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## Should Student-Athletes be Paid?

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### ABSTRACT:

The National Collegiate Athletic Association (NCAA) currently prohibits student-athletes from receiving compensation from many non-school-affiliated sources, including sports agents, advertising agencies, and merchandizers. Moreover, student-athletes are prohibited from receiving compensation for media appearances, endorsing products, and autographs. Athletes and schools that violate these rules are subject to various punishments, such as fines, suspensions, and forfeiture of games. This paper challenges this NCAA policy. Accordingly, although colleges and universities often compensate student-athletes with free tuition, room, board, and other expenses, I argue that some prohibitions against athletes receiving compensation from non-school-affiliated sources are: (1) arbitrary and unfair to student-athletes; (2) such policies moreover are non-beneficial to student-athletes since we lack good reason to think the reception or pursuit of outside compensations will harm the student-athlete; (3) no foreseeable detrimental effects to higher education arise if student-athletes are allowed to pursue or receive various compensations; and (4) the integrity of college sports will not be compromised if certain forms of compensation are permitted. I take (1)–(4) as good reasons for doing away with the NCAA's current policies. Ultimately, while I do not think colleges or universities should compensate student-athletes beyond what they already provide (e.g. free tuition, room, and board), I think student-athletes should be allowed to pursue an assortment of economic-related activities currently prohibited by the NCAA.

### KEYWORDS

Student-athletes; compensation; NCAA policy; NCAA prohibitions; college sports

## Introduction

The National Collegiate Athletic Association (hereafter, NCAA) prohibits student-athletes from receiving compensations from many non-school-affiliated sources, including sports agents, advertising agencies, merchandisers, endorsements, media appearances, and autographs. Athletes and schools that violate these rules are subject to various punishments, including fines, suspensions, and forfeiture of games. This paper challenges this NCAA's policy. Accordingly, although colleges and universities often provide student-athletes with tuition, room and board, and other school-related resources, I argue that many prohibitions against athletes receiving compensation from non-school affiliated sources are: (1) arbitrary

and unfair to student-athletes, (2) non-beneficial to student-athletes, (3) non-detrimental to higher education, and (4) not a threat to the integrity of college sports. I take (1)–(4) as providing good reasons for doing away with the NCAA's current policies.

I outline my paper as follows. In the first section, I provide a brief overview of the NCAA's prohibition against student-athletes receiving what I call outside compensations; here I discuss what I take to be the primary motivation behind these regulations. In section 2, I clarify which forms of outside compensations I think student-athletes should be permitted to receive, and I address an initial objection one might raise against my position. In section 3, I argue by analogy that this prohibition is arbitrary: without any principled reason, it does not apply to various other compensations non-student-athletes are permitted to receive. Moreover, in addition to being arbitrary, I also argue that such prohibitions are unfair to student-athletes. In section 4, I maintain that student-athletes will not be negatively impacted if allowed to receive outside compensations. In section 5, I maintain that higher education will not be negatively impacted if student-athletes are permitted to receive outside compensations, and in section 6, I argue that the integrity of college sports will not be compromised if some of the NCAA's prohibitions are eliminated.

## 1. The NCAA and Its Prohibitions

The NCAA is comprised of a group of universities and colleges united to establish and enforce rules that regulate the conduct of both student-athletes and the various colleges and universities that fall under the NCAA's jurisdiction. One primary reason for the NCAA's existence is to protect the educational component of intercollegiate sports. As Article 1.3.1 of the NCAA's rulebook states:

The competitive athletics programs of member institutions are designed to be a vital part of the educational system. A basic purpose of this Association is to maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body and, by so doing, retain a clear line of demarcation between intercollegiate athletics and professional sports. (NCAA Membership Affairs Staff, 2014, 1)

Accordingly, the NCAA's constitution maintains that intercollegiate sports are an important component of college education; moreover, to preserve the educational role of intercollegiate sports, it is imperative to clearly demarcate between both intercollegiate athletes and professional sports.

Furthermore, the NCAA seeks to promote and protect the academic interests of its student-athletes. As Article 2.2. states:

Intercollegiate athletics programs shall be conducted in a manner designed to protect and enhance the physical and educational well-being of student-athletes. (2014, 3)

Moreover, 2.2.1 claims that:

It is the responsibility of each member institution to establish and maintain an environment in which a student-athlete's activities are conducted as an integral part of the student-athlete's educational experience. (2014, 3)

Accordingly, the NCAA exists for at least the following two reasons: first, it helps demarcate the distinction between intercollegiate athletics and professional sports, and it has the authority to institute and enforce rules establishing this demarcation, as doing so helps preserve the educational role of intercollegiate sports. Second, it is designed to protect and promote the educational well-being of student-athletes. There are probably more

well-meaning motivations behind the establishment of the NCAA, but these reasons should provide the reader with a sufficient grasp about the NCAA's general purpose for existing. With this background in hand, I now turn to the various powers the NCAA is granted, particularly its powers to establish and enforce rules regulating the economic behavior of student-athletes.

