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**“A New Generation of the NCAA: How Two Major Rules have
Changed the College Landscape”**

written by

Brennan Saunders

and submitted in partial fulfillment of
the requirements for completion of
the Carl Goodson Honors Program
meets the criteria for acceptance
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April 20, 2022

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Abstract

College athletics changed dramatically on July 1, 2021 when the National Collegiate Athletic Association (NCAA) announced that student athletes could now profit off of their name, image and likeness. Both the NIL and transfer portal rules are changing the college athletics landscape in ways that are going to have long lasting effects in the future. This paper is designed to take a look at the effect of two new rule changes the NCAA has established within the past two years. The ruling in favor of student athletes being able to profit off of their own name, image, and likeness was an unprecedented ruling that many people thought would never happen. Even though the rule is still in its early stages many people have speculated what they think is going to happen in the future. Through an explanation of what led to the NIL and transfer portal rulings, what NIL involves, and the long-term effects that NIL and the transfer portal are going to have on future athletes' decisions, we will find that the NIL and transfer portal are the biggest rule changes in NCAA history and will have major ramifications for years to come.

Introduction

College athletics has evolved and grown over its 200-year history. The most recent and significant changes are the creation of the transfer portal and the rules surrounding athletes getting paid to play, known as NIL. NIL stands for Name Image Likeness and refers to student athletes' rights to monetize and profit from their personal brand. This new rule allows college athletes to sign sponsorship deals, charge money for autographs, and profit from their own brand. These two policies have radically impacted the landscape of college athletics and have effects which are still unknown.

Brief History of the College Athletics:

A. The Birth of College Sports

Before 1850, college athletics was not a very popular movement and only played a small role in many universities' activity schedules. Many university presidents and deans did not think that playing a sport was beneficial or physical enough for the students, so instead they would send the students out to do manual labor such as farming or moving boulders from a field. The students were pretty upset about this and decided to make their own athletic competition. Thus, intramural sports was formed by the students, and it has been an important part of student life ever since. When they first started intramurals, the university faculty tried to stop them, because they believed it was a distraction to the academics of the university. Eventually, the games were played one school against another school and then sanctioned by a referee. Despite the college officials' outcry against organized sports, a new chapter had begun and would continue to evolve over the next few decades. By the 1980's many colleges had alumni groups join student-led organizations to create athletic programs of which the president had little control over (Edwards).

B. The Turn of the Century

As universities around the country began to pick up on the national movement of college athletics, many students and boosters were quick to point out that the main focus was on football and the other sports got few resources compared to football. Additionally, since there was no regulation on how a team had to practice, or what a team could do at practice it seemed like violence and injuries were increasing every day. Even at this early point in its conception, it was pretty clear that a lack of regulation was leading to corruption both on and off the field. Teams felt like they could do whatever they wanted and nobody was going to stop them. At one-point President Theodore Roosevelt actually called a meeting with university presidents at the White House to discuss a plan to solve this problem. He offered them an ultimatum: figure out a way to eliminate the violence or risk federal intervention stepping in and stopping it. The violence problem nationwide decreased after this meeting, but lack of regulation was still an issue when it came to areas such as scholarships and eligibility. This led to the creation of the Intercollegiate Athletic Association of the United States on March 31, 1906. It was later named the National Collegiate Athletic Associate in 1910 (Edwards).

What is the NCAA?

A. Overview of the NCAA

The National Collegiate Athletic Association was established in 1910. It is a membership driven organization that oversees college athletes across three divisions (D1, D2, D3). Today, the NCAA consists of 1,098 colleges and universities and 102 athletic conferences. It was originally formed to protect student athletes from universities who attempted to exploit the athletes at the

