

Coalition on Intercollegiate Athletics

April 19, 2024

Annual Meeting

What's going on, Legally, in Collegiate Sports? Kassandra Ramsey, Esq.

- July 2021, change with NIL (previously based on amateurism, college athletes were not allowed to be paid). College rights advocates advocated for more rights for college athletes.
- O'Bannon Case vs. NCAA, UCLA basketball sued in 2009 due to an avatar in a video game that used his likeness – he never consented to use nor was compensated for it. Case did not directly lead to NIL, but laid the ground work.
- 2019 – California became first state to enact pay to play act that was supposed to be in effect 2023. Act caused a domino effect where other states enacted laws, Florida started their law in 2021, and other states followed suit.
- NIL policy – short, open-ended and vague. Allowed college athletes to use NIL. NIL cannot be used as a recruiting inducement nor pay for play.
- Austin vs. NCAA – was mischaracterized as case that led to NIL. Case was about education related benefits. Decision was NCAA could no longer limit education related benefits. Supreme court made it clear that rules only related to education related benefits. Case has had ramifications for our current state.
- NIL collective – Offering money for athletes to come to schools. NIL collectives are created by alumni, businesses, etc. Approximately 200 NIL collectives have been created, most schools now have one. Only service men's sports – football & basketball, bringing up Title IX concerns. Money is not equally going to women's sports.
- Should NIL be required to be equitable to women's sports? NIL are not recipients of federal funds - but does the school have the responsibility to ensure equality of NIL collectives.
- Female college athletes filed suit at University of Oregon – still pending. Argument that NIL collective is having a disparate outcome on women's sports.
- Hubbard vs. NCAA – Class action suit against NCAA seeking back pay for Austin awards – for educational benefits – academic achievement awards.
- House vs. NCAA – being referred to the case that completely upend college athletics as we know it. Filed on June 15, 2020 – before NIL rules were enacted. Sued NCAA for restricting athletes for how they could benefit from their NIL. Seeking backpay for loss of revenue. Would impact thousands of athletes – 1.4 billion dollars, could increase to 3 billion. Case is headed to trial unless NCAA settles.
- Yesterday Virginia enacted a law that allowed college athletes to be paid directly for their NIL.
- Carter vs. NCAA – sued NCAA seeking an injunction that would stop NCAA from enforcing NIL rules and seek back-pay.

- Other challenges NCAA has faced based on anti-trust laws (they are going to have trouble based on anything based on anti-trust laws)
- NCAA recently amended rules to allow for multiple transfers based on law suit
- Issue of employment – petition to unionize. At Dartmouth they voted and approved to unionize. Saying that student athletes are employees. School is appealing and is saying they will not engage in union discussion – this may end up in court. First college athletes’ union
- Johnson case – based on fair labor standards act – argue that college athletes should be paid minimum wage and OT pay – heard last February, still waiting on a ruling
- Will congress act is the question right now – not very likely they will act now because there are so many different issues now.
- NCAA is seeking an anti-trust exemption from congress – doesn’t see this happening either.
- NCAA has to decide if they want to settle the House case at this point.
- What faculty can do: Help athletes understand unintended consequences of employment (taxes, being fired, reduction in team size...)

NCAA Plans for the Future: Binh Nguyen (Director of Academic & Membership Affairs), Amanda Conklin (NCAA managing director of Division I governance), Kendall Spencer (NCAA transformational committee)

- Graduation rates of student athletes (December 6, 2023 data)
 - o Single-year cohort increased by one point to 91%, which is the highest rate recorded.
 - o Four-year cohort also increased by one point to 90%
 - o Division I has seen an increase in transfers, which negatively impacts federal graduation rates – but many subgroup rates continue to trend higher for student-athletes.
 - o On NCAA website – on research page there is a lot of publicly available data
- Future of Division I
 - o College sports has never been more popular
 - o Unclear how all the lawsuits will carry out and impact college sports
 - o Charlie’s Division I memo – a mechanism for starting a conversation, how do we move forward. Framework included:
 - Enhanced educational benefits
 - NIL
 - What role institutions should play in NIL
 - Exploring how college sports are structured
- NCAA also reviewing philosophy and commitments – do they need to be changed as the college sports landscape has changed.
- NCAA National office and the Association (these are institutional representatives) are different things.

