

Leah Jannetti
2-1-2024

The Moral and Legal Battle for fair Pay in College Sports

The only thing more American than football is underpaying Black people for their physical labor: with college football, America has found a way to do both. As of June 2021, the NCAA began allowing college athletes to receive money from their name, image, and likeness. While the NIL decision is a step towards fair compensation, especially for college football players, the ruling is far from equitable and riddled with exploitation; colleges need to cut out the middleman and pay the athletes behind their revenue. This NIL rule shifts the pressure from colleges to students to find sponsorships and deals on top of full academic and athletic schedules. Athletes, the majority of whom are Black, compete in collegiate football without compensation, benefiting their university without guaranteed pay. The massive viewership and revenue of college football make athletic programs cash cows for universities. This business model proposes questions: If not to the players, where does the money go? In a game played by student-athletes, who are the real winners and losers? Let's walk through the business plan of college football: creating an understanding of who the players are, where the money is coming from and going, and how this issue is perpetuated.

When it comes to college football, it's all about the Power Five Conference. The conference is a group of primarily white institutions, PWIs, characterized by a student population over 50 percent white. The Guardian's report from 2021 titled *Race, money and exploitation: why college sport is still the 'new plantation'* sheds light on the statistics of the power five players. The Guardian found that "While only 5.7% of the students at the PWIs that make up the power five are Black, that number surges to ... 55.7% for football". While Black students are far outnumbered on campus, they dominate the Power Five football teams.

Student-athletes receive the cost of attendance scholarships in exchange for labor; however, “in many cases, they do not even receive health insurance” (Kalman-lamb et al., 2021). Athletes are at risk for debt caused by injury. Their schools send a message that athletes are easier to replace than insure. The CDC report *College Sports–Related Injuries — United States, 2009–10 Through 2013–14 Academic Years*, published in 2015 found that “men's football accounted for the largest average annual estimated number of injuries (47,199) and the highest competition injury rate (39.9 per 1,000 athlete-exposures).” Between a high percentage of Black men competing in collegiate football without compensation and the possible injury factor, many players see their dreams of going pro die with career-ending injuries. According to the NFL, Only 1.6 percent of NCAA athletes go pro, meaning most players will never obtain salaries for their work. While these students risk their bodies for their teams, their institutions profit.

Why do so many Black men risk destroying their bodies for a spot on these teams for no profit? The answer, like many racial discrepancies in the US, links back to systemic racism. In a piece for the Brookings Institution from 2020 titled *The Black-white wealth gap left Black households more vulnerable*, the authors found that the “median white household held \$188,200 in wealth—7.8 times that of the typical Black household” at \$24,100. This statistic highlights the racial wealth disparity in the US which largely results from generational wealth disadvantages and lack of opportunity.

In the US, the biggest route to greater opportunity is higher education, which comes at a staggering cost. American universities are particularly expensive with the average student paying hundreds of thousands of dollars for their four-year program. Meanwhile, “66% of developed countries’ colleges offer free tuition or annual tuition less than \$2,000” according to the Education Data Initiative. The expense of college in the US results in athletes relying on athletic

scholarships to be able to attend. For these students, a scholarship can make or break their ability to attend college, making student-athletes more keen to settle for any assistance they can get.

Still, with scholarships, many student-athletes graduate in debt. As per *Benefits to College Student-Athletes* published by the NCAA, “more than 150,000 student-athletes receive \$2.4 billion in athletic scholarships each year from NCAA member colleges and universities.” While this number seems high, that averages to around 15,000 dollars a player, falling under the College Board’s estimated costs of tuition estimated at \$23,890 for out-of-staters, and \$32,410 for private in the years 2015-2016.

Black football players are also less likely to graduate from college than their white teammates. An article written by Richard Lapchick for ESPN in 2024 states that the gap in graduation success rates (GSR) between Black and White football players “is 13.2%, up from 11.6% last year.” The average GSR for black football players is 79.3%, meaning 1 in 5 Black collegiate football athletes never reach a degree (Lapchick, 2024). With only 1.6 percent of NCAA athletes going pro, this discrepancy cannot be alternatively explained by an early start in the league. For too large a portion of these student-athletes, they put themselves on the line for no pay or degree. While they play, their universities profit.

