Paying College Athletes

Are players school employees?
By Reed Karaim

Introduction

The multibillion-dollar industry that college sports have become has richly rewarded the National Collegiate Athletic Association (NCAA), university athletic programs and top football and basketball coaches. Athletes, however, continue to play under a decades-old system in which scholarships pay for tuition and room and board but fall short of covering the full cost of attending school. In return, players are expected to maintain a rigorous training and playing schedule while keeping up their studies. A recent ruling that Northwestern University football players are school employees and thus have the right to unionize, along with class-action lawsuits demanding more compensation and better treatment for college athletes, has amplified debate over whether they should be paid. Supporters of the system say the education college athletes are being exploited. Observers also differ over whether colleges could afford salaries for players, and whether schools should pay more attention to athletes’ academic experience.

Overview

On the morning of April 25, the 76 scholarship players on the Northwestern University football team may have fundamentally changed college athletics: They voted on whether to unionize.

The unprecedented vote followed a regional National Labor Relations Board (NLRB) ruling that, because of the demands of their sport, the players were employees of the university.

The ruling applies only to private schools, and the results of the vote may not be known for months. Because Northwestern, in Evanston, Ill., has appealed the ruling to the regional NLRB, the ballot boxes were impounded to await that judgment as well as possible court appeals.

If the initial decision is upheld and if players voted for a union, they will be able to bargain collectively over compensation and workplace rules. But regardless of the vote, the NLRB ruling marks a significant shift in the perception of college athletics. The regional NLRB director concluded that the time Northwestern players spend on football — 40 to 50 hours a week during the season, even more during training camp — and other special demands placed on them mean they are not primarily students who play sports, but laborers working for the university.

The ruling has reignited a long-simmering debate over whether college athletes, especially in the money-making sports of Division I football and basketball — the top tier of collegiate competition — deserve greater compensation for their efforts than scholarships. Some analysts say these athletes deserve to be paid, especially in light of how much money — billions of dollars from TV contracts alone — is being made off their labor. Others say paying players would destroy college athletics: Profitable programs could recruit the best athletes, creating ever-greater competitive differences, and schools would be forced to trim or end unprofitable sports.

Connecticut’s Lasan Kromah and Kentucky’s Alex Poythress battle for a rebound during the NCAA championship in Arlington, Texas, on April 7. Advocates for players say that while the NCAA and top Division 1 schools and coaches prosper from football and basketball programs, athletes receive scholarships that don’t even cover all their school expenses. (Getty Images/Jamie Squire)

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In a potentially historic decision, a regional director of the National Labor Relations Board concluded that Northwestern players spend so much time on football that they should be considered university employees. Results of an April 25 vote by the players on whether to unionize may not be known for months. (Getty Images/Chicago Tribune/John J. Kim)

But other advocates go further, saying athletes warrant payment that better reflects their importance to school athletic programs. The NCAA refused requests for an interview for this CQ Researcher report.

CQ Researcher

The stakes are high for both athletes and institutions of higher learning. College sports in America is a multibillion-dollar industry. The most recent TV contract for rights to show the NCAA March Madness Basketball Tournament was for $10.8 billion over 14 years. And broadcasters pay the top college football conferences — groups of schools that regularly play against each other — more than $200 million each annually, with each team in some conferences receiving $20 million or more. Playing in a post-season bowl game brings in even more millions. The Southeastern Conference (SEC) alone received nearly $52 million last season in bowl game payouts — revenue the schools split, largely from TV contracts.

The money has rippled down through college athletics, with escalating coaches’ salaries and construction of bigger and better sports facilities. Top coaches earn salaries in the millions of dollars, often many times the salary of their university’s president. Nick Saban, coach of the University of Alabama’s football team, the Crimson Tide, recently received a raise to $6.9 million a year. In 2013, the university’s president, Judy Bonner, earned $535,000. Shortly after Saban’s contract was announced, the University of Kentucky gave men’s basketball coach John Calipari a new seven-year contract worth $7.5 million a year. Salaries for athletic directors and assistant coaches also have soared.

In addition, top schools have embarked on building sprees to construct new practice and playing facilities, part of a nonstop competition to lure the best athletes and thus more fans. Brand-new McLane Stadium at Baylor University, in Waco, Texas, scheduled to open in August, exemplifies the high-end upgrades. It will have a new locker room, a state-of-the-art scoreboard, 39 premium suites with catered food service and 79 “loge boxes” that provide a semi-private viewing experience for a premium price. “I’m not kidding you. It’s going to change the whole image of Baylor,” said coach Art Briles.

Supporters of high-profile sports programs say athletic prominence helps with university fundraising and student recruitment, but critics say the money athletics raises goes overwhelmingly to athletics, not academics, and can even hurt other efforts by forcing senior administrators to spend extra time wooing sports supporters.

**Graduation Rates Lag in Basketball, Football**

Graduation rates for football and basketball players who enrolled at Division 1 schools in 2005 were lower than the 65 percent rate for all student-athletes.

**Six-Year Graduation Rates**

- Student: 64%
- All: 65%
- Men’s: 47%
- Football: 59%
In contrast, the lifestyle of college athletes remains highly restricted by NCAA rules and guidelines established by individual athletic programs. Full scholarships pay tuition and room and board but can fall short of the complete cost of attending school, by several thousand dollars annually at some institutions. During the NCAA tournament last April, Shabazz Napier, star of the national champion Huskies basketball team at the University of Connecticut, discussed the impact of scholarship limits, which, coupled with his lack of money, he said, sometimes left him short of food. “There are hungry nights that I go to bed and I’m starving,” Napier said. At the time, NCAA rules restricted the meals and snacks that could be provided for scholarship athletes.

Many athletic scholarships are granted only for one year, renewed at the discretion of coaches. A player who doesn’t perform can find himself cut loose. Medical care most often does not extend beyond college, and a player who is seriously injured can face considerable long-term expenses.

In addition, while under scholarship, athletes are subject to an array of NCAA rules that restrict their ability to earn outside income, accept gifts or profit by selling autographs or memorabilia connected to their role as a player. They must maintain a minimum grade-point average, which differs depending on the institution, and make progress toward graduating based on a schedule established by the NCAA. Violating the rules can cost athletes their chance to compete and put scholarships at risk.

