

9.11.2023

OPINION

A New Semester of Challenges: College Athletics' Gambling Dilemma

In the ever-evolving realm of collegiate athletics, 2023 stands as a testament to the unexpected. Last month, more than a dozen current and former student athletes from the University of Iowa and Iowa State University were criminally charged in connection with betting activity. The players allegedly placed bets on games in which they were playing, in violation of NCAA rules, and falsified records in order to hide their involvement. This follows a similar investigation into University of Alabama baseball coach Brad Bohannon, who was fired in May over accusations that he conspired to place bets against his own team.

These developments highlight the growing headache posed by sports betting for college athletics.

The entanglements between athletics and sports betting are a narrative with a history as enduring as the games themselves. From the infamous 1919 Black Sox scandal to the intricate web of the 1950s college point-shaving scandal, the allure of fast money has time and again enticed athletes to conspire with outside forces to manipulate the results of sporting events.

This enduring connection spurred the enactment of the Professional and Amateur Sports Protection Act (PASPA) in 1992 to prohibit sports wagering across virtually every state. However, the landscape shifted significantly in 2018 when the Supreme Court found PASPA to be unconstitutional, setting off a swift cascade of state legislation efforts, with New Jersey achieving the feat in a matter of months. Just five years later, 38 states and Washington, D.C., have legalized sports betting in



Jim Johnston



Louis DiLorenzo



Andrew Richman

some manner. In 2022, sportsbooks handled \$93.2 billion in bets yielding a remarkable \$7.5 billion in revenue.

Despite the rapid expansion of legalized sports betting, legislators and regulators have made efforts to maintain the integrity of college athletics. Some states have prohibited any gambling on in-state college teams or sporting events, while others specifically prohibit player-specific proposition bets, given the ease of potential manipulation. And Oregon prohibits all bets on collegiate sports, regardless of where the team or event is located. However, these restrictions are not foolproof, as bettors can easily cross state lines or conspire with those outside the state.

Amid the growing concern over on-campus betting, the NCAA and schools face the reality that 58% of college students have engaged in sports betting, per the NCAA's recent Sports Betting Activities Survey. Accordingly, although the NCAA broadly prohibits student athletes from sports betting, the NCAA recently moved to relax the associated penalties. Previously any bet could have led to the loss of a student athlete's full season of eligibility, but the new guidelines apply a sliding scale. Those student athletes who bet on their own team, or pass information to betting parties, face permanent loss of eligibility. In contrast, wagers on professional sports are evaluated on a sliding scale based on the cumulative value of wagers, with players who wager less than \$200 facing "sports wagering rules and prevention education." This tailored approach reflects the NCAA's acknowledgment of evolving dynamics in student betting behavior.

The issue has also created a catch-22 for the college sports world from a marketing perspective. On one hand, the NCAA and individual universities are eager to safeguard the sanctity of college sports, especially given most college students are too young to legally gamble. On the other, gambling advertisements and sponsorships have become a massive windfall for sports organizations, with the sports betting industry spending \$866 million on advertising in 2022 alone.

Although several universities have entered into partnerships with sportsbooks, these partnerships now face increased scrutiny. At the height of last year's NCAA March Madness tournament, U.S. Senator Richard Blumenthal sent letters to 66 colleges and universities, criticizing their gambling sponsorship deals, which he called "deeply concerning" due to the "very real harm gambling poses to students, many under the age to legally gamble." The American Gaming Association (AGA) also updated its Responsible Marketing Code for Sports Wagering (the "AGA Code") to prohibit

sportsbooks from establishing partnerships with colleges that involve any form of promotion, marketing or advertising of sports-wagering activities. The AGA Code also prohibits advertising on college campuses and advertising in university-owned media publications, a requirement that is also included in the New York State Gaming Commission's recently proposed advertising restrictions for sports betting. The convergence of these developments, coupled with mounting legislative and regulatory pressure across the country, has led several universities to terminate their advertising agreements with sportsbooks.

In the wake of student athletes gaining the right to profit from their name, image, and likeness in July 2021, some had hoped the financial upside for student athletes would act as a buffer against the lure of sports betting. The recent scandals suggest that hope may have been overly optimistic. The shift toward individual empowerment through NIL has also ignited a complex interplay with students endorsing gambling companies, leading to a variety of restrictions that are shaping the choices available to student athletes. Presently, seven states' NIL laws prohibit student athletes from endorsing gambling entities, while some schools limit these associations from a university level. At other schools, this has not been a priority, as last year a high-profile Gonzaga basketball player was endorsed by a local casino and appeared in their television ads. However, in a definitive shift, the AGA now prohibits sportsbooks from entering into NIL deals with college athletes. This shift underscores the balance between the newfound freedom to permit student athletes to profit from their personal brand and the complex array of constraints intended to preserve the purity of the game they represent.

The explosion of sports betting has led to a game of catch-up in an effort to mitigate the influence of sports betting on college athletics. Given the ease with which these rules can be circumvented, the Iowa and Alabama scandals may just be the tip of the iceberg, requiring even more aggressive legal protections. True reform will require a coordinated effort among schools, regulators, and gaming businesses. Even non-gaming sponsors can play a role, implementing strict no-gambling rules in NIL deals so that the downside of betting outweighs the opportunity. Until then, student athletes, their colleges and universities, and the companies looking to partner with them should proceed cautiously as the new school year begins.

Jim Johnston is a partner, and Louis DiLorenzo and Andrew Richman are associates, in [**Davis+Gilbert LLP's**](#) Entertainment and Sports practice group.