So how much money are we talking about? An article written by George Malone for Yahoo Finance in 2022 aids in understanding the scope of how much profit is generated by college athletics. It may come as no surprise that football is the most lucrative college sport, generating more money than the next 35 sports combined (Malone, 2022). The schools generate an average income of 31.9 million dollars, with the majority of profit coming from TV and viewership deals. Malone affirms that “ESPN’s deal to broadcast the College Football Playoff is worth roughly \$470 million annually, and the Power 5 conference TV contracts each bring in at

least \$200 million a year.” An article for CBS Sports written by Dean Straka doubles down on these colossal figures, finding that “Power Five conferences combined for more than \$3.3 billion in total revenue during the 2022 fiscal year”. Although the NIL allows players to negotiate deals for compensation, these athletes do not see the revenue generated from their labor.

The primary financial beneficiaries of collegiate sports revenue are coaches, university presidents, and athletic department officials (Kalman-lamb et al., 2021). Furthermore, “white people disproportionately rule the campus athletic work in the power five conferences, whether at the level of chancellors and presidents (84%), athletic directors (75%), or head coaches ... (80% of football coaches)” (Kalman-lamb et al., 2021). Primarily white staff benefit from the success of their teams. While directors and coaches play crucial roles in a team's success, players on the field fight for wins. In US collegiate football, those players are primarily Black. As players lack direct compensation for their talent, their coaches are among the highest-paid collegiate staff. In an article from *The Washington Post*, Harold Sigall reported that Nick Saban, the coach of Alabama's football team, made 11 million dollars in 2017 from the success of his team. His team, composed of almost 80 percent Black men, didn't make a dime that same year. Essentially, the people on the payroll of the NCAA do not accurately represent the demographics of these teams.

While large portions of this profit go to individuals in power, it's unfair to assume that all of the money goes to greedy coaches and staff. That is not true. Some money generated from sports teams is funneled into other athletic programs: but which ones? The non-revenue sports paid for by revenue athletics, such as football, have racial implications. The National Bureau of Economic Research (NBER) released a report in 2020 titled *Who Profits From Amateurism? Rent-Sharing in Modern College Sports* follows the money of athletic departments in the Power

5 conference. The report found that while 60 percent of the students involved in revenue sports are Black, only “14 percent of white athletes participate in revenue sports while the remainder take part in non-revenue sports.” The NBER found that intercollegiate amateur athletics in the US “effectively transfers resources away from students who are more likely to be black and more likely to come from poor neighborhoods towards students who are more likely to be white and come from higher-income neighborhoods.” This reallocation of funds is not completely done in vain, with some money going towards women's athletic programs to support gender equality in sports. Still, the findings and their racial implications are startling. Black athletes subsidize white athletics with no pay.

The NIL decision was supposed to curb this problem: allowing players to receive compensation for their efforts. Unfortunately, the system is flawed. The NIL is not the solution to fair compensation. So what do these deals look like? The *New York Times* unpacks these questions in an article published on January 30th, 2024 titled *N.C.A.A. Inquiry Takes On Growing Role of Booster Groups*, written by David A Fahrenthold and Billy Witz. The report looks into the money, focusing on donor collectives which account for “80 percent of all name, image and likeness payments to athletes, far more than all the commercial brands that the system was devised for.” These donor collectives are groups of alumni and boosters who organize money, creating deals to entice players to commit to their teams. Some of these deals rival that of professionals. The booster collective for Tennessee, the Volunteer Club, has procured over 13.5 million dollars in deals since the start of the NIL ruling in 2021 (Nakos, 2023). Tennessee's quarterback struck a deal with the Volunteer Club for around 8 million dollars to play for the school. These collectives have resulted in what has essentially become a bidding war for athletes, as the NIL ruling has “become a nearly unfettered marketplace, with coaches openly exhorting

alumni and other backers to keep them competitive by donating money” (Farenthold and Witz, 2024). For athletes, this means that alumni and donor collectives are bidding on their future: all while relieving universities from their responsibility to fairly compensate players.

As this unfettered marketplace for trade grows, the colossal figures traded have opened the floodgates for politicians and attorneys to join the debate for collegiate athletic pay. These collectives have encouraged their state representatives to fight back against the NCAA, challenging the few limits on NIL trading. In December of 2023, several states including Tennessee called out the NCAA for their restrictions on transfers, filing an antitrust lawsuit. The Associated Press covered this lawsuit in a report from late 2023, outlining how the suit challenges the NCAA’s one-year delay of eligibility for transfer students. The states claim that the rule “unjustifiably restrains the ability of these college athletes to engage in the market for their labor as NCAA Division I college athletes” (*AP News*, 2023). Donor collectives are now fundamentally attempting to limit the scope and control of the NCAA. With fewer restrictions on transfers, collectives would be able to bid for star athletes to join their team without downtime. This case is ongoing, but a federal judge in West Virginia has temporarily halted these transfer restrictions. In this spring's athletic transfer season, the NCAA is forced to succumb to these massive booster collectives. Charlie Baker, the president of the NCAA, has since testified on Capitol Hill asking for an antitrust exemption. The NCAA and the NIL booster collectives use their millions to fight for trading rights while players lack guaranteed pay.