Until recently, players also haven’t shared in the financial rewards collected by universities and the NCAA from merchandising that traded on the players’ popularity. Universities and the NCAA make millions of dollars selling video game rights, jerseys, T-shirts and more. But players had not received a share of this money until this June, when the NCAA and EA Sports, the video game maker, agreed to pay $20 million and $40 million, respectively, to former college athletes whose likenesses have been used in video games.

Those payments resulted from out-of-court settlements in two class-action lawsuits among several brought to give college athletes a share of the money being made from college sports. In the most highly publicized case, still unresolved, former University of California-Los Angeles (UCLA) basketball player Ed O’Bannon is asking a U.S. District Court to strike down NCAA restrictions that prevent athletes from profiting off their name and likeness.

For college athletes who succeed on the professional level, the rewards of the training and experience they gained in college can be considerable. But even in the best programs, only a small minority of football and basketball players end up playing professionally.

Congress and a few states have considered legislation to liberalize scholarship rules and improve the treatment of college athletes, but the bills do not propose that students be paid like professional athletes.

Recently, the NCAA has made some changes it says are intended to bolster the success of “student-athletes on the playing field, in the classroom and in life after college.” Shortly following Napier’s comment about going to bed hungry, the NCAA announced that all Division I student-athletes would be allowed unlimited meal benefits. NCAA President Emmert also has called for providing a $2,000 annual stipend to scholarship athletes to help them cover incidental expenses, although so far he has been unable to get the university presidents who control the NCAA to agree.

The NCAA and its supporters say such relatively modest changes could improve the situation for scholarship players while maintaining their amateur status. But critics say the changes fall short of providing equitable treatment, given the demands placed on players and the money now being made in college sports.

As the debate about the future of college sports continues, here are some of the key questions being considered:

**Should college athletes be paid?**

Most opponents of directly paying college athletes don’t claim the current system is perfect. Many say they support more liberal scholarship benefits, including a stipend that provides players with enough money to cover the full cost of college. But they believe allowing athletes to collect a paycheck for playing would destroy the idea of the “student-athlete” and create several additional problems.

“It is my strong belief that universities should not be in the business of running professional teams and semi-pro teams,” says Amy Perko, executive director of the Knight Commission on Intercollegiate Athletics, which was created in 1989 by the charitable Knight Foundation to keep...
Intercollegiate Athletics, which was created in 1989 by the charitable Knight Foundation to keep college sports true to the educational mission of universities. Paying players would mean schools were essentially operating professional teams under the banner of an institution of higher learning, she says.

Instead, Perko says, the commission believes the college athletic system needs reform in the opposite direction: putting the “student” in student-athlete first by re-emphasizing academics. To that end, she adds, the commission supports giving students more time for classes and a greater chance of completing school with a meaningful degree.

However, those who support paying college athletes say college sports already are operated as professional businesses — but the only participants expected to be amateurs are the players. Richard Southall, director of the College Sports Research Institute at the University of South Carolina in Columbia, says the NCAA has tried to have it both ways by promoting a term the association originated: “the collegiate model” of athletics. “In the collegiate model, professionalism, and generating as much revenue as possible, is good, even morally justified,” he says, “but it’s immoral for the college athlete to get paid.”

Southall says the demands placed on players at the top levels of college sports, particularly football and basketball, mean “they’ve been employees for a long time.” He says they should be able to seek the best deal they can get for their labor. In non-revenue-producing sports, athletes might play for a scholarship or for free, but in sports that bring in millions of dollars, athletes would have a chance to negotiate for more. “In some sports, they’d get compensated, and in some they wouldn’t, and that’s okay,” Southall says. “I don’t know exactly what [compensation] would look like, but what I know is that college athletes should have the right to bargain for it.”

But some analysts believe the current system provides adequate recompense for college athletes. “Colleges are already compensating their student athletes with tuition, room, board, coaching, nutritional support and physical trainers that can exceed $100,000 per year in value. Student athletes are already paid, and the current system is pretty close to as fair as we are going to get,” wrote Jeffrey Dorfman, a University of Georgia economist.

However, an analysis by FiveThirty Eight, a statistics and polling website, found that the top college quarterbacks are worth more than $3 million annually to their schools. Another study commissioned by the National College Players Association (NCPA), which advocates for better treatment of student-athletes, found that the value of scholarships falls far short of how much football and basketball players at the top schools would command on the open market.

Football players in the Football Bowl Subdivision of Division I (the top 125 schools) would receive an average of $178,500 annually for the years 2011-15, above and beyond their scholarships, while basketball players at those schools would receive $375,000 per year, according to the NCPA study, which was co-authored by Huma, founder and president of NCPA and also president of unionization advocate CAPA, and Ellen Staurowsky, a sports management professor at Drexel.
“We should be past the time when we fall for the NCAA party line that suggests that a ‘free education’ is adequate compensation for college athletes who generate billions of dollars in revenue for corporate marketing and media partners,” Staurowsky wrote.

Some experts, however, say rewarding football and basketball players based on market value would be unfair to other athletes. Ann Mayo, director of the Center for Sport Management at Seton Hall University in South Orange, N.J., says athletes in other sports, such as swimming or track and field, are no less dedicated than those in the money-making sports. Yet because many athletes in the non-revenue-generating sports know they will not go pro, they concentrate on taking advantage of the educational opportunity provided by their scholarship.

“You're not going to pay everybody. There's not enough money for that,” she says. “But there are a lot of student-athletes in other sports who love their sport, but also love the classes they are taking and are doing really well. These are the people who probably aren't going to get paid for all their hard work. On the surface, it looks like the people who are doing what they are supposed to be doing, who are the true student-athletes, are probably not going to get paid.”

Kristi Dosh, ESPN’s sports business reporter, says paying college athletes could destroy competitive balance, because the most successful schools would be able to offer much bigger paychecks. Pro sports uses a player draft process that favors the worst teams in order to maintain balance, she notes, but the less successful college teams would simply be left out in the cold.

Dosh also says paying players could run afoul of Title IX, the federal legislation that bars discrimination by gender in education. Paying just football or men's basketball players, she says, is likely to end in expensive litigation if female athletes aren't treated the same. “My understanding from talking to Title IX experts is … if you're going to give any kind of cash stipend, then you really have to do it across the board,” Dosh says.

But others say Title IX’s requirement of equal educational opportunity, does not apply if some college athletes become university employees. “The argument that we can't pay our employees so we can provide opportunities through Title IX is an invalid labor law analysis,” says the University of South Carolina’s Southall.