The NCAA provides a manual explaining which sort of student-athlete behaviors are appropriate. Most of the relevant policies concerning this paper's scope fall under its 12th article. Accordingly, Article 12.3 concerns what types of interactions are acceptable between a student-athlete and professional agents. This rule (in my words) prohibits a student-athlete from entering into a financial relationship with an agent, especially when this relationship is to promote that athlete's abilities and reputation. Students who form such relationships are deemed ineligible to participate in intercollegiate sports. For instance, a popular college athlete may not sign a contract that allows an agent permission to market, say, the athlete's popularity or skills in the sport. Moreover, student-athletes may not receive financial contributions from such agents, whether it be in the form of cash or material goods—e.g. a car, house, or merchandise (2014, 66).

Further, 12.4 concerns student-athlete employment. It states that students may receive compensation from work performed either for the university (e.g. washing dishes in the cafeteria) or non-university employer (e.g. working at Starbucks); however, such compensation must not:

include any remuneration for value or utility that the student-athlete may have for the employer because of the publicity, reputation, fame or personal following that he or she has obtained because of athletic ability. (2014, 67)

Accordingly, an athlete cannot receive pay from an employer because of the fame she received due of her athletic ability.

Furthermore, compensation for reputation as a college athlete or for using one's athletic abilities is also prohibited. For example, if a local car dealership hires star players from the local college team, and it does so with the intention of using the players' fame as a means to promote his or her own business, then such employment is prohibited. Also, companies that sell merchandize or apparel cannot pay student-athletes for autographs. While there are gray areas concerning what constitutes a prohibited work relationship, these are hopefully sufficiently clear examples illustrating the types of employment prohibited by the NCAA

Now Article 12.4 goes further: 12.4.2.3, which concerns athletic equipment sales, states that

a student-athlete may not be employed to sell equipment related to the student-athlete's sport if his or her name, picture, or athletic reputation is used to advertise or promote the product, the job or the employer. If the student-athlete's name, picture or athletics reputation is not used for advertising or promotion, the student-athlete may be employed in a legitimate sales position, provided he or she is reimbursed at an hourly rate or set salary in the same manner as any nonathlete salesperson. (2014, 67)

This rule further regulates what kinds of employee–employer relationships are permissible. It prohibits the athlete from using her name, picture, or athletic reputation to sell equipment related to her sport, and it prohibits her from using such things to advertise or promote a product, job, or employer.

Lastly, 12.5 places further restrictions on student-athlete behavior, especially concerning the types of compensation one can receive. For instance, 12.5.1.5 states that

it is permissible for a student-athlete's name or picture to appear in books, articles and other publications, films, videotapes, and other types of electronic reproduction related to sport-skill demonstration, analysis or instruction, provided...

- (a) Such print and electronic media productions are for educational purposes.
- (b) There is no indication that the student-athlete expressly or implicitly endorses a commercial product or service.
- (c) The student-athlete does not receive, under any circumstance, any remuneration for such participation; however, the student-athlete may receive actual and necessary expenses related to his or her participation.
- (d) The student-athlete has signed a release statement ensuring that the student-athletes name or image is used in a manner consistent with the requirements of this section and has filed a copy of the statement with the student-athlete's member institution. (2014, 68).

As stated, this policy stipulates that student-athletes can make media appearances (e.g., sports-demonstration videos) provided he or she does not receive remuneration for such appearances—compensation for personal expenses aside. The NCAA strictly enforces such rules and requires its members to monitor its student-athletes' economic-related behavior.

Now the NCAA may have well-motivated reasons for placing such prohibitions upon student-athletes, three of which are as follows: first, such prohibitions might ultimately benefit the student: instead of focusing on various monetary distractions, she can both develop her athletic abilities and achieve academic goals (e.g., earning a degree). Accordingly, in the short-term, such restrictions help students develop their athletic and academic abilities, which in the long term help their careers. A second is that such rules help preserve the academic integrity of universities and colleges; such rules enforce the importance of academics, as the pursuit of certain types of compensation may undermine this component of higher education. A third motivation is that such rules help preserve the quality and integrity of college sports. The worry is that if students are allowed to receive certain kinds of compensations, then something important about college sports will be compromised. Later, I will discuss why I think these motivations, while well-meaning, are not necessary to avoid the problems listed in this paragraph.