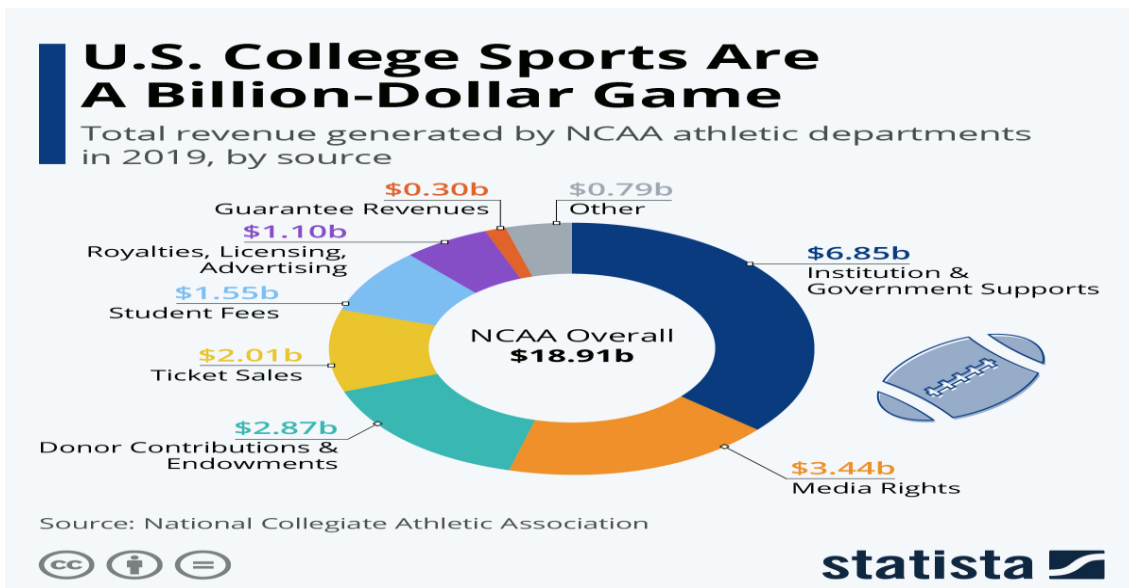
schools. As of today, over 460,000 student athletes attend universities and make up the NCAA. The organization is run by over 150 different committees who oversee everything from health and safety to scholarships and transfer policies. These committees include athletic directors, coaches, college athletes, and college presidents who bring in new ideas and introduce legislation on various topics for the committee that they are a part of. All of these committees are under the NCAA board of governors which mainly consists of chancellors and presidents. The board is responsible for big issues such as where to allocate the money universities bring in and what new major policies should be implemented. They can implement policies that have to be followed by all members across all the divisions in the country (NCAA).

B. NCAA Sports

Schools in the NCAA are divided into 3 divisions which are Division 1, Division 2, and Division 3. These divisions are determined by multiple factors including the size of the university, the athletic budget, and their ability to award scholarships. These divisions consist of 102 conferences and over 20,000 athletic teams across the country. Division 1 schools bring in the most money due to the size, amount of scholarships they provide and popularity of the schools that are in the division. Division 2 schools provide some money, but are mainly focused on academic growth and community service. Division 3 schools offer a competitive environment for players who want to mentally and physically challenge themselves both on and off the field. The NCAA currently has 24 sports and over 90 championships annually.

C. NCAA Industry

The NCAA is a multibillion-dollar company that generates its revenue from TV deals, Sponsorship deals, and ticket sales. Since the NCAA is a non-profit they allocate most of this revenue to universities' who then award players scholarships and institutional funds. Every year Division 1 and Division 2-member schools distribute billions of dollars to student athletes all across the country. The NCAA also offers programs that go beyond the field of play. They provide student athletes with many different development and leadership programs. They also allocate hundreds of millions of dollars to schools in order to fund higher education programs at these institutions. Pictured below is a pie graph made by the NCAA in 2019 of the total revenue generated and how much revenue each department brought in throughout the year. This revenue has caused a massive amount of spending in programs that label themselves as powerhouse schools when it comes to athletics.



What was it like before NIL?

A. History before NIL

Since the National Collegiate Athletic Association (NCAA) was founded in 1910, student athletes have never been able to have a job, or receive any monetary or non-monetary compensation from the university outside of scholarships. Prior to 1948 there were no actual regulations to enforce the amateurism of college athletics. Sponsors and boosters would do whatever they could to bring high school athletes to their university. Players would receive all kinds of benefits including money, and endorsement packages for them to attend a specific university. All of this was considered legal and part of the players scholarship. The NCAA did not address this issue until 1946 after World War two. In 1948 the NCAA passed the Sanity code which dramatically decreased the amount of money student athletes could receive. Athletes could be provided with free tuition and one free "training-table meal" per day while they were in season. The code reiterated the NCAA's opposition to "promised pay in any form." This was also the first time that the NCAA allowed universities to pay athletes' tuition. The 2011 - 2012 NCAA handbook of regulations has three main violations about eligibility when it comes to money that state, "You are not eligible for participation in a sport if you have ever: Taken pay, or the promise of pay, for competing in that sport. [Bylaw 12.1.2]. You are not eligible in a sport if you ever have accepted money, transportation or other benefits from an agent or agreed to have an agent market your athletics ability or reputation in that sport. [Bylaw 12.3.1] You are not eligible in any sport if, after you become a student-athlete, you accept any pay for promoting a commercial product or service or allow your name or picture to be used for promoting a commercial product or service. [Bylaws 12.5.2.1 and 12.5.2.2]." The NCAA prohibited athletes from earning anything outside of the scholarships that the universities awarded them. If a player