- Majority of NCAA money comes from Men's basketball tournament (90% revenue, 60% of the revenue is distributed back to the colleges)
- NCAA does not get money from college football. It goes directly to the conferences
- New deal signed with ESPN, covers all sports other than Men's Football and golf. Contract was tripled, a lot of this is due to the popularity of Women's basketball.
- Basketball performance fund for Women's Basketball is being introduced that would start paying out in 25-26 fiscal year depending on revenue of conference.
- Transformation committee recommended a student athlete holistic model for Division I that included several elements that are health and safety rules.
 - o Institutions must cover any injuries related to sport and carry on 2 years post participation
 - o NCAA making available a post-participation insurance fund – available to all 3 Divisions
 - o Institutions attest that they are instituting their health and safety practices in accordance with best practices
 - o Will become much more difficult to cancel scholarships
 - o Funds will become available for student athletes for 10 years post-participation for completing their degree
- Impact Student Athletes becoming employees
 - o A lot of these questions are unanswerable right now
 - o So many unintended consequences
- Sports wagering
 - o NCAA president has been focused on this
 - o Can cause abuse to student athletes, from direct approaching to social media postings about abusive messages about poor performance or losing.
- After the GI bill, athletic scholarships are the greatest source of scholarships for students. Impacts access to education which could impact demographics of institutions
- What can faculty do:
 - o Advocate, share the messages and the dismantle the myths
 - o Use these forums to communicate what student athletes want
 - o Put your name in for committee services on the NCAA

Panel: What Do All These Changes in Athletics Mean to Faculty?

Power 5, Group of 5, HBCU

Paul Batista, FAR Texas A & M; David Lassner, President University of Hawaii; Chevonne Mansfield, Howard Executive Sr Assoc Athletics; Catherine Horn, Dean and FAR University of Houston; Randy Lee, COIA rep University of Houston; Susie Gronseth, Senate President, University of Houston; Adrien Bouchet, University of Central Florida

- Have conference changes & travel impacted student athletes
 - o When conference changes are made it can significantly impact travel

- For UH, most recent realignment has not taken place yet – will start impacting students next academic year. Expect the most impact will be associated with travel for non-football sports
- University of Houston just changed conferences and anticipate challenges in travel
- Any impacts from the transfer portal
 - It's so new that there aren't a lot of numbers yet – trying to get the graduation rates of the transfer ins.
 - Student athletes are transferring for NIL, may impact students' focus on graduation
 - Hurts APR numbers
 - See loses in talented student athletes
 - Needing to look at degree programs that have more flexibility for students transferring in while still having high value and reduce the credit loss. Integrated studies has been found to be a very helpful major to support student athletes
- Employee status/Unionizing
 - Belief that it might take congressional action to prevent student athletes from becoming student athletes
 - Concern that if unionization happens some institutions may have to make serious cuts – even cutting athletics.
 - Texas law says that government employees (including students if they were employed) cannot be unionized
 - Less than 5% of athletic departments in the US are profitable
- How are we taking care of the Health and Safety of Student Athletes, including mental health?
 - Hiring counselors, requiring counseling sessions before sports engagement
 - Aware that student athletes are not getting enough sleep because of everything they are required to do
 - Hiring adequate number of athletic trainers
 - Need to increase salaries and incentives to recruit and maintain athletic trainers
 - Need more resources for continuing care for mental health rather than just triage services
 - Have a class focusing on Life Skills, financial literacy
- How are addressing concussion related injuries
 - Athletic trainers are continually educated, updated on protocols. It is taught in the classroom and reinforced in the field
 - State laws that require clearance by health professional before returning to the sport
- What should faculty do to help our student athletes
 - Be aware of what's going on and hold the athletic department accountable for academics.
 - Unanticipated impacts of Transfer Portal

- 53 University of Memphis Law Review 929
- Impact on the educational experience, most faculty don't see athletics as important as academics (especially with funding)
- The academic success of students
- How we manage transfer in and out
- The more faculty realizes that athletics is not a separate entity, but part of the institution
- Leaning into your FAR
- Having event like this meeting
- Recognize the difficulty to manage practice, travel, academics
- Find ways to facilitate acceptance of transfer credits
- Develop courses that can help minimize time in classes for transfer students

Gambling, Mental Health and the College Athlete/Student: A Public Health Perspective: Harry Levant, MA, JD & Professor Mark Gottlieb; Darian Harbeck