## 2. Focusing the Issue

Before advancing my argument, let me recap the basic contours of the NCAA's rules that regulate the types of compensations student-athletes may receive. Accordingly, student-athletes are prohibited from:

- (a) receiving compensation or remuneration either from or entering into contracts with sports agents and various industries/companies, such as those that sell sports apparel (e.g., Nike and Reebok).
- (b) receiving remuneration or compensation for advertising or endorsing products or employers (e.g., they cannot receive compensation for endorsing Nike products and supporting television programs or networks like ESPN).

- (c) receiving compensation remuneration for things like personal autographs, appearing in promotional or skill-based videos, media advertisements, and the like.
- (d) receiving payments in the form of sporting-event tickets, free or reduced flights, or material items like cars, clothing apparel, or homes.

Violations of such prohibitions can lead to fines, suspensions, or dismissal for either the athlete or employee (e.g. coaches and administrators). Moreover, punishments may include both forfeiture of games and sanctions from participating in future games.

Now, for sake of clarity, I will use 'outside compensations' to refer to any form of student-athlete compensation or remuneration currently prohibited by the NCAA's policies. Of course, there are various compensations from school external sources permitted by the NCAA (e.g., being a cafeteria dishwasher or working on the family farm). In which case, 'outside compensations' is not intended to refer to compensations or remunerations the NCAA permits. 'Outside compensations', accordingly, strictly refers to forms of compensations already prohibited by the NCAA, and (a)–(d) are deemed outside compensations by the NCAA. I now proceed to argue that some outside compensations from (a) to (d) should be permitted by the NCAA—or at least the NCAA lacks good reasons for banning them.

Before proceeding, let me address an additional worry with my argument: the worry is that student-athletes, free of coercion, freely enter into a contract with the schools they attend, and in doing so accept the NCAA's rules. This contract stipulates that they cannot receive certain types of compensations, especially what I have called outside compensations; however, through scholarships and receiving free room and board, they are well-compensated by their schools. Student-athletes are not coerced to enter this contract, and they are free to leave school in the event they no longer wish to obey such rules. Accordingly, if student-athletes freely enter such a contract, it seems they both believe it is fair and implicitly accept its rules. As such, there does not seem to be anything wrong with NCAA prohibiting the pursuit and receipt of outside compensations, especially since the contract appears to be fair and freely agreed to.

I grant that students, free of coercion, often accept the NCAA's rules. I will even grant that the NCAA—and the colleges and universities it represents—does not explicitly exploit or mistreat its student-athletes. Nonetheless, I think I can still persuasively defend the following four claims: (1) that the NCAA's prohibitions are, at least in principle, arbitrary and so unfair to student-athletes; (2) unnecessary for protecting the educational well-being of student-athletes; (3) unnecessary for protecting the integrity of higher education, (4) and unnecessary for protecting the integrity of college sports. I maintain that if we have good reason to accept (1)–(4), then we have no good reason to think many outside compensations are problematic. If so, then it is unclear what justification there is in prohibiting them. I argue for each of these claims in turn.

### 3. The NCAA's Prohibitions are Arbitrary and Unfair

Before proceeding, let me clarify that I think the NCAA can prohibit certain forms of student-athlete compensations. For instance, I do not think universities and colleges should compensate student-athletes above what they already provide in the form of athletic scholarships and book, food, and housing stipends. I am not claiming that the football team should be paid like professors or administrators, nor am I claiming that the student-athletes

should receive a portion of the revenue they help generate for the university (when in fact profits are earned). My claim is more modest in that I merely think student-athletes should be allowed to receive several forms of outside compensations.

In claiming that the NCAA's prohibition against student-athletes receiving outside compensations is arbitrary, I advance the following argument:

**(p1)** If student athletes are relevantly similar to non-student athletes, then the NCAA acts arbitrarily when it restricts a student athlete's outside compensations but not similar non-student athlete's outside compensations.

**(p2)** If the NCAA acts arbitrarily when it restricts a student athlete's outside compensations but not similar non-student athlete's outside compensations, then the NCAA treats student-athletes unfairly.

**(p3)** Student athletes are relevantly similar to non-student athletes.

**(c1)** The NCAA acts arbitrarily when it restricts a student-athlete's outside compensations but not similar non-student athlete's outside compensations.

