*, No. CV 06-0999 VBF (C.D. Cal. Jan. 29, 2008)

¹⁶ Doug Lederman, *Settlement Raises Questions For NCAA*, INSIDE HIGHER EDUCATION (February 4, 2008), <http://www.insidehighered.com/news/2008/02/04/ncaa>

¹⁷ Marta Lawrence, *Six schools selected for pilot grant program*, NCAA NEWS (December, 2012), <http://www.ncaa.org/wps/wcm/connect/public/ncaa/resources/latest+news/2012/december/six+institutions+selected+for+limited-resource+institutions+grant+program+pilot?pageDesign=print+template>; Ann Brown, *NCAA Commits Millions to HBCUs*, THE NETWORK JOURNAL (January 30, 2013).

case against the NCAA.¹⁸ Following a head coaching change, Rock alleges that he was stripped of his scholarship by a newly hired head football coach in violation of promises made to Rock to the contrary. Rock asserts that the previous coach had promised that Rock would retain his scholarship as long as he maintained his athletic and academic eligibility. Rock's alleged troubles arose after starting an internship required for his academic program in the spring of 2010 which necessitated missing a few practices. According to Rock's account, the new coach viewed the player's absences as evidence of a lack of commitment to the team, providing grounds for the scholarship to be withdrawn.¹⁹

In re: NCAA Student-Athlete Name & Likeness Licensing Litigation (Case No. 4:09-cv-01967-CW) filed in the Northern District of California in 2009 seeks to have former Division I football and men's basketball players paid for the use of their names, likenesses, and images. Amended in the August of 2012, the complaint asks that a temporary trust be set up for current players so that they could receive up to half of the revenue generated from licensing and broadcasting revenue generated through NCAA television and video game deals.²⁰

In a case that speaks to athlete health and safety, former University of Central Arkansas receiver and punt returner, Derek Owens, alleges that the NCAA does not do enough to ensure the health and safety of athletes who may suffer from the consequences of brain injury as a result of concussions incurred during their playing careers. This suit seeks relief for the alleged victims, greater vigilance on the part of the NCAA in educating athletes about health risks, and improvements in aftercare for athletes who do experience brain injury.²¹

Two Myths: The “Free Ride” Athletic Scholarship & The “Student-Athlete”

In 2011, two proposals to return athletic scholarship policies to what they were in the 1950s were met with mixed support within the NCAA. Schools may now offer multi-year scholarships again, a provision that some programs like Ohio State have opted to use.²² However, a plan that would have allowed Division I colleges and universities the discretion of offering a stipend of up to \$2,000 to athletes was initially approved by the NCAA Board of Directors but later tabled due to opposition from member institutions. As of this writing, the proposal remains in limbo, awaiting further action.²³

¹⁸ *John Rock v. National Collegiate Athletic Association*, Case No. 1:12-cv-1019 JMS-DKL

¹⁹ *John Rock v. National Collegiate Athletic Association*, Case No. 1:12-cv-1019 JMS-DKL;

Richard Weiner, *Ohio Athletes Sues NCAA in Antitrust Over Scholarship Allocations*, AKRON LEGAL NEWS (August 13, 2012), <http://www.akronlegalnews.com/editorial/4465>

²⁰ Michael McCann, *O'Bannon Expands NCAA Suit*, SPORTS ILLUSTRATED (September 1, 2012), http://sportsillustrated.cnn.com/2012/writers/michael_mccann/09/01/obannon-ncaa-lawsuit/index.html; Tom Farrey, *Change in Compensation Sought*, ESPN.COM (August 31, 2012), <http://espn.go.com/espn/print?id=8324732&type=story>.