The Tennessee booster collective, named the Volunteer Club, has been at the forefront of the legal battles against the NCAA. In addition to the antitrust lawsuit against transfer restrictions, the Volunteer Club emboldened its state attorney general to go after the few regulations put in place by the NCAA regarding recruitment. The attorney generals of Virginia

and Tennessee filed a lawsuit against the NCAA on January 31, 2024 (Farenthold and Witz, 2024). The suit challenges the NCAA rule that “collectives cannot recruit high schoolers or transfer students to play at their chosen school by offering them money” (Farenthold and Witz, 2024). The heart of this suit rests on the morals that a ban on recruiting decreases the NIL “compensation that college athletes could obtain in a free market” (Farenthold and Witz, 2024). The suit asked “a judge to issue an order blocking the rule by February 6 — the day before the next window opens when high school seniors can sign scholarship agreements to play college football” (Farenthold and Witz, 2024). These lawsuits brought forth by booster collective influence are intended to bring collectives more power, and they are working. On February 23, Tennessee and Virginia attorney generals were victorious in their suit against the NCAA. The attorney general of Virginia, Jason Miyares, released a statement in the wake of this win. Miyares claims this victory allows student-athletes more freedom over what they earn, stating that “the NCAA has taken advantage of talented young athletes for too long” (*Attorney General of Virginia, 2024*). While booster collectives and the NCAA battle over millions, revenue-building college athletes are not entitled to a dollar.

What is the Volunteer Club doing with these looser regulations? Hunter Baddour, a top officer at the Volunteer Club, is a main figure pushing the NCAA to relax their restrictions. Baddour is also a top executive at a sports marketing agency called Spyre Sports, a for-profit organization that is closely linked to the Volunteer Club: sharing the same operating address (Nakos, 2023). Spyre Sports has established itself as one of the top marketing agencies in the new NCAA era and has executed more than 1,400 deals. Hidden in plain sight, Spyre Sports profits off the Volunteer Club's sketchy donations. Baddour has been active in pushing political policy for the collective association, creating a lobbying group that has called for the NCAA to

“share some of its extensive television revenue with collectives” (Farenthold and Witz, 2024). Without a plan to directly pay student-athletes, collectives will continue to lobby and pressure the NCAA into unregulated trade based on antitrust laws. These collectives, making up the majority of NIL payments, are attempting to divert power from the NCAA into their own hands. The NCAA once had exclusive authority over the players they exploited, but now these booster clubs are fighting for more power to abuse.

Booster collectives are not going unchecked. The Internal Revenue Service of the United States is cracking down on the very nature of these collectives. A *New York Times* article titled *The Best Teams That Money Could Buy* exposes how booster groups have been registering as nonprofits for tax-exempt status. These donor collectives operate through a loophole created by the NIL ruling, registering as nonprofits. To keep up with this appearance, the groups “have justified their charitable status by paying athletes to visit sports camps and hospitals, or to post about nonprofits on social media” (Farenthold and Witz, 2023). Quickly after the NIL decision in 2021, the IRS approved dozens of collectives as non-profits, only to reverse their stance in May of 2023. The IRS stated that “collectives might not qualify as tax-exempt after all because their real purpose was to pay players — not to serve the public good” (Farenthold and Witz, 2023). Andrew D. Morton, a nonprofit law attorney, provided the *New York Times* with a statement on the case, claiming that “the I.R.S. could shut the collectives down or impose penalty taxes if they do not change course” (Farenthold and Witz, 2023). As for now, these booster collectives continue to operate, stretching the capacity of the NCAA through legal suits and toying with student athletes' futures for bragging rights.

These collectives have the money and power to change the legal landscape of college sports and bid on predominantly Black athletes' to join their teams. As a result, racial and

socioeconomic discrepancies are exploited. Not shockingly, the top executives at collectives like the Volunteer Club are primarily white men, bidding on the Black teams of the Power Five Conference. Further, these collectives immensely favor male athletes, undermining the push for gender equity in sports.