**Can colleges and universities afford to pay student-athletes?**

Given the billions of dollars paid to the NCAA and colleges and universities for broadcast rights to basketball, football and, more modestly, other college sports, it may be hard to imagine schools can't afford to pay athletes. But athletic directors and other experts say big TV contracts disguise the financial reality of college sports.

Out of 335 Division I college sports programs, says Andrew Zimbalist, an economics professor at Smith College in Northampton, Mass., “You have 23 that have an operating surplus, but probably only half a dozen that are making money if you include capital costs,” for buildings and other infrastructure. “You're really talking about a handful of schools that have a surplus.”

The median Division I athletic program loses $11 million a year on an operating basis, Zimbalist says, in part because of how the financial rewards from college sports are distributed. “It functions very much like a winner-take-all system,” he explains. “You get the superstar programs like Texas, USC [University of Southern California], Alabama that run away with the lion's share of the money. And then you get the other programs that are trying to compete with them but can't keep up, so their expenses run up, but their revenues don't go up commensurately.”

Spending millions more to pay players would only exacerbate a difficult financial situation for schools that are already subsidizing athletics, he says. “If you expand [athletic costs] by millions of dollars, that means you're draining the academic budgets even more than you currently are, and I don't think that's desirable,” Zimbalist says.

But Huma, the NCPA and CAPA president, says, “The idea that there's not enough revenue out there is ridiculous.” The major conferences recently signed television deals worth an additional $1.2 billion over their previous deals, he says. He also notes that schools already share athletic revenue in a variety of ways. If the NCAA is seriously worried about the schools that aren't making money, he says, the association could institute a revenue-sharing program that would distribute the money more equitably.

Daniel Mahony, a dean and professor at the College of Education, Health and Human Services at Kent State University in Ohio, counters that many schools are already having a tough time reining in the cost of athletics, particularly coaches’ salaries. He notes the NCAA lost a class-action lawsuit in 1998 after it tried to limit the salaries of assistant coaches. “They have enough trouble with coaches, and if you now started paying college athletes commensurate with what their value is, that's going to cause even more problems,” he says.

However, some analysts say universities have the money but have chosen to spend it on coaches’ salaries and upgraded facilities. Coaches’ salaries in the top sports conferences have risen 500 percent since 1985, and universities and colleges spent $5 billion on new buildings and other improvements in the last five years. Stanford economist Roger Noll noted in testimony in June in the antitrust suit filed by former UCLA basketball star Ed O'Bannon.
Top Division I coaches such as Nick Saban of the University of Alabama football team earn millions of dollars annually, reflecting the vast sums colleges with top teams receive from TV broadcasting rights. Saban received a raise recently to $6.9 million a year. Alabama President Judy Bonner's salary was $535,000 in 2013. Soon after, the University of Kentucky gave men's basketball coach John Calipari a new seven-year contract worth $7.5 million a year. (Getty Images/Kevin C. Cox)

Paying players would be a wiser investment, Noll said. “It’s much more efficient to pay people for what they’re producing than it is to create a competition for the right to exploit them,” he said.

But other experts argue that even in successful Division I sports programs, the money made by football and basketball has to be stretched farther than most people realize. Division I schools often support more than 20 different sports teams for men and women. “If you have 21 programs, there are two that make money. That’s football and men’s basketball. The other 19 don’t make money. The amount they’re going to bring in isn’t even going to pay for the coaches’ salaries,” says Jim Livengood, a retired athletic director at the University of Arizona in Tucson and other schools. “Yet those programs are just as valuable an experience to the student-athlete, just as valuable a lifetime skill as football and basketball.”

For schools with financially self-sufficient athletic programs, the money from football and basketball allows them to compete in the other sports, Livengood says. He says changing that could have a disastrous effect on a university’s athletics. “Who knows that within our own athletic programs we wouldn’t have a revolt,” he says.

But Huma says the situation in Division II, the second tier of college athletic competition, proves universities can maintain the other sports on their own. “In Division II, you’re talking about almost 300 schools, none of which generate revenue overall from sports, yet they have teams across the board,” he says. “If you needed big-time football and basketball to subsidize the other sports, then Division II would not exist.”

Howard Nixon, a recently retired professor of sociology at Towson University in Maryland and the author of The Athletic Trap: How College Sports Corrupted the Academy, believes spinning off the big-money sports as separate, for-profit entities could resolve the question of their impact on a school’s budget while allowing greater compensation for the athletes. “You’d create these semi-autonomous enterprises, kind of like the university hospital. They have to pay for themselves;” he says. “It’s a short step from being a minor league team, but you still maintain a connection to the universities.”

Other sports teams would compete more like those in Division III, the smallest schools, which do not award athletic scholarships and make fewer demands on their players. This would maintain those sports as amateur enterprises, while the athletes who are making money for the school by playing football or basketball could be paid or otherwise fairly compensated. “It would remove the hypocrisy,” Nixon says. “People have said it’s unaffordable. I have said it’s about being fair to the athletes. You be fair to the athletes and then figure out how to make it work. You’ve certainly figured out a way to pay the coaches.”
Are academic standards for college athletes strict enough?

In early June, Rashad McCants, a player on the University of North Carolina's 2004-05 national championship basketball team, told ESPN's "Outside the Lines" that he was able to maintain his academic eligibility only because tutors wrote some of his term papers and he signed up for bogus classes that never met. Coach Roy Williams and others at the university have denied that McCants' claims are representative of the experience of UNC players. But the story is the latest in a long line of tales of academic fraud or cheating to keep star athletes playing. The scandals have fed a debate about academic standards for athletes. A college education is the principal benefit that most scholarship recipients receive in return for their efforts on the field, but critics say many athletic programs do little to make sure their players receive a meaningful education.

Rather than paying college athletes as employees, some experts say universities and the NCAA should stiffen admission and academic standards to make sure athletes are competing in the classrooms and not just on the playing field.

Gerald Gurney, a professor at the University of Oklahoma who specializes in academic reform and ethics in athletics, has emerged as a leading critic of current standards. The NCAA has changed its academic standards many times, but a key moment occurred in 2003, when the NCAA stopped requiring a minimum test score on the ACT and SAT college admission tests. Admission is now based on a sliding scale — the lower the test score, the higher the high school grades required.