²¹ George Vecsey, *College Athletes Move Concussions Into the Courtroom*, THE NEW YORK TIMES (November 26, 2011), <http://www.nytimes.com/2011/11/30/sports/ncaafootball/college-players-move-concussions-issue-into-the-courtroom.html?pagewanted=all>

²² Doug Leamerises, *Big Ten Offering Recruits Security of Four-Year Guaranteed Scholarship*, THE PLAIN DEALER (January 31, 2012), http://www.cleveland.com/osu/index.ssf/2012/01/big_ten_offering_recruits_secu.html

²³ Associated Press, *NCAA Committee Endorses New Penalty Structure*, INDIANAPOLIS BUSINESS JOURNAL (August 2, 2012), <http://www.ijb.com/ncaa-committee-endorses-new-penalty-structure/PARAMS/article/35918>

Issues related to college football and men's basketball player compensation are shaped by two related mythologies anchored in the NCAA's definition of amateurism. First is the notion that athletes on "full scholarship" receive a "free ride" in terms of their college educations.²⁴ The second is the term "student-athlete", a term the NCAA admittedly created to deflect attention away from the fact that awarding a scholarship for athletic performance constituted a pay for play system.²⁵

In his memoir entitled *Unsportsmanlike Conduct*, the first full time executive director of the NCAA, Walter Byers, observed that "Amateurism is not a moral issue; it is an economic camouflage for monopoly practice."²⁶ In arguing for college athletes to be paid, tennis legend and civil rights advocate Billie Jean King asserted that the NCAA's concept of amateurism symbolized a power struggle between college sport officials and athletes.²⁷ Part of that control is exercised through the manipulation of the language the NCAA uses to describe it.²⁸ As Kevin Satterlee, vice president and legal counsel at Boise State University remarked at a conference examining the proper role of sports in higher education at the Santa Clara University Institute of Sports Law and Ethics in September of 2012, the issue is not "whether athletes should be paid because athletes already are paid. The issue is how much they will be compensated for the work they do."²⁹

And while the idea that athletes on scholarships receive an opportunity of a lifetime by receiving a college education has marketing appeal, the plain fact of the matter is that athletes in the most high profile, most lucrative, and most demanding sports of football and men's basketball are the least likely to realize that benefit. According to 2012 federal graduation rate information, only 47% of NCAA Division I men's basketball and 57% of football players graduate within a six-year window of time.³⁰

The expression "student-athlete" has been undeniably effective in conveying the impression that the primary reason why athletes attend college is to "go pro in something other than sports" as the NCAA is apt to remind us.³¹ Given its intended strategic purpose, the "student-athlete" term of art has also camouflaged a system that attorney Jason Belzer and sport economist Andy

²⁴ Ibid.

²⁵ BYERS; Staurowsky & Sack (2005); McCormick & McCormick (2006)

²⁶ Byers, p. 376.

²⁷ King, Billie Jean King, *A Radical Proposal: Let's Pay College Athletes*, WOMEN'S SPORTS AND FITNESS (January, 1986).

²⁸ Ellen J. Staurowsky & Allen L. Sack, *Reconsidering the Use of the Term Student-Athlete in Academic Research*, JOURNAL OF SPORT MANAGEMENT (2005).

²⁹ Authors' notes, Santa Clara University Institute of Sports Law and Ethics Sports Law Symposium (September 6, 2012).

³⁰ NCAA Research Staff. *Trends in Graduation-Success Rates and Federal Graduation Rates at NCAA Division I Institutions* (October, 2012), <http://www.ncaa.org/wps/wcm/connect/public/ncaa/pdfs/2012/2012+gsr+and+fed+trends>

³¹ Dennis Martin, *NCAA Looking for New Marketing Agency, Price Tag \$1.25 Million*, COLLEGE BASKETBALL TALK (April 12, 2012), <http://collegebasketballtalk.nbcsports.com/2012/04/12/ncaa-looking-for-new-marketing-agency-price-tag-1-25-million/>

Schwartz have likened to a modern-day form of indentured servitude.³² Although college athletes have more flexibility in certain areas of their lives than indentured servants, key elements that college athletes of today share with indentured servants from the Colonial era include a letter of intent along with the provision of room and board and a promise of an education in exchange for labor.³³