**(c2)** The NCAA treats student athletes unfairly.

Regarding the first premise, we can imagine two individuals—call them Bob and Steve—who are equally deserving of promotions. Both are equally educated and talented, and each has a strong work ethic. The only difference is that Bob is politically conservative while Steve is not. I, the employer, am also politically conservative, and I promote Bob because he shares my political values. The problem, however, is one's political values—presuming they are at least somewhat reasonable—are typically irrelevant when it comes to determining one's job worthiness; in which case, since Bob and Steve are equals as employees, I treat them arbitrarily when I promote one over the other on merely political grounds—presuming that one's political values are irrelevant to the job at hand. Similarly, if student-athletes and student non-athletes are relevantly similar, then the NCAA acts arbitrarily when it forbids student-athletes from receiving certain kinds of outside compensations.

In support of premise 2, consider the hiring example once again. In deciding not to promote Steve because he is not politically conservative, it seems I have not only treated him arbitrarily, but I have also treated him unfairly. For if one thinks fairness concerns giving someone what they deserve, then it seems Steve is not given what he deserves if he is not promoted because of his political views. At least, we need a fair process for determining who gets promoted (e.g. perhaps a coin toss if there is no way to determine which candidate is better). Similarly, if student-athletes are treated differently for arbitrary reasons, then the risk is that they are also treated unfairly.<sup>1</sup>

Of course, for the above argument to succeed, there must not be some relevant difference between a student-athlete and a student non-athlete, particularly when it comes to each student's pursuit of certain outside compensations. Accordingly, the crucial premise is the third, and I will go at length to defend it. In doing so, I make use of the following analogy.

Imagine Sally, an acting prodigy. The best acting schools have recruited her, offering her a full four-year scholarship, complete with full coverage of room, board, tuition, and book and supply expenses. For all relevant purposes, the compensation package is identical to those received by student-athletes and other prodigious student non-athletes (e.g. engineering majors) at that university. Further, suppose the university competes in a number of acting tournaments throughout the country. Such acting tournaments are highly publicized and followed by the general public; moreover, the university stands to benefit (both monetarily and prestigiously) if its actors and actresses show well at these tournaments.

Moreover, Sally flourishes as a student and actress; she further develops her acting ability, and she does so by making use of the university's outstanding resources. As with many gifted actresses and actors, she receives various endorsement offers from agents and companies who want to market her growing star potential. She even begins selling autographed apparel and photographs to adoring fans. Eventually, she is contacted by acting agents, and eventually she signs with an agent who promotes her abilities to the greater acting community.

The question now is whether the actress does anything wrong if she receives compensation for things like endorsements and autographs? To me, she does not. Even though she is a student who both receives a full scholarship and utilizes the university's academic and acting resources, it is hard to say that she has done anything wrong (or potentially anything wrong) in pursuing such lucrative economic opportunities while still a student. The intuition I hold, then, is that the actress has done nothing wrong. Moreover, there seems to be no intercollegiate policy or association that prohibits such practices.<sup>2</sup>

Now my claim is that this actress is, for all relevant reasons, no different than the student-athlete (despite the obvious difference that one is an acting student and the other is a student-athlete). Accordingly, I think there are four relevant similarities, and this brings me to the defense of premise 3: like the student-athlete, (1) in the form of a scholarship, Sally receives full compensation for tuition, room and board, and various academic/living expenses; (2) she makes use of the university's resources to enhance her talent and future economic prospects; moreover, (3) she represents her university at competitive national tournaments that showcase her talents; and finally like student-athletes who receive or pursue outside compensations, (4) Sally is consulted by agents that promote her talents in order to collect a percentage of her earnings. However, the intuition I hold is that the actress does nothing wrong (or potentially wrong) in receiving these compensations. Now if the situation of the actress is relevantly similar to the student-athlete's, then it is not clear to me why the student-athlete has done anything wrong.

Yet one might make the following challenge: that even if there is no relevant difference between student-athletes and other non-athlete students, student-athletes are not treated unfairly when deprived from receiving certain outside compensations. The challenge maintains that schools often restrict the type of compensations certain students or researchers receive, and such restrictions do not seem problematic. For example, for various scientific or technological discoveries, universities receive at least part of the patent, in large part because the researchers received university funding and resources that facilitated such discoveries. Yet there does not seem to be anything wrong with not giving these researchers full-credit for their discoveries. It also seems fair that these researchers are awarded the full monetary benefits associated with such discoveries (e.g. obtaining all the revenue created by the discovery). For example, suppose Bill Gates is a college graduate student who uses university's funding and resources to develop a state-of-the-art computer. It seems reasonable that the university should, at least to some extent, both receive credit for the patent and the economic rewards for this discovery. Gates is treated fairly even though he does not receive either the full patent or economic rewards that result from the computer's creation.