The change was, in part, a result of concern about the lower rate of admissions for minority students, but Gurney says the results show only a minimal improvement in minority admissions. However, high-school grade inflation, special prep schools that cater to athletes with easy grades and the free pass given some gifted athletes in high school mean the standards allow unprepared students to qualify for college admission.

In addition, studies have found that a disproportionate share of athletes are "special admissions," which means universities waived standard admissions requirements to allow the student to enroll.

Gurney says the process needs reform. "The answer always begins with admission standards. They are too low. They are admitting athletes who are underprepared for college," he says. "If I had an answer, I'd say we shouldn't admit kids who cannot read. But I'm also a realist. If a kid runs a 4.3 [seconds in the 40-yard dash] he's likely to be admitted." In that case he adds, the athlete shouldn't be eligible to compete his first year. "We ought to spend that time remediating him or her so they have a chance to succeed academically," he says.

But Billy Hawkins, a kinesiology professor at the University of Georgia in Athens and the author of The New Plantation: Black Athletes, College Sports, and Predominantly White NCAA Institutions, says it's unfair to expect athletes from troubled, poorly funded public schools to meet tougher college admission standards — "unless they're able to change what's going on in the public schools: the high schools, the middle schools, the elementary schools," he says. "If they can't impact that, they are just trying to narrow the gate and not addressing what's really going on."

Gurney says he is not talking about denying admission, but rather requiring unprepared scholarship athletes to focus on academics until they have acquired the skills to handle college coursework. "This would not punish the athlete. It holds them out because they're not ready to get that education," he says. "This is not rocket science. It's basic. We must have students who are ready for college before we can educate them."

Many observers also criticize the academic guidance provided to college athletes, particularly in football and basketball. Gurney and others say athletes often are steered into the least demanding classes and majors, a phenomenon known as "major clustering."

Earlier this year, Mary Willingham, an academic counselor at the University of North Carolina, gained national attention when she said many of that school's athletes were taking advantage of special classes with almost non-existent requirements in order to remain eligible despite serious academic deficiencies. "They're leaving here, our profit-sport athletes, without an education," Willingham said. "They're significantly behind the level of reading and writing that's required." Livengood, the former athletic director at the University of Arizona and other schools, says universities and the NCAA should take steps to see that the academic schedules of athletes are set up so they can obtain a meaningful degree. "I contended the whole time I was AD [athletic director] that we look at really preparing kids for things they want to study, things they could really see as a career, a vocation, not just things that make their practice schedule easier," he says.

But other observers say the best solution might be to reduce, or even eliminate, academic requirements while athletes are concentrating on sports. "I don't think you can expect a student-athlete to maintain anywhere from a 50- to 70-hour work week and also maintain an academic schedule," says the University of Georgia's Hawkins, who believes the number of credits athletes are required to take should be reduced during the sports season.
In 1951 college sports were rocked by a succession of scandals. Early in the year, players from four different New York schools, including City College, which had won the previous year's NCAA basketball tournament, were booked for conspiring with gamblers to fix some games by "point-shaving," in which players conspire to keep the score closer than the point spread established by bookies. In August, a cheating scandal at West Point, the U.S. Military Academy, resulted in the expulsion of many members of the football team.

But after a point-shaving scandal hit the University of Kentucky, the reigning national basketball champion and a pre-eminent basketball program, the NCAA was able to assert added control over college sports. Walter Byers, NCAA executive director, moved quickly to impose penalties, without waiting to call a full convention of NCAA schools.

Then, despite questions about the NCAA's legal authority to punish schools, he persuaded the NCAA membership to accept an unprecedented penalty: A one-year suspension for the basketball team. Writing in The Atlantic, historian Branch said the move established a precedent and "created an aura of centralized command for an NCAA office that barely existed."
At the same time, colleges had failed to grasp the financial potential of television, then in its infancy. Rather than negotiate individual contracts, NCAA member schools voted to ban televising football games except those licensed through the NCAA. In 1952, NBC agreed to pay $1.14 million for a one-year package of weekend games. The NCAA got 12 percent of the proceeds, but, importantly, the contract established the NCAA's control over television rights. By the 1960s, Byers had negotiated college football's television contract up to $3.1 million, more than the National Football League got at the time.

In the 1980s, the most successful college football programs revolted against the NCAA monopoly and sued. In 1984 the Supreme Court ruled that the NCAA's football broadcast contract constituted an illegal restraint of trade. But by then, money from the March Madness basketball tournament, which the NCAA continued to control, was providing a healthy new stream of revenue to the organization.

### Alabama Leads in Athletic Program Profit

The athletic departments at the University of Alabama, University of Iowa and University of Texas-Austin are the most profitable among NCAA Division I schools. Only about 14 percent of those schools generated more than $1 million in profit in 2012, calculated by subtracting operating expenses for all sports from total sports revenue.

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The growing popularity of college basketball and football also greatly increased the money coming into universities, especially those that had built a national reputation. The pressure increased on universities and coaches to recruit and enroll the best athletes in those sports. Through the 1980s and ’90s stories of under-the-table payments to athletes by boosters or even assistance by coaches that violated NCAA rules appeared repeatedly in the news.

Author Smith of Penn State views those scandals as part of an ongoing history that refutes the idea that amateurism was ever at the heart of college sports. “I don’t think it’s changed that much,” he says, “but what has happened is there is a lot more money for recruiting now, coaches have multimillions to fly here there and everywhere. Coaches’ salaries are also so high that it puts a huge amount of pressure on them to win because they’re going to fire them if they don’t.”

The NCAA, however, has continued to hold to its idea of amateurism, expanding efforts to keep the “student-athlete,” a term it coined, from directly sharing in the growing amount of money in university athletics. The term was crafted, at least in part, to help colleges fight workers’ compensation claims from injured athletes.

### “500-Page Rulebook”

In the 1950s, after a player for the Fort Lewis A&M Aggies in Colorado died from a football-induced head injury, his widow sued for workers’ compensation. The case was a test of the idea of the student-athlete. If players’ responsibilities were akin to those of students working in other university jobs, they would be eligible for benefits. But if players were viewed as students engaged in an extracurricular activity, then they would not be eligible. The Colorado Supreme Court eventually agreed with the college, ruling the widow was not eligible for compensation because football was not a business enterprise.