And labor they do. In a recent interview regarding the demands on athletes' lives at the University of North Carolina-Chapel Hill as news of academic fraud hit that campus, Director of Athletics Bubba Cunningham said, "(Student athletes) have a full-time job, essentially, on top of being a student, so we have to provide an appropriate level of support."³⁴ Data from the NCAA's 2009-2010 Growth, Opportunities, Aspirations, and Learning of Students in College (GOALS) Study reveals that the average number of hours athletes reported being engaged in both athletic and academic activities amounted to 81.3 for those in FBS programs; 79.8 for those in FCS, and 76.5 for those in Division I men's basketball programs. The average number of hours athletes devoted to athletic activities in season was 43.3 for FBS football players and 39.2 for Division I men's basketball players.³⁵ To be sure, Shane Battier, a member of the Miami Heat's 2012 NBA Championship team, stated in a 2011 US Congressional roundtable that he experienced a higher time demand as a college basketball player than as a player in the NBA.³⁶

One of the most obvious areas of inequities is revealed in the trends that exist in coaches' compensation. In contrast to the strict limitations on athlete compensation imposed by NCAA rules, coach salaries in the big-time programs have escalated in remarkable ways. Between 2006-2011, average salaries for FBS football coaches increased by 55 percent.³⁷ Coaches in the six power conferences realized average salary increases that rose from \$1.4 million in 2006 to \$2.125 in 2011.³⁸ As a matter of perspective, Florida State head football coach Jimbo Fisher received a salary increase for 2011 amounting to roughly \$950,000. That increase is almost

³² Jason Belzer & Andy Schwarz, *National Letter of Indenture: Why College Athletes are Similar to Indentured Servants of Colonial Times*, FORBES (July 25, 2012), <http://www.forbes.com/sites/darrenheitner/2012/07/25/national-letter-of-indenture-why-college-athletes-are-similar-to-indentured-servants-of-colonial-times/>. The issue of exploitation of college athletes is also found in Taylor Branch, *The Shame of College Sports*, THE ATLANTIC (September, 2011); Billy Hawkins, *THE NEW PLANTATION: BLACK ATHLETES, COLLEGE SPORTS, AND PREDOMINANTLY WHITE INSTITUTIONS* (2010); Richard Johnson, *Submarining Due Process: How the NCAA uses its Restitution Rule to Deprive College Athletes of Their Right of Access to Courts...Until Oliver v. NCAA*, FLORIDA COASTAL LAW REVIEW (November 16, 2010), www.fcsl.edu/sites/fcsl.edu/files/Johnson.pdf

³³ Ibid.

³⁴ Nicole Camparato, *Swept Up in Scandal*, THE DAILY TARHEEL (August 22, 2012), http://www.dailytarheel.com/article/2012/08/swept_up_in_scandal

³⁵ NCAA. Growth, Opportunities, Aspirations, and Learning of Students in College (GOALS) study (January, 2011). <http://www.ncaa.org/wps/wcm/connect/public/NCAA/Resources/Latest+News/2011/January/Second+GOALS+study+emphasize+s+coach+influence>

³⁶ Authors' notes. Mr. Battier along with the authors were panelists at a roundtable sponsored by U. S. Congressman Bobby Rush entitled Hypocrisy or Hype? The Impacts of Back-Room Deals, Payoffs, and Scandals in American Collegiate Student Athletics (October 25, 2011), <http://rush.house.gov/event/hypocrisy-or-hype-impacts-back-room-deals-payoffs-and-scandals-american-collegiate-student>

³⁷ Jodi Upton & Steve Berkowitz, *Salaries for College Coaches Back on the Rise*, USA TODAY (November 17, 2011), <http://www.usatoday.com/sports/college/football/story/2011-11-17/cover-college-football-coaches-salaries-rise/51242232/1>

³⁸ Ibid.

triple the amount it would take to pay for his entire football team's 2010-11 scholarship shortfall, which was \$351,900.