While the NIL decision is a step in the right direction for these players to get a cut of what they deserve, it is far from an equitable agreement. “Even with [NIL], the same mechanisms of control are still in place, meaning the system is still set up to benefit the players last, not first” (Kalman-lamb et al., 2021). Chris Murphy, a Connecticut senator and co-sponsor of the pro-unionization College Athlete Right to Organize Act agrees, emphasizing that “giving athletes the ability to make money off their name, image, likeness should be considered the floor and not the ceiling” (Kalman-lamb et al., 2021). The NIL ruling fails to ensure that athletes receive proper health coverage and allows donor collectives to exploit their power. The ruling is far from equitable: creating an issue that primarily exploits Black men.

Yet there is hope for change: and that hope is coming in the form of unions.

On March 5th, Dartmouth basketball voted to unionize. Billy Witz, a New York Times reporter, interviewed Dartmouth basketball's Cade Haskins on his efforts to create this union. “Haskins expressed hope that his peers across the Ivy League and the rest of the country would soon be recognized as employees under federal labor law” (Witz, 24). Dartmouth responded with backlash to the unionization, claiming that “Classifying these students as employees simply because they play basketball is as unprecedented as it is inaccurate” (Witz, 24). Dartmouth may take the National Labor Relations Board decision to court, meaning the players who organized the union may not see it come to fruition until after they graduate.

So where do we go from here? The NIL ruling has broadened the conversation on college athletic compensation. Votes for unionization have gained the support of President Joe Biden and brought political attention to the cause. The debate for collegiate athletic pay cannot be ignored much longer. College athletes deserve fair pay and the public agrees. A joint survey by *Sportico* and The Harris Poll found that 64 percent of US adults “support athletes’ rights to obtain employee status” at their universities, an idea shot down by the NCAA president Charlie Baker. With public support for a direct means of compensation for athletes, there is hope for the future of college football. Until athletes are recognized by employees, the NCAA and booster collectives will continue to battle it out in the courtroom for power. For now, these primarily Black players and their chances of compensation lie mostly in the hands of collectives bidding on their fate.

Works Cited

Akabas, Lev. "Poll: Two-Thirds of Americans Favor College Athletes as Paid Employees."

Sportico.com, 17 August 2023,

<https://www.sportico.com/leagues/college-sports/2023/americans-favor-college-athletes-pay-harris-poll-1234734402/>. Accessed 31 January 2024.

"Benefits to College Student-Athletes." *NCAA.org*, 3 January 2014,

<https://www.ncaa.org/sports/2014/1/3/benefits-to-college-student-athletes.aspx>. Accessed 31 January 2024.

"College Advisory Committee." *NFL Football Operations*,

<https://operations.nfl.com/journey-to-the-nfl/nfl-development-pipeline/college-advisory-committee/>. Accessed 31 January 2024.

"College Costs: FAQ – BigFuture | College Board." *BigFuture*,

<https://bigfuture.collegeboard.org/pay-for-college/college-costs/college-costs-faqs>. Accessed 31 January 2024.

"College Costs: FAQ – BigFuture | College Board." *BigFuture*,

<https://bigfuture.collegeboard.org/pay-for-college/college-costs/college-costs-faqs>. Accessed 31 January 2024.

"February 23, 2024 - Attorney General Miyares Releases Statement on Victory Over NCAA."

Attorney General of Virginia, 23 February 2024,

<https://www.oag.state.va.us/media-center/news-releases/2694-february-23-2024-attorney-general-miyares-releases-statement-on-victory-over-ncaa>. Accessed 12 March 2024.

- Garthwaite, Craig, et al. "Who Profits From Amateurism? Rent-Sharing in Modern College Sports." *National Bureau of Economic Research*, 21 October 2023, <https://www.nber.org/papers/w27734>. Accessed 31 January 2024.
- Hanson, Melanie. "Cost of College by Country [2023]: Average Tuition Fees." *Education Data Initiative*, 9 August 2021, <https://educationdata.org/average-cost-of-college-by-country>. Accessed 31 January 2024.
- Hanson, Melanie. "Cost of College by Country [2023]: Average Tuition Fees." *Education Data Initiative*, 9 August 2021, <https://educationdata.org/average-cost-of-college-by-country>. Accessed 31 January 2024.
- Kalman, Nathan, et al. "Race, money and exploitation: why college sport is still the 'new plantation.'" *The Guardian*, 7 September 2021, <https://www.theguardian.com/sport/2021/sep/07/race-money-and-exploitation-why-college-sport-is-still-the-new-plantation>. Accessed 31 January 2024.
- Kerr, Zachary Y., et al. "College Sports–Related Injuries — United States, 2009–10 Through 2013–14 Academic Years." *Centers for Disease Control and Prevention*, 11 December 2015, <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6448a2.htm>. Accessed 31 January 2024.
- Lapchick, Richard. "Racial gap persists in grad rates for bowl-bound athletes." *ESPN*, 9 January 2024, https://www.espn.com/college-football/story/_/id/39266986/racial-gap-persists-grad-rates-bowl-bound-athletes. Accessed 31 January 2024.
- Malone, George. "Which College Sports Make the Most Money?" *Wikipedia*, 2022, <https://finance.yahoo.com/news/college-sports-most-money-130012417.html?guccounter>