was caught accepting compensation or acquiring money than they would be subject to a harsh penalty which would have been loss of eligibility resulting in them losing their scholarship. In many cases the universities would also be penalized in different ways including fines, bowl ineligibility, and vacated seasons.

B. Example of a Violation

An example of a university and player violating the rules would be University of Southern California (USC). In 2005 the NCAA began an investigation looking into some of the USC athletic teams. These teams included the football team, and the men's basketball team. It came out that some of the players on each of these programs violated NCAA rules by accepting monetary gifts from their respective agents to come and play at the university. The investigation lasted five years and USC ended up receiving one of the harshest penalties the NCAA had ever given to a university. They wanted to make an example out of USC to demonstrate to other programs what would happen if they were caught violating their policies. The penalties were announced by the NCAA on June 10, 2010. They included a postseason bowl ban from 2010 - 2011, a loss of 30 scholarships over the next three years, and the basketball team had to vacate all of their wins from the 2007-2008 season and had to sit out the 2010 postseason. This is one of the many examples of violations of NCAA policies. Over time this led to many discussions and meetings about new rules and policies that should be put into place which is exactly where we are today with the new NIL policy.

How did we get to where we are today?

The first breakthrough decision that impacted NIL came in a case that had nothing to do with NIL. In 2008, Ed O' Bannon, a former All-American basketball player, was used in a college basketball video game produced by Electronic Arts (EA). EA is a software company that produced sport video games beginning in the late 1990's to present day. O'Bannon did not give consent to EA to use his likeness in the game and was not compensated for it either. He decided in 2009, to sue the NCAA and the collegiate licensing company, the nation's leading collegiate trademark licensing and marketing agency. O'Bannon claimed that the NCAA's rules that prevented student athletes from being compensated for the use of their NIL was an illegal restraint of trade under section one of the Sherman Act. Section one of the Sherman Act states, "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. [15 U.S.C. § 1]." After a bench trial in 2014, the district court reviewed all the evidence and concluded that the NCAA's compensation rules were an unlawful restraint of trade. The court enjoined the NCAA from prohibiting its schools from giving student athletes scholarships up to the full cost of attendance at their schools. They could also give up to 5,000 dollars per year in compensation to be held in trust until after the student athlete graduates. This was the case that put players compensation issues on many people's radar. Another breakthrough case was NCAA vs Alston ("Alston"). Alston was a 9-0 unanimous decision by the United States Supreme Court stating that the NCAA restrictions on "educational-related benefits" violated antitrust laws. Even though this case did not deal with the broader issue of "Pay to play" it was a harbinger on how the court might rule on related student athlete financial restrictions. It also opened up a whole

new conversation on student athletes getting paid to play college sports. Even though this was an antitrust case, many people say this was the biggest case in the history of college sports law.

Timeline of Major Events for NIL:

August 8, 2014: A district court concluded that the NCAA prohibiting athletes from being paid was an unreasonable restraint of trade and violated section one of the Sherman act in the O'Bannon case.

September 30, 2019: California passes legislation that says its universities cannot punish student athletes who accept endorsements beginning in 2023. This was the first time something like this was talked about, and started the conversation for years to come.

October 29, 2019: The NCAA board of governors held a meeting in which they voted unanimously that it was time to change the name, image, likeness rule. They directed all three divisions to make a change to the rule by 2021 that states “athletes are now allowed to make money off of endorsements while in college.”

April 29, 2020: A group selected by the NCAA lays out its suggestions and a plan on how division one should change its rules.

June 12 ,2020: Florida passes its state laws about NIL which have a scheduled effective date of July 1st. 2021.

Jan. 11, 2021: The NCAA's Division 1 Council decides to delay its vote on NIL, citing concerns prompted by a letter from the Department of Justice related to the possible antitrust

implications of changing its rules. Emmert, the NCAA president, said he was "frustrated and disappointed" by the delay.