According to *USA Today*, "Coaches' pay has even outpaced the pay of corporate executives, who have drawn the ire of Congress and the public because of their staggering compensation packages. Between 2007 and 2011, CEO pay — including salary, stock, options, bonuses and other pay — rose 23%, according to Equilar, an executive compensation data firm. In that same period, coaches' pay increased 44%."³⁹

In one of the more ironic twists to be found in NCAA regulations pertaining to coach and athlete compensation, while grants-in-aid fall short of the cost of attendance for athletes, the educational benefits afforded to coaches do not. In point of fact, educational grants coaches may receive to pursue degrees includes a provision that allows for awards that go beyond the NCAA restrictions. According to NCAA bylaw 11.01.2, a coach or head coach is permitted to receive a benefit that is "in excess of full grant-in-aid based on nonresident status".⁴⁰

In an attempt to explore the implications of these mythologies and provide perspective about the impact this has on the lives of big-time college football and men's basketball players, this study documents the shortfall that exists between what a "full" scholarship covers and what the full cost of attending college is compared to the federal poverty guideline, an estimation of players' fair market value, and offers perspective on the disproportional levels of compensation to which college sport officials have access compared to the limits imposed on revenue-generating athletes who serve as the talent and inspire the financial investment in the product of college sport.

Method⁴¹

A data file for each school designated as an NCAA FBS institution was created in an excel file with categories of expenses for "room and board," and "other" expenses along with information regarding coach salaries and revenues produced by each team. Four separate analyses were conducted using this information. Data for this report was drawn from several public sources. The United States Department of Education National Center for Education Statistics (NCES) College Navigator was used to locate information for the 2011-2012 academic year regarding expenses included and excluded relative to a "full" athletic scholarship. Salary databases compiled by *USA Today* were used to gather information about FBS head football coaches, head men's basketball coaches whose teams competed in the NCAA men's basketball tournament in 2011, and athletic directors. The statistic used in evaluating revenue-producing college athlete compensation in the form of a "full" scholarship in relationship to federal poverty guidelines was

³⁹ Erik Brady, Steve Berkowitz, & Jodi Upton. *College Football Coaches Continue to See Salary Explosion*. USA TODAY (November 20, 2012), <http://www.usatoday.com/story/sports/ncaaf/2012/11/19/college-football-coaches-contracts-analysis-pay-increase/1715435/>

⁴⁰ *NCAA Division I Manual* *supra* note 1, p. 201 & 57 (2012-2013).

⁴¹ This is the fourth in a series of studies examining the shortfall that exists between a full athletic scholarship and cost of attendance. Since our first study in 2009, we have expanded our analyses to include estimations of player value, earnings compared to poverty guidelines, and the rise in coach compensation during the past twenty years. See Ramogi Huma & Ellen J. Staurowsky, *An Examination of the Financial Shortfall for Athletes on Full Scholarship at NCAA Division I Institutions* (2009); Ramogi Huma & Ellen J. Staurowsky, *An Examination of the Financial Shortfall for Athletes on Full Scholarship at NCAA Division I Institutions* (2010), and Ramogi Huma & Ellen J. Staurowsky, *The Price of Poverty in Big-Time College Sport* (2011). All of these studies can be accessed at <http://www.ncpanow.org>. Some sections of this report have been drawn from previous reports and updated.

drawn from their 2011-2012 room and board amounts and compared to the 2011 poverty guidelines as developed by the U.S. Department of Health and Human Services.⁴² The revenue sharing percentages to determine the fair market value of FBS football and men's basketball players are based on the minimum percentage of revenue guaranteed to NFL players (46.5%) and NBA players (50%) as agreed to in the current NFL and NBA collective bargaining agreements.⁴³ This report lists football and men's basketball team revenues reported by institutions to the US Department of Education.

Analysis # 1. Scholarship Shortfall Calculation

By NCAA definition, a "full grant-in-aid," otherwise known as a "full" athletic scholarship "consists of tuition and fees, room and board, and required course-related books."⁴⁴ The estimated scholarship shortfall represents the sum of expenses included in the cost of attendance (COA) that cannot be covered by a full grant in aid scholarship per NCAA bylaw 15.02.2, which reads as follows:

Cost of Attendance. The "cost of attendance" is an amount calculated by an institutional financial aid office, using federal regulations, that includes the total cost of tuition and fees, room and board, books and supplies, transportation, and other expenses related to attendance at the institution. (Adopted 1/11/94)⁴⁵

There is a gap between how the full grant in aid is calculated and the overall cost of attendance, as calculated by the institution and reported in the "other" category, leaving players with thousands of dollars in out-of-pocket expenses each year.