As the amount of money produced by college football and basketball programs has increased, the notion that they are amateur, noncommercial enterprises has generated heated criticism. But the NCAA has continued to police college athletes and athletic departments to preserve the idea of the unpaid student-athlete.

Over the years, NCAA rules about which benefits athletes can and cannot receive have proliferated. “The power-happy NCAA has a nearly 500-page rulebook, which results in micromanagement of coaches and athletes, excessive limitations on student-athletes’ lives and budgets,” wrote David Davenport, a research fellow at the Hoover Institution, a conservative think tank based at Stanford University in California.
Infractions include offenses that could provide one team with a competitive advantage over another or could be a corrupting influence, such as college boosters giving gifts or cash to players. But the NCAA rulebook also deals with much smaller matters. For example, coaches face restrictions on when and how often they can text recruits. In one incident, the University of Oklahoma suspended its recruitment of a player when it determined that assistant coach Bruce Kittle had inadvertently pocket-dialed the player on his cell phone in violation of NCAA rules.

Until the NCAA recently revised its rules, the association seemed obsessively concerned with what food could be given to players. At one point, schools could provide bagels to players, but not spreads or toppings such as cream cheese. In another case, the University of Tennessee declared that during a trip women's basketball players had each accidently received $3 more in per diem than they were allowed for lunch. To set matters right, the school had each student donate $3 to charity.

The seemingly petty nature of many rules has led to widespread criticism and ridicule. “The NCAA is very paternalistic,” says the University of Georgia's Hawkins, referring to how the organization restricts the lives of players while limiting their ability to profit from their own labor. “That's why I call it a plantation system.”

NCAA President Emmert has acknowledged that the NCAA rulebook is complex, but he has said the organization is working to simplify it. Meanwhile, the NCAA has bolstered its enforcement staff, he said, and is aggressively focusing on serious violations. “We set up a penalty structure that reinforced the serious concerns … so there was much greater emphasis on those and not so much worry about little things,” Emmert told USA Today.

But some critics believe the NCAA remains primarily concerned with the public image of college athletics. “They spend three times as much money on PR [public relations] as they do on enforcement,” says Kent State's Mahony. “They are primarily an organization designed to promote college athletics. There are some who would argue that they want to catch just enough people to get the appearance of enforcement without really changing things.”

Current Situation

Athletes in Court

On June 9, roughly five years after it was filed, an antitrust lawsuit by former UCLA basketball star Ed O'Bannon against the NCAA finally came to trial.

In U.S. District Court in Oakland, Calif., Judge Claudia Wilken will decide whether O'Bannon and other current and former college athletes have the right to share in the money made from the use of their likenesses on television broadcasts and in video games. A ruling is expected in early August.

The case is one of three antitrust lawsuits now pending against the NCAA. In March, former West Virginia football player Shawne Alston sued the NCAA and five major football conferences, claiming they are breaking antitrust laws by capping athletic scholarships below the full cost of attending school.

Later in March, sports labor lawyer Jeffrey Kessler filed another antitrust lawsuit on behalf of a group of current college football and basketball players. Kessler's suit goes further than the other suits, claiming the NCAA unlawfully limits compensation to players to the value of a scholarship. Kessler told ESPN the objective “is to strike down permanently the restrictions that prevent athletes in Division I basketball and the top tier of college football from being fairly compensated for the billions of dollars in revenue that they help generate.”

Kessler has a track record of success in high-profile sports cases, including the legal battle that helped to bring free agency to NFL players. But his lawsuit and Alston's could be years away from trial. The O'Bannon case has the most immediate potential for changing how the NCAA and college athletic departments operate.

Despite his college success, O'Bannon struggled in professional basketball, playing just two years in the NBA and several years for a succession of foreign teams before retiring at age 32. He was working for a car dealership in Las Vegas when he saw himself portrayed in a college basketball video game. He was bothered that no one had asked his permission and that he wasn't receiving any money for use of his likeness.

According to the trial brief, O'Bannon's lawyers hope to prove that the NCAA, its member institutions and business partners “have conspired to deprive college athletes in Division I men's basketball and football of any portion of the revenues earned
Legislative Measures

The partisan gridlock that has paralyzed Capitol Hill on a range of issues makes it unlikely lawmakers will pass legislation to change how the NCAA and college athletics operate anytime soon. But two bills have been introduced that would address some of the concerns expressed by the National College Players Association and many athletes.

The National Collegiate Athletics Accountability Act, sponsored by Reps. Charlie Dent, R-Pa., and Joyce Beatty, D-Ohio, would require NCAA member institutions to guarantee four-year athletic scholarships to recipients. Schools now have that option, but some offer only year-to-year scholarships for some athletes.

Dent said students’ fear of losing their scholarships could make them hide injuries, such as concussions. The bill also would require NCAA members to perform baseline concussion tests on athletes who play high-contact sports. In addition, the NCAA would have to provide colleges and students with the chance for an administrative hearing and appeal before the association could issue penalties for alleged rules violations. If the NCAA or member schools did not follow the legislation’s requirements, they could lose some federal funding.

“This bill will ensure that students — the individuals the NCAA is charged to protect — will, once again, come first in college athletics,” Reps. Dent and Beatty said in a written statement. The legislation has been referred to the House Committee on Education and the Workforce but has yet to be considered.

Another House bill, the Collegiate Student-Athlete Protection Act, would require college athletic programs that receive at least $10 million from media rights to provide their athletes with guaranteed benefits, including financial aid to continue in school if they lose their scholarship for reasons other than academic failure or behavioral misconduct. The bill would also provide greater medical benefits and health care guarantees for student-athletes.

“It shouldn’t be a situation where you have a kid who has a dream, and then all of the sudden because the school gets a new coach or they have players that might be a little bit better than them, they’re just tossed to the side,” Rep. Tony Cárdenas, D-Calif., said. The legislation has also been referred to the Education and Workforce Committee.

At a May hearing by the same House committee on the consequences of unionizing college athletes, both Democrats and Republicans criticized the NCAA for failing to address athletes’ concerns. But members of the two parties expressed different views on unionization, with Republicans clearly opposed, illustrating the difficulty Congress is likely to face in finding a consensus approach to college athletic reform.
**State Proposals**

Cárdenas’s bill was modeled in part on a 2012 California law. The Student Athlete Bill of Rights requires schools to pay the health insurance premiums of low-income athletes and cover medical expenses for players for up to two years after they graduate.