June 18, 2021: Six conference heads (including the ACC, SEC and Pac-12 leaders) come up with a new plan that would make individual schools responsible for creating their own NIL policies.

June 21, 2021: US Supreme Court unanimously votes 9-0 in favor of Alston.

July 1, 2021: The first round of state laws, and the NCAA's new rules, go into effect. Athletes can start signing endorsement deals and sponsorships at midnight.

Main Aspects of NIL:

The four main aspects of NIL are the following:

1. Athletes can engage in the activities under NIL rights under the rules of the NCAA and the Universities state, and the schools a player attends can only act as a resource for legal and compliance questions.
2. Athletes can use professional service providers in the pursuit of NIL activities.
3. Student-athletes in states that do not have specific NIL laws can still participate in these deals without violating NCAA regulations.
4. Schools and athletic conferences can impose reporting requirements on schools and athletes if they have to. (Fick, Dream field)

How Do NIL Deals Work?

Since July 1st, thousands of student athletes began taking advantage of the NIL rules. These athletes began signing deals with clothing companies, restaurants, gaming companies, cell phone companies, both local and national companies. Once an athlete finds a company, or the company finds the athlete, they enter into negotiations. This often involves the player's agent, but an agent is not required. After agreeing on the terms of the contract which include payment amount, length of contract, and what the player has to do in return both parties sign the contract. After the student athlete delivers whatever they are asked to do by the company, they will then get paid by that company in whatever monetary form the company agreed upon. A key thing to remember is the universities themselves have nothing to do with this contract.

Early Statistics for NIL Deals:

Even though NIL is still in the early stages of its conception, there is already plenty of data that has been recorded across the United States. Data such as what sports and conferences receive the most deals, and what NIL activities are used most frequently. Below are some statistics from Opendorse, a company that collects NIL data for the public to view. Opendorse is a NIL company that assists student athletes on how to create a path to understand, and build their brand value. The company gathers data from universities across the country and compiles them in different charts and graphs for easy access.



Example NIL Deals:

There are many athletes across the country who have begun to take advantage of the new NIL rules. The athletes who have the biggest social media following tend to get the better deals, because they get more attention from the public. DJ Uiagalelei, quarterback for Clemson University’s football team the Clemson Tigers, recently made history when he became the first student athlete to sign a national advertising campaign. He is now able to appear on Dr. Pepper commercials and make a profit when making appearances. Iowa basketball player Jordan Bohannon created his own brand called J30 apparel, and sells his T- shirts for \$33.30 on his website. Twin Sisters Haley and Hanna Cavender, basketball players at Fresno State, both signed deals with Six Star Pro Nutrition and Boost Mobile. D’Eriq King, a quarterback at Miami and Florida State quarterback Mackenzie Milton teamed up to create an online marketplace called Dream field for athletes to sign autographs and sell NFTs. Nick Saban, head coach of Alabama, said in an interview that star quarterback Bryce Young made over one million dollars in

sponsorship deals before he even stepped on the field. Not only do individual players get the benefits, but entire teams can also sign deals with companies to sponsor their products. For example, at the university of Miami every scholarship player has the opportunity to receive 500 dollars a month to endorse American Top Team, a top training mixed martial arts gym nationwide. Alumni from Universities have also started to give out money to groups of players at the university they graduated from. For example; at the University of Texas a group of alums offered every offensive lineman 50,000 dollars annually for use of their name, image and likeness to support charitable causes. This is only a small sample of the many NIL deals that have been signed over the past year.

Effects of NIL:

Since the NIL rule is new, there is much speculation regarding its effect on athletes and college sports. This rule change has the potential to shift the entire landscape of college athletics and will continue to have ramifications over the years. Everybody has their own opinion on the issue, but whether right or wrong one thing is for sure NIL will be talked about for years to come. The college landscape is being prepared for a new age of growth, evolution, and opportunity that players in the past did not have the chance to obtain. Whenever the rule change was created companies were not fully aware how everything was going to play out, so many of them decided to wait and see what happened during the season. Many companies thought that the rule change was going to be nationwide, but instead it allowed each state and university to make their own rules on the issue. Many student athletes who have an entrepreneurial mindset will begin to separate themselves from others by hosting camps, selling merchandise, and signing autographs for fans who want to connect with their favorite players. Another major factor in NIL

deals is social media. Athletes who have a major influencer following on social media apps such as Instagram, Twitter, and TikTok are more likely to draw attention from companies looking for athletes to sponsor their brands. This will cause more athletes in high school to begin creating a “brand” and image for themselves to make them more marketable for NIL companies. The future of NIL is already shaping the way universities recruit athletes coming out of high school, and changing the transfer portal system in ways that will affect the NCAA forever. Many people including myself believe that NIL is going to cause the gap between bigger universities and smaller universities to widen because the bigger universities have more money and following which will allow them to recruit more talented players. There will be more NIL deals offered from populous cities which is usually where big universities are located.