=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQA
AAD1CUwymPcJG1I7XyHHhi5R0uq0J_J5S5QFVnTEO9hee9XVNO0HX9KbeaEwMp
2uEbBIYVDzVIdfe6hCkfkSWmne5TYbBzZK1iKQIeqf. Accessed 31 January 2024.

Moss, Emily, et al. "The Black-white wealth gap left Black households more vulnerable |
Brookings." *Brookings Institution*, 8 December 2020,
[https://www.brookings.edu/articles/the-black-white-wealth-gap-left-black-households-mo
re-vulnerable/](https://www.brookings.edu/articles/the-black-white-wealth-gap-left-black-households-more-vulnerable/). Accessed 31 January 2024.

Nakos, Pete, et al. "Tennessee's Volunteer Club surpasses 3000 members." *On3.com*, 21 August
2023,
[https://www.on3.com/nil/news/tennessee-volunteers-football-nil-collective-volunteer-clu
b-surpasses-3000-memberships/](https://www.on3.com/nil/news/tennessee-volunteers-football-nil-collective-volunteer-clu
b-surpasses-3000-memberships/). Accessed 14 March 2024.

RABY, JOHN, and AARON BEARD. "Lawsuit accuses NCAA of antitrust violation in college
athlete transfer rule." *AP News*, 7 December 2023,
[https://apnews.com/article/ncaa-transfer-rule-lawsuit-west-virginia-945c1c2c365eeef9d0
148915a7445f6c](https://apnews.com/article/ncaa-transfer-rule-lawsuit-west-virginia-945c1c2c365eeef9d0
148915a7445f6c). Accessed 12 March 2024.

Sam, Doric. "Alabama's Nick Saban Tops List of 2023's Highest-Paid CFB Coaches at \$11.4M." *Bleacher Report*, 3 October 2023,
[https://bleacherreport.com/articles/10091999-alabamas-nick-saban-tops-list-of-2023s-hig
hest-paid-cfb-coaches-at-114m](https://bleacherreport.com/articles/10091999-alabamas-nick-saban-tops-list-of-2023s-hig
hest-paid-cfb-coaches-at-114m). Accessed 31 January 2024.

Sigall, Harold. "Opinion | Black athletes prop up white coaches' enormous salaries." *Washington
Post*, 8 September 2017,
<https://www.washingtonpost.com/opinions/black-athletes-prop-up-white-coaches-enormo>

us-salaries/2017/09/08/3c980572-9292-11e7-8482-8dc9a7af29f9_story.html. Accessed 31 January 2024.

Straka, Dean. “Big Ten leads Power Five conferences with \$845.6 million in revenue in 2022 fiscal year, per report.” *CBS Sports*, 19 May 2023, <https://www.cbssports.com/college-football/news/big-ten-leads-power-five-conferences-with-845-6-million-in-revenue-in-2022-fiscal-year-per-report/>. Accessed 31 January 2024.

Witz, Billy. “‘Scary and Daunting’: Dartmouth Players Detail How Union Plan Came Together.” *The New York Times*, 5 March 2024, <https://www.nytimes.com/2024/03/05/us/dartmouth-basketball-union-athletes-employees.html>. Accessed 13 March 2024.

Witz, Billy, and David A. Fahrenthold. “The Best Teams That Money Could Buy.” *The New York Times*, 1 January 2024, <https://www.nytimes.com/2023/12/31/us/college-athletes-nil-sugar-rose-bowl.html>. Accessed 13 March 2024.

Witz, Billy, and David A. Fahrenthold. “How Rich Donors and Loose Rules Are Transforming College Sports.” *The New York Times*, 22 October 2023, <https://www.nytimes.com/2023/10/21/us/college-athletes-donor-collectives.html>. Accessed 31 January 2024.