It also has provisions to boost graduation rates for scholarship athletes. If a school's graduation rate for athletes, for each team, is less than 60 percent, the school must extend scholarships for a year after a player has exhausted his or her athletic eligibility. Like Cárdenas’s proposed national legislation, the California law applies to schools bringing in $10 million or more annually in media rights — just a handful of the state's biggest public and private universities.  

According to the National Conference of State Legislatures, several states have considered other bills regulating college athletes in recent years, but none has become law.

**NCAA Faces Revolt**

While battling to preserve its vision of college athletics in the courts and facing unhappy lawmakers on Capitol Hill, the NCAA also is confronting discontent in its own membership. Mounting frustration among the five most successful athletic conferences (Big Ten, Southeastern [SEC], Atlantic Coast [ACC], Pac 12 and Big 12) broke into the open this spring when SEC Commissioner Mike Slive said if the conferences aren’t granted more autonomy within Division I, they will move to create their own "Division IV," with its own scholarship rules.

The five conferences propose increasing aid to scholarship athletes up to the full cost of attending school. They also would provide more comprehensive medical coverage and offer incentives for athletes to return to school and get their degrees. The schools in the five conferences say the proposed changes are necessary to head off the lawsuits pending against the NCAA and its members and to treat athletes more fairly. But the moves have been resisted by other Division I schools that fear they could not afford them.

ESPN's Dosh says the conferences are not actually likely to bolt. “It would take a lot of time and expensive effort to form their own division, to come up with rules and hire people to run things,” she says, adding that she thinks the intent is really to let other schools know the extent of their frustration. Dosh says she thinks an agreement will be reached that grants the five conferences more autonomy while remaining in Division I.

**Outlook**

**How Much Change?**

The final NLRB decision on the right of Northwestern football players to unionize and the U.S. District Court’s ruling on the O’Bannon antitrust suit will play big roles in determining the future of college athletics. But regardless of the rulings in those cases and others, some longtime observers of college sports believe a basic change is taking place.

“I’m more optimistic than I’ve been before in my 31 years in athletics, because what I see now is a movement of athletes who are tired of empty promises and snail-paced bureaucracy and simply demanding what is right,” says the University of Oklahoma’s Gurney. College athletes won’t be satisfied until they receive fairer treatment, he adds, including scholarships that cover the full cost of attending school, and “a chance at a real education.”

But Kent State’s Mahony is pessimistic about the NCAA’s willingness to embrace real reform. “If you look at its history, the tradition of the NCAA is to try to make as little change as possible because the system is working for the NCAA administrators and the coaches,” he says. “They’ll try to do the least amount they possibly can to make this go away.”

The University of South Carolina’s Southall thinks college sports are likely to move toward a “hybrid model” in which the revenue-producing sports at some schools become more professional, with players getting salaries or greater compensation of some form, while other sports even at the same school operate on a more amateur basis. “The fundamental difference will be college athletes having more voice,” he says.

However, the Knight Commission’s Perko does not see big changes ahead for most college athletics. “The vast majority of programs really fall outside the huge influx of money and commercial interest that we've seen,” she says, “so the vast majority will still be guided by the principles of running athletic programs that are aligned with the educational mission of the university.” The question, she says, is what changes will come to the athletic programs that are the beneficiaries of “huge
Should student-athletes be paid?

Pro/Con

Go to top

Pro Emmett Gill
Assistant professor, University of Texas at San Antonio; National Coordinator, Student-Athletes Human Rights Project. Written for Cq Researcher, July 2014

College athletes do not necessarily need to receive a paycheck directly from their universities, but they should retain the ability to use their name, likeness and brand to generate uncapped income during and after their college career. The $2,000 stipend the NCAA proposed in 2012 is the same amount it proposed in 1999. All college athletes should be able to receive money to appear in a chip-and-dip commercial, have their own bubble gum card or operate their own sports camp.

The importance of amateurism is not a worthy argument because, as Martin Luther King Jr. said, there are just and unjust laws. Justice refers to fairness. Is it fair that coach Nick Saban of the University of Alabama recently signed a $55.2 million contract, but Tyrone Prothro, the Crimson Tide wide receiver celebrated for making “The Catch” in 2005, fractured both bones in his lower leg in his next game? Saban is wealthy and Prothro is in debt and out of football.

The argument that the value of a scholarship is sufficient compensation is invalid — look at the wretched diplomas from the University of North Carolina. Forty-five percent of UNC male athletes are clustered into three social science majors, the football players are on campus 11 months of the year and at least 7 percent are unable to read well.

If you compete at Oklahoma State University, it’s a potential pathway to prison. Over the past four months, four Oklahoma State athletes were arrested for alleged crimes from outraging public decency to armed robbery.

However, allowing college athletes to participate in the free market neutralizes Title IX concerns about sex discrimination because media contracts — whether those programs will evolve to become even more commercial or professionalized than they already are.

But even at schools that remain committed to big-time sports, Huma of the National College Players Association says changes will largely be invisible to fans. Players will have unionized, he says, but work stoppages will be rare, and fans will still recognize college sports.

“Ten years from now it’s going to look very similar in terms of the product. You’re still going to have games going on, still going to have the excitement,” he says. “But you’re also going to have a sense of peace because you’re going to know that if a player is injured on the field or the court, they’re not going to be stuck with their medical bills; they’re not going to lose their scholarship, they’re actually going to have a chance to complete their degree.”

But Livengood, the former athletic director, predicts the escalating costs of staying competitive will cause some colleges and universities to rethink their commitment to athletics. “Down the road,” he says, “I think we’ll see a great number of schools saying it’s too expensive to compete.”

A reordering of priorities, Livengood adds, won’t necessarily be bad for higher education. “As important as athletics is, and I do believe it can do so many things, it’s not the reason and never should be that a college exists,” he says, “and I think we might have lost our way a bit on that.”

Con Horace Mitchell
President, California State University, Bakersfield; member, NCAA Division I Board of Directors. Written for Cq Researcher, July 2014

Student-athletes should not be paid. There is a misperception that all athletic programs are profitable, and institutions are making money hand-over-fist. The truth is that only a fraction of programs are profitable, while most operate at a cost to the institution.

The question arises primarily in reference to student-athletes in the sports of football and basketball at NCAA Division I institutions with high-profile, high-income athletic programs. The argument is that because such institutions receive millions of dollars from the performance (labor) of student-athletes, they should be paid.