The Transfer Portal:

While many changes were taking place regarding student athletes’ compensation, the NCAA made some sweeping changes to the ability of college athletes to transfer from one university to another. In 2018 the NCAA decided to modernize the transfer process by introducing what was known as the transfer portal. This gave student athletes the option to follow a rigid system that would allow them to transfer to another school. The athlete would have to notify the university's compliance officer and then the officer would have two days to submit that student's name into the portal. After entering the portal other teams’ coaches could view and look at that player and decide whether or not they wanted to bring him to their university. Once in the portal a player has two options: either accept a scholarship for another team or withdraw their name from the portal. The only problem with this system was that they would have to sit out the next year if they transferred. Major changes happened in 2021 when the

NCAA announced the one-time transfer rule which allowed student athletes to transfer to a different school one time during their career and play immediately without getting permission from their coach or school. For the first time in history, players who wanted decided to transfer were treated as if they were an NFL free agent. They have complete choice of which college to choose from. This was a major change from the original rule that made athletes who transferred sit out for an entire season. Since the new rule change transfers have become a significant part of many universities' success. They now divert more attention to the transfer portal instead of solely relying on recruiting high school athletes.

Examples of the Transfer Portal:

This year alone has seen a record amount transfers through the transfer portal. Whether players want to transfer because of the university or the coaches they can now do that at the click of a button. Caleb Williams the quarterback for Oklahoma last season transferred to USC right after the season ended. Williams was a significant player for Oklahoma last season, but after their head coach Lincoln Riley left for USC, Williams decided to do the same. Quinn Ewers, Spencer Rattler, Dillon Gabriel, Jaxson Dart, and JT Daniels were all starting quarterbacks for major division one universities who entered the transfer portal and transferred to other schools this offseason. During the last offseason the Texas Longhorns basketball team made Chris Beard their new head coach. He decided that the transfer portal was the best way to build a winning team, so he immediately went to work recruiting players from other teams who were in the portal. By the beginning of the season, Beard had recruited seven players from the portal and they were all immediately eligible which was something that could not have been done prior to

the transfer portal rule. These are just a few of the many examples of players using the transfer portal for their advantage to give themselves a better chance at success in the future.

Effects of the Transfer Portal:

The creation of the transfer portal has had an effect on everybody from the student athletes, the team, the coaches, and even the administration staff. The players are the biggest benefactors of the portal because it is designed for them. It allows them to get out of a bad situation, or move on to another team in one quick and easy process. For example, coaches have started to check the transfer portal more frequently to try and get the players that they want. This has shifted the focus from high school to athletes who already have college experience. The portal is another option for coaches who do not have as much persuasion as they would like with the high school recruits. Teams themselves are also going to be affected, because there is no guarantee that a player is going to stay on the team for four years. As players leave, positions will open up which will change the overall chemistry of the team. Each player learns in a different way, which makes it even more difficult for teams to build chemistry when a new transfer joins the team (Keen, 2022). Administrators are also benefiting from the new transfer portal rule, because they do not have to do near as much work as they used to have to do. Overall the new transfer portal rule will be a good thing for the NCAA, but it may take some time for player and coaches to understand the best way to use it to help their program succeed.

Conclusion:

The college landscape as people know it is evolving in ways that nobody expected it to. With the implementation of the transfer portal and NIL, many student athletes are beginning to

adapt to the next era. From what began as just an extracurricular activity that athletes could play on the side, is now an activity that allows these athletes to get paid to play and have a choice on where they want to play. Research and data about NIL and the transfer portal will continue to come out every day, shedding new light on what is considered to be some of the biggest changes in rules in NCAA history. As more data comes out people will begin to have a better understanding of exactly what effects these rule changes are going to have on student athletes, but for now people can only speculate what they think is going to happen based on their own opinions.

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