Analysis #2. Team Scholarship Shortfalls Compared to Coach Compensation

Team scholarship shortfalls for football and basketball are calculated by multiplying the scholarship shortfall at each school by the maximum number of scholarships that the NCAA allows for each team. The NCAA allows no more than 13 and 85 scholarships in men's basketball and football, respectively.

Analysis #3. Scholarship Compensation Compared to U.S. Federal Poverty Guidelines

This analysis was conducted to determine how difficult it may be for college athletes to pay for basic necessities. According to the U.S. Department of Health and Human Services, the guideline for a single individual earning \$11,170 or less is an indicator of living at or below the poverty line. The value of each athletic scholarship's room and board component was compared to the poverty guideline for a single individual. Despite the tuition, fees, and books provisions in a "full" athletic scholarship, these parts of the scholarship are not included since they do not affect a college athlete's ability to pay for basic necessities such as food, shelter, utilities, etc.

Analysis #4. College Athlete Market Value

⁴² U. S. Department of Health and Human Services. *2012 Annual Federal Poverty Guidelines*, <http://www.familiesusa.org/resources/tools-for-advocates/guides/federal-poverty-guidelines.html>

⁴³ *National Football League-National Football League Players Association Collective Bargaining Agreement* (August, 2011), <http://nflabor.files.wordpress.com/2010/01/collective-bargaining-agreement-2011-2020.pdf>; ESPN.com News Service, *Players Owners Approve Agreement*, ESPN.COM (December 9, 2011), http://espn.go.com/nba/story/_/id/7332374/nba-labor-players-owners-vote-ratify-new-labor-agreement

⁴⁴ *NCAA Division I Manual*, *supra* note 1, at 201 (2012-2013).

⁴⁵ *Id.* at 200.

At present, there is no formula to determine the fair market value of a revenue-producing college athlete in the sports of football and men's basketball. In an attempt to experiment with such a model, we theorized that the revenue-sharing models that exist in the National Football League (NFL) and the National Basketball Association (NBA), which have been arrived at through a collective bargaining process and with the aid of player representation, would provide a starting point on an estimation of what the value of revenue-producing college athletes in their programs. In 2011, the NFL reached an agreement with players that they would share at least 46.5% of the revenue generated by the league while the NBA owners agreed to a 50% revenue-sharing standard for its players. Those standards were applied to the revenue reported by colleges' and universities' football and basketball revenues to better gauge the value of the college players that participate in these sports.

Analysis #5. Market Value Denied

The value of the athletic scholarship at each school was calculated and subtracted from each player's estimated fair market value. The value of an athletic scholarship is dictated by the NCAA and is limited to tuition, fees, room, board, and books (see Analysis #1. for details). This amount varies from one school to the next.

Major Findings

1. College athletes on full scholarship do not receive a "free ride." For the 2011-2012 academic year, the average annual scholarship shortfall (out of pocket expenses) for each Football Bowl Series (FBS) "full" scholarship athlete was \$3,285.
2. The percentage of FBS schools whose "full" athletic scholarships leave their players in poverty is 82% for those athletes who live on campus; 90% for athletes who live off campus.
4. If allowed to access the fair market like the NFL and NBA players, the average FBS football and basketball player would be worth approximately \$137,357 and \$289,031 during the 2011-12 school year, respectively (not counting individual commercial endorsement deals).
5. After accounting for a \$23,204 value of a full athletic scholarship, the average FBS football and basketball player is denied approximately \$114,153 and \$265,827 of their fair market value, respectively. Over a four year career, the lost value for the average football and basketball player is \$456,612 and \$1,063,307, respectively.
6. From 2011-2015, FBS football and men's basketball players will be forced to forfeit over \$6.2 billion.
7. Football players with the top 10 highest estimated fair market values were each worth between \$351,000-\$568,000 in 2011-2012 but lived below the federal poverty line by an average of \$1,571. After accounting for the value that they received from their athletic scholarships, each player was denied an average of \$395k that he would have otherwise received in a fair market in 2011; and will be denied an average of almost \$1.6 million between 2011-2015. Texas football players held the top spot and will each be denied almost \$2.2 million over four years (See Table 1).