However, student-athletes are not employees or professional athletes who are paid salaries and incentives for a career in sports. They are students who gain access to a college education through their participation in sports, for which they earn scholarships to pay tuition, fees, room and board and other allowable expenses. A high percentage of student-athletes graduate without the burden of student loans that most students accumulate and must repay.

Student-athletes are amateurs who choose to participate in intercollegiate athletics as part of their educational experience, thus maintaining a distinction between student-athletes who participate in the collegiate model and professional athletes who might be students as well. Participation in collegiate sports is not a student-athlete’s job. His or her ability to compete is contingent upon continued enrollment and academic eligibility. Because these athletes are not employees, it follows that they should not be unionized.

It is clear that, in addition to their academic course loads, student-athletes always have a job at a college or university.
The policy mandates only equal opportunities. Proponents of pay for play rightfully argue that everyone else makes money off college athletes and that the extracurricular activity is really a form of employment.

Even more compelling is that a free market in college athletics will provide athletes with the internship of a lifetime — the opportunity, the coursework and the platform to build a brand that can feed them, their families and their communities for generations.

If athletes can participate in the booming free market in college athletics, then maybe they will pursue business degrees, honor the morality clauses in their endorsement contracts and avoid arrests, and if all goes well, leave school with a trust fund instead of a load of debt.

<table>
<thead>
<tr>
<th>Chronology</th>
<th>Description</th>
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<tbody>
<tr>
<td>1852-1905</td>
<td>Intercollegiate athletics become popular; questions arise about amateurism and fair play.</td>
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<td>1852</td>
<td>Harvard and Yale face off in a crew race held on Lake Winnipesaukee, N.H., the first intercollegiate sporting contest in America. The event is sponsored by a railroad company.</td>
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<td>1879</td>
<td>Eastern colleges form a conference for baseball to establish rules following the use of professional players by Brown and graduate students by Harvard.</td>
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<td>1905</td>
<td>The Intercollegiate Athletic Association of the United States, forerunner of the National Collegiate Athletic Association (NCAA), is formed when 68 institutions meet to reduce the violence of college football.</td>
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<td>1910-1948</td>
<td>NCAA emerges as the main governing body of college sports, but struggles to impose rules.</td>
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<tr>
<td>1910</td>
<td>The Intercollegiate Athletic Association becomes the NCAA.</td>
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<td>1929</td>
<td>The Carnegie Foundation surveys 112 schools and finds 81 providing inducements to student-athletes that include direct pay, money from boosters or no-show jobs.</td>
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<td>1939</td>
<td>Freshman football players at the University of Pittsburgh go on strike because they are getting paid less than other members of the team.</td>
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<td>1948</td>
<td>The NCAA's new &quot;Sanity Code&quot; restricts aid to athletes to scholarships based on financial need, but the effort fails through lack of support and is eventually repealed.</td>
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<td>1951-1972</td>
<td>Television changes the financial picture; Title IX boosts women's sports.</td>
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<td>1951</td>
<td>Scandals involving point-shaving in basketball (to fix games for gamblers) and falsifying players' grades in football rock college sports.</td>
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<td>1952-53</td>
<td>NBC signs a deal with the NCAA for a restricted football contract, limiting games and sharing revenue among schools. The NCAA gains credibility when it suspends the University of Kentucky's basketball team for the entire season for player involvement in point-shaving.</td>
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<td>1972</td>
<td>Title IX, which bars gender discrimination in education, becomes law, significantly expanding opportunities for women in college sports.</td>
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<td>1984-1986</td>
<td>TV deals bring big money; concern grows about academic performance.</td>
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<td>1984</td>
<td>U.S. Supreme Court strikes down the NCAA's TV football contracts as anti-trust violations.</td>
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Maryland's Brooke Griffin (11) moves against Kasey Mock of Syracuse during the NCAA Division I Women's Lacrosse Championship in Towson, Md., on May 25. Maryland won, 15-12.

Opponents of paying college athletes say that even the most successful Division I football and basketball programs are stretched more than many people realize, often supporting more than 20 different sports teams for men and women. (Getty Images/Patrick Smith)

1984
U.S. Supreme Court strikes down the NCAA's TV football contracts as restraint of trade. Universities and conferences cut their own multimillion-dollar deals. NCAA study finds that academic standards of freshman scholarship athletes, on average, are far below those of nonathletes.

1986
NCAA adopts Proposition 48, establishing eligibility standards for incoming athletes.

2003-Present
NCAA defends the idea of the student-athlete; players turn to lawsuits.

2003
NCAA changes its eligibility requirements for athletes to eliminate minimum college entrance exam test scores.

2009
Ed O'Bannon, a former UCLA basketball player, sues the NCAA for prohibiting college athletes from sharing in revenue generated from their names and likenesses. Associated Press survey finds that football players in top college programs are more than 10 times more likely to be granted special admission compared with other students.

2014
Regional National Labor Relations Board official rules that Northwestern University football players are school employees and can unionize (March). Lawyers for former and current players announce two new lawsuits against NCAA, arguing it illegally restricts compensation for college athletes (May). EA Sports, a video game company, and the NCAA agree to pay former college athletes for use of their likenesses in video games. O'Bannon lawsuit goes to trial (June).

Short Features

The Other Student-Athletes

Most who play college sports are not big-time basketball or football stars.

Viewers who tuned into a big college sports event during the last year had a good chance of seeing a National Collegiate Athletic Association (NCAA) advertisement that celebrated athletes whose future was not on the playing field.

"There are more than 450,000 student-athletes, and the majority of them will go pro in something other than sports," the ad proclaimed.

At a moment when the NCAA is fighting in the courts to defend the idea of the unpaid amateur student-athlete, the advertising campaign can be seen as an effort to steer attention away from the demands placed on athletes in big-time college sports and the billions of dollars that are made off their performances on the field. But the ads also reflect the larger reality of college sports.

Star athletes such as Johnny "Johnny Football" Manziel, Texas A&M's quarterback last year, may be the face of college sports to most fans. But their experiences and those of other athletes in football and men's basketball in Division I, the top tier of athletic competition, are not representative.