- Public Health approach to gambling disorder
- Gambling addiction was first recognized in the DSM in 1980 and was categorized as an “Impulse Control Disorder”
 - DSM-5 recognized gambling disorder as an addiction – gambling addiction activates reward system in much the same way as a drug addiction does
 - Gambling is the only non-substance listed as an addiction in the DSM-5
- Gambling disorder has nothing to do with money – has everything to do with how the product makes the person feel – chasing action.
- People with gambling disorder will do whatever it takes to get the money to gamble
- 39% of children ages 12-17 have gambled in the last year, 30% started gambling before age 10.
- High risk of suicidal ideation/attempt for people under 25 struggling with gambling addiction
- The #'s of those with Gambling disorder is highly under estimated as there is no screening mechanism
- 2018: Murphy vs. NCAA – struck down previous act that prohibited sports gambling in all but 3 states. Left it up to state law
- Congressman Paul Tonko (NY) – addressing gambling disorder as well as other substance abuse disorders
 - Betting on our Future Act
 - Utilized legislation that had previously been used in tobacco legislation
 - SAFE Bet Act
 - First comprehensive approach from a public health perspective
 - Advertising Restrictions (not a ban on advertising, but setting standards); Affordability (restricting # of bets, restricting use of credit cards to make bets...); Artificial Intelligence (prohibit use of

- AI to track individual gaming habits to create individualized promotions)
 - Prohibit betting on amateur sports
 - Prohibit all proposition bets – where you bet on an individual’s performance in a game
 - National Clearinghouse for self-exclusion
 - Working to develop legislation to bring this bill forward
- Colleges/Universities were engaging in partnerships directly with sports gambling – this was pulled back
- Student athletes being harassed when they don’t perform well by people who bet on their individual performance
- Micro betting – betting on all the things that are happening within the game (ex: betting on every serve in a tennis match)
- NCAA president wants to ban proposition betting in college sports as college athletes are being harassed, bullied
- Gambling industry has targeted the vulnerable group of college students – marketing aimed at the college community
- 15-18% of 18–22-year-olds engage in sports wagering
- 67% of students betting on sports – students living on or near campus gamble at higher frequencies
- Nearly 60% of students are likely to bet on sports after seeing a gambling advertisement
- More than 60% of students are in-game micro betting (a highly addictive form of sports betting)
- Concern of student-athletes, coaches and staff betting on sports
- We need to de-normalize gambling, which requires policy change
- Responsible gaming
 - Lack of prevention
 - A shield for the industry
- For Faculty:
 - Be knowledgeable about this, have awareness
 - Talk to your faculty and legislature
 - Reach out for help (watch 60 minutes episode)

Adequate Healthcare Infrastructure for Collegiate Athletes; Mark Laursen – Director of Residency & Fellowship Commission on the Accreditation of Athletic Training

- Patient-Centered Care, when talking about health care it shouldn’t matter what role the student has, all health care should be the same
 - Patient role is active, patient is a partner in treatment, quality of life centered, more listening, less talking
 - Focus on Healthcare Literacy and Skills
- Some changes we can make to our traditional ways of caring in Athletic Training
 - Cultures have been win-oriented and coach centered

- Athletic training facility becomes somewhere athletes hang out – this creates issues of patient privacy
- The culture of athletics – pressure to win
- Current model: vast majority of health care is done on a team-by-team basis, sports-based care and coverage model. Prestige and revenue of the sport drives how many athletic trainers a sport gets.
- What if?: Care and coverage was based on individual team members; based on injury rate and number of individuals participating (rather than prestige and revenue based). What is the most efficient way to deliver care – this would free up more time for care; make care decisions based on data
- Athletic trainers are required to have expertise across the board of health care, including behavioral health. All Athletic Trainers are now at the Master’s level
- Important to have concussion specialist – especially concussion rehabilitation specialist. Only someone with expertise should be clearing the athlete to return to play
- We need to refocus from coverage of teams to coverage of individual. Each athlete should have a primary Athletic trainer who they can go to for care and appropriate referrals
- There is difficulty finding athletic trainers to hire who are willing to take the low salary Universities offer.
- Boston University model, moved Athletic Trainers under the direction of Student Health Services
 - Used the same electronic medical health record
 - All providers have access to medical records (with the exception of behavioral health records)
 - Resulted in cost reduction, increased privacy for students, and increased in healthcare literacy
- Responsibility to educate our students to navigate the health care system to:
 - Handle their own insurance
 - Make appointments
 - Travel to appointments

What can faculty do to help students who are athletes? Tom McMillen (LEAD1)

- LEAD1 – works with all Universities on various athletics issues
- Student athlete employee issue – split in congress, about 60% against, 40% for
- A lot of pressure being put on by the court cases currently
- Potential payout could cause serious Title IX issues, as most of the money may go to male athletes
- Sports betting – threat to universities/colleges, there is going to be a major scandal at some point. States can ban it, but the market will go back underground. We need National Legislation to address sports betting.

- We need a model to deal with the big revenue sports – could do this through a licensing agreement and a form of collective bargaining.
- NIL – need a national standard
- Student athletes need a voice without creating an employment model