Table 1. Rank	School	Fair Market Value Football Player (2011-12)	Value of Athletic Scholarship (2011-12)	Fair Market Value Denied (2011-12)	Fair Market Value Denied Over 4 Years (2011-15)	In Poverty? (On-Campus 2011-12)	Scholarship Shortfall (On-Campus 2011-12)
1	Texas	\$567,922	\$21,090	\$546,832	\$2,187,328	-\$748	-\$3,624
2	Michigan	\$466,145	\$23,150	\$442,995	\$1,771,980	-\$1,702	-\$2,054
3	Alabama	\$448,554	\$20,481	\$428,073	\$1,712,292	-\$389	-\$3,458
4	Auburn	\$422,167	\$19,790	\$402,377	\$1,609,508	-\$1,178	-\$2,562
5	Georgia	\$410,236	\$19,258	\$390,978	\$1,563,912	-\$2,462	-\$1,562
6	Florida	\$405,466	\$15,527	\$389,939	\$1,559,756	-\$2,370	-\$3,730
7	Notre Dame	\$377,398	\$53,757	\$323,641	\$1,294,564	\$220	-\$1,500
8	LSU	\$376,400	\$16,524	\$359,876	\$1,439,504	-\$2,500	-\$2,890
9	Penn St	\$362,210	\$26,952	\$335,258	\$1,341,032	-\$1,738	-\$4,050
10	Arkansas	\$351,178	\$16,718	\$334,460	\$1,337,840	-\$2,840	-\$3,746
	Average:	\$418,768	\$23,325	\$395,443	\$1,581,772	-\$1,571	-\$2,918

8. Basketball players with the top 10 highest estimated fair market values were each worth between \$690,000-\$1.6 million in 2011-2012 but lived below the federal poverty line by an average of \$1,320. After accounting for the value that they received from their athletic scholarships, each player was denied an average of \$875,000 million that he would have otherwise received in a fair market in 2011-12; and will be denied an average of almost \$3.5 million between 2011-15. Louisville basketball players held the top spot and will each be denied almost \$6.5 million over four years (See Table 2).

Table 2. Rank	School	Fair Market Value Basketball Player (2011-12)	Value of Athletic Scholarship (2011-12)	Fair Market Value Denied (2011-12)	Fair Market Value Denied Over 4 Years (2011-15)	In Poverty? (On-Campus 2011-12)	Scholarship Shortfall (On-Campus 2011-12)
1	Louisville	\$1,632,103	\$17,370	\$1,614,733	\$6,458,932	-\$3,730	-\$4,356
2	Syracuse	\$995,722	\$52,244	\$943,478	\$3,773,912	\$2,084	-\$1,546
3	Duke	\$987,144	\$55,245	\$931,899	\$3,727,596	\$797	-\$2,080
4	UNC	\$923,510	\$17,629	\$905,881	\$3,623,524	-\$1,700	-\$3,686
5	Kentucky	\$830,718	\$19,928	\$810,790	\$3,243,160	-\$1,170	-\$2,240
6	Arizona	\$782,301	\$18,826	\$763,475	\$3,053,900	-\$2,630	-\$3,540
7	Michigan St	\$739,543	\$21,402	\$718,141	\$2,872,564	-\$2,966	-\$1,800
8	Ohio State	\$725,862	\$22,119	\$703,743	\$2,814,972	-\$388	-\$4,752
9	Texas	\$710,710	\$21,090	\$689,620	\$2,758,480	-\$748	-\$3,624
10	Indiana	\$690,016	\$18,767	\$671,249	\$2,684,996	-\$2,751	-\$3,282
	Average	\$901,763	\$26,462	\$875,301	\$3,501,204	-\$1,320	-\$3,091

9. Despite record revenues, salaries and capital expenditures and prohibitions on countless sources of income for athletes, the NCAA explicitly allows tax payers to fund food stamps and welfare benefits for college athletes.