The largest number of college athletes — more than 170,000 — compete in Division III, which is made up of smaller schools that do not provide athletic scholarships and require shorter practices and playing seasons with less travel. That means players can concentrate more on academics. Division II, the middle tier of athletic competition, includes nearly 110,000 more athletes, very few of whom have pro prospects. Even in Division I, scholarship football and basketball players amount to fewer than a quarter of the roughly 170,000 athletes competing within the division. The NCAA conducts 38 different national Division I championships for everything from rifle shooting to water polo.

In Division I men's basketball and football, graduation rates for players trail those of the general student body, according to statistics compiled by the NCAA, but in other sports, athletes graduate at a higher rate than other students. Women college athletes do particularly well, with graduation rates in Division I — around 80 percent for many sports. The graduation rate for women athletes in the division exceeds the rate for women students overall by about 7 percentage points.

That doesn't mean that balancing the demands of athletics and academics is easy, says Daniel Mahony, a dean at Kent State University in Ohio and an expert in sports away from the court.
NCAA President Mark Emmert reportedly earns about $1.6 million a year. To counter charges that the NCAA and its employees are getting rich at the expense of student-athletes, the NCAA says 90 percent of its revenue goes to its member institutions. (Getty Images/Jamie Squire)

"I wouldn't discount that these other athletes are having some problems, too," he says. "I have taught enough athletes to tell you that a lot of them are gone more than the football players [for games or meets], so they can struggle, too."

But in general, say many who have worked with college athletes, players in the lesser-known sports manage their priorities in order to get an education while also competing. "Certainly, for the great majority of athletes … their total experience has been a positive one, and, in many cases, one in which the system works," says Amy Perko, executive director of the Knight Commission on Intercollegiate Athletics, which works to keep college sports true to the educational mission of universities.

"We still think there need to be improvements," she adds. "But one of the issues that has created problems over the years has been to try and apply a solution for one sport to all the sports. We need to move beyond that, and more clearly define the issues in particular sports."

— Reed Karaim

[1] Statistics on participation rates in the different divisions and different sports can be found at www.ncaa.org.


NCAA Makes Rules, Runs Championships

Annual revenue tops $900 million, most of it from “March Madness.”

The National Collegiate Athletic Association has long been a lightning rod for criticism. Among other things, members of the media and the academic community have ridiculed the nonprofit association for rules regulating players' lives that can seem arbitrary and petty.

But making and enforcing rules for college athletics is only part of NCAA activities. The association, which is governed by a board of college presidents and chancellors, has more than 1,100 member colleges and universities of all sizes that agree to compete under its umbrella.

The organization has a broad charter. From its 142,000-square-foot headquarters in Indianapolis, which it rents from the city for $1 a year, the NCAA's 500 employees oversee a variety of sports enterprises, including marketing efforts and merchandising contracts. The NCAA also "conducts 89 national championships in 23 sports across Divisions I, II and III," according to its website.

But by far the signature event for the association, and the source of 84 percent of its annual revenue, is the Division I men's basketball tournament, which the NCAA operates and from which it collects hundreds of millions of dollars for broadcast rights. The three-week "March Madness" tournament has helped the NCAA increase its revenue from about $500 million in 2005 to more than $912 million last year. In the last 15 years, salaries and benefits for NCAA employees have more than doubled, from $20 million to $49 million. The NCAA has 86 employees that make more than $100,000 annually, including President Mark Emmert, who gets about $1.6 million a year, according to The Indianapolis Star.

Those numbers have led to charges the association and its employees are getting rich while college athletes toil for scholarships that fail to cover the true cost of school. New York Times columnist Joe Nocera is one of many observers who have campaigned against what he has called the "glaring, and increasingly untenable discrepancy between what football and basketball players get and what everyone else in their food chain reaps."

The NCAA counters that 90 percent of the money it takes in goes to its member institutions through a variety of programs. A large share is returned to schools and conferences that participate in the March Madness tournament, but a variety of programs do support the athletes more directly. Last year, this included $73.5 million for a Student Assistance Fund, which makes money available to Division I athletes for costs associated with family emergencies, academic supplies, uncovered medical expenses, clothing and other expenses. The association provided another $25 million to enhance academic support programs for athletes at Division I schools. One of the largest revenue-sharing programs returned $188 million to schools in Division I for their scholarship funds. The NCAA also spends another $63 million to support grants and services for college athletes at the Division II and III levels.

As for salaries, NCAA Chief Financial Officer Kathleen McNeely told The Indianapolis Star they are comparable to others in the field of sports management.
“We have a lot of lawyers at the NCAA,” McNeely said. With one ongoing and two pending antitrust lawsuits, as well as a National Labor Relations Board case it has appealed, that is one NCAA expense that can be expected to rise.

— Reed Karaim


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Reports and Studies


**The Next Step**

**Academic Standards**

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**Graduation Rates**


**NCAA Lawsuits**


Studies business and social aspects of college athletics.

Knight Commission on Intercollegiate Athletics
910-551-6809
www.knightcommission.org
Works to emphasize academic values and ensure that college athletic programs operate within the educational mission of their colleges and universities; formed by the John S. and James L. Knight Foundation in 1989 in response to a series of scandals in college sports.

National Collegiate Athletic Association (NCAA)
700 W. Washington St., P.O. Box 6222, Indianapolis, IN 46206
317-917-6222
www.ncaa.org
Regulates college athletics, setting standards for student athletes and college programs; conducts national championships in 23 sports across Divisions I, II and III.

National College Players Association (NCPA)
P.O. Box 6917, Norco, CA 92860
951-898-0985
www.ncpanow.org
Promotes interests of former and current college athletes, including adequate compensation for their efforts.

National Labor Relations Board (NLRB)
1099 14th St., N.W., Washington, DC 20570
202-273-1000
www.nlrb.gov
Federal agency charged with safeguarding employees' rights to organize and with preventing and remediying unfair labor practices.

Footnotes
[2] Ibid.
[3] The full text of the ruling by Peter Sung Ohr, NLRB regional director, which includes a more complete look at the circumstances that led him to reach his conclusion, can be found under case number "13-RC-121359" on the NRLB website, http://tinyurl.com/kv3uzzq.


[37] Smith, op. cit., p. 221.

[38] Branch, op. cit.

[39] Ibid.

[40] Ibid.


[42] Branch, op. cit.

[43] Ibid.

[44] Ibid.


Ibid.


Wolverton, op. cit.


Ibid.


The National Conference of State Legislatures reviewed the states’ actions on bills regulating college athletes at the request of CQ Researcher.