10. FBS schools could provide more equitable financial terms for their revenue-producing athletes without eliminating any non-revenue generating sports or reducing scholarships for athletes from non-revenue generating sports. The second attachment points to lavish spending in

by FBS schools in non-revenue sports.⁴⁶ We've compared non-revenue sports expenditures between FBS schools and Football Championship Subdivision (FCS) schools because all of their non-revenue sports compete against each other in Division I. We focused on this to find out what it costs to run a competitive Division I non-revenue generating team which is demonstrated by the FCS numbers. The FBS non-revenue team expenses show that these schools spend far more than what's necessary to field these teams. In 2011-12, FBS schools spent an average of about \$200 million more on non-revenue teams when compared to FCS schools. Division I schools average 17 non-revenue generating teams per campus, which means the average FBS schools spent almost \$2 million in 2011-12 more than the average FCS school on non-revenue generating sports.⁴⁷

Recommendations

The U.S. Department of Justice should aggressively and whole-heartedly pursue antitrust suits against the NCAA to prevent further harm to college athletes, and Congress should act immediately to deregulate the NCAA. NCAA reform should be funded with new TV revenue streams that are surging throughout NCAA sport and include the following provisions:

#1. Allow universities to fully fund their athletes' educational opportunities with scholarships that fully cover the full cost of attendance. The average \$3,285 increase per player would be enough to free many from poverty and reduce their vulnerability to breaking NCAA rules to make ends meet.

A \$3,285 scholarship increase would cost approximately \$32.7 million for 85 scholarship players from each of 117 FBS football teams, and \$14.4 million to do the same for 13 scholarship players on each of the 338 Division I basketball teams that offer scholarships. The total would be about \$47 million annually. Should Title IX compliance require that provisions be made for female athletes to receive a similar benefit, that amount can be doubled for a total of \$94 million annually. To put this in perspective relative to the new revenues that are available throughout NCAA sports, the new ESPN FBS football playoff deal will average about \$345 million per year in new revenue above and beyond the previous BCS TV contract. New revenues could be distributed so that schools would not have to come directly out of pocket for the increase.

#2. Lift restrictions on all college athletes' commercial opportunities by allowing the Olympic amateur model. The Olympics' international definition of amateurism permits amateur athletes access to the commercial free market. They are free to secure endorsement deals, get paid for signing autographs, etc. Commercial opportunities should also include receiving payment when entities use their rights of publicity.

⁴⁶ See attached tables.

⁴⁷ Erin Irick, *NCAA Sports Sponsorship and Participation Rates Report 1981-1982 – 2010-2011* (2011); <http://www.ncaapublications.com/productdownloads/PR2012.pdf>. Data for the 2010-2011 year cited above can be found on page 178 of that report.

#3. Promote the adoption of legislation that will allow revenue-producing athletes to receive a portion of new revenues that can be placed in an educational lockbox, a trust fund to be accessed to assist in or upon the completion of their college degree. Many athletes in these sports need educational assistance beyond the duration of their eligibility in order to make up for the significant time demands associated with their sport. About 43% and 53% of football and men's basketball players DO NOT graduate, while their athletic programs receive 100% of revenues produced by these athletes regardless of their programs' federal graduation rates.⁴⁸

The NCAA has already set a precedent for such a measure when, as a condition of settling the *White v. NCAA* lawsuit, the NCAA established a \$10 million fund for continuing education assistance for football and men's basketball players. While some may question whether or not the educational lockbox would affect the current notion of amateurism, unlike the NCAA's one-year athletic scholarship arrangement that depends primarily on athletic performance, this fund would only be accessed for educational pursuits and achievement. In addition to increasing graduation rates, compliance with NCAA rules can be improved dramatically with fines imposed on these trust funds if and when violations occur.⁴⁹

#4. To the extent that Title IX requires universities to provide female athletes with accommodations similar to those stated in the reforms mentioned above, athletic programs should use new TV revenues to do so.

#5. Although this study focuses primarily on financial aspects of reform, all aspects that affect college athletes' physical, academic, and financial well-being should be addressed.

⁴⁸ NCAA Research Staff. *Trends in Graduation-Success Rates and Federal Graduation Rates at NCAA Division I Institutions* (October, 2012), <http://www.ncaa.org/wps/wcm/connect/public/ncaa/pdfs/2012/2012+gsr+and+fed+trends>

⁴⁹ *White v. NCAA*, No. CV 06-0999 VBF (C.D. Cal. Jan. 29, 2008)