Similarly, since the university or college provides athletes funding and resources to play collegiate sports, there does not seem to be anything wrong with university's obtaining considerable amounts of the economic rewards associated with their athletes' success (e.g.

the monetary rewards received from winning championships). In which case, if student-athletes are already compensated in various ways, (1) why should they get more and (2) why can't the university prohibit the amount or types of compensations they receive? Just as it seems fair for universities to accept part of a patent, it also seems fair for universities to restrict their student-athletes' compensation.

This is a good concern, but I do not think it is damaging to my argument. I grant that student-athletes might already be well-compensated. Yet I am not arguing that they should receive compensation for profits the schools might receive as a result of their team's accomplishments. Nor am I arguing that student-athletes should be paid like full-time faculty, administrators, or professional athletes. What I am claiming, instead, is that they should not be prohibited from receiving various kinds of outside compensations, especially when there seems to be no strong reason for such prohibitions existing.

To return to the Bill Gates example, it might be fair that Bill Gates does not receive the full patent for his computer discovery, and it would be reasonable to prevent him from receiving full compensation for each computer sold, especially when he used the school's resources to create it. However, suppose Gates wants to participate in commercials that advertise for computer software or make money selling his autograph to computer geeks. To me, it seems there is no principled reason for prohibiting him from receiving such compensations, provided it creates no conflict of interest with the school. For instance, if receiving such compensations (1) involve him either taking full credit for the discovery, (2) developing other computers (putting him in direct competition with the school's products) while still enrolled at the university, or (3) prevent Gates from fulfilling his academic duties, then perhaps they should be restricted. Similarly, if an athlete receiving outside compensations brings about conflicts of interest, then perhaps such compensations should be prohibited. Presuming no conflict of interest arises, I do not see the problem.<sup>3</sup>

Further, before proceeding, let me emphasize what I take to be the severity of the unfairness of the NCAA's prohibitions. As I stated, I think restricting a student-athlete's outside compensations is both arbitrary and unfair. Doing so is unfair because it places severe restrictions on one's economic and personal autonomy on one group but not another—here, autonomy is broadly defined as one's capacity to freely pursue one's own interests and the power to shape one's own character and life prospects.<sup>4</sup> Student non-athletes, unlike their fellow student-athletes, are, at least in principle, currently given the freedom to pursue outside compensations. In the short-term, these compensations are potentially beneficial because they provide additional income and financial security; long-term benefits include long-term financial stability, especially in the event where the student-athlete's career is short; by receiving various outside compensations, they increase their financial stability in the event they undergo some career-diminishing injury (SI Wire, 2016).<sup>5</sup>

The bottom-line is that non-athletes are allowed to earn benefits that help secure both their short-term and long-term interests. Yet on entirely arbitrary grounds, student-athletes are prohibited from pursuing or receiving such short-term and long-term benefits, and this scenario seems unfair; unless there is some other justifying reason for such prohibitions, I maintain that they should be revoked.<sup>6</sup>

This concludes my argument that some of the NCAA's policies concerning a student-athlete's economic pursuits are arbitrary, unfair, and should be revoked. Still one might press that the NCAA still has good reasons for its prohibitions. In the remainder of this paper, I argue that the possible reasons or motivations for the NCAA's prohibitions do not justify

prohibiting student-athletes from receiving outside compensations. I start by arguing that access to some outside compensations does not necessarily harm or potentially harm student-athletes.

#### 4. Outside Compensations and Harm to Student-Athletes

One might press the concern that if student-athletes are permitted to pursue various outside compensations, they will be harmed. One possible harm is that student-athletes will become more focused on one's athletic career rather than being academic or team-focused; instead of focusing on his team's success or his education, the student-athlete will primarily focus on making as much money as possible. Now we can easily imagine a scenario where a student merely plays college sports as a means to promoting his own non-academic self-interest. For instance, there might be, say, a basketball player who has very little regard for education, and focuses more on obtaining outside compensations. If such behavior is permitted, the athlete will likely forsake the various goods associated with receiving an education or being part of a team. Such benefits include: (1) representing the school in athletic competition; (2) helping the team achieve various goals (e.g. improvement and championships); or (3) simply being part of a team (e.g. experiencing the value of teamwork and loyalty to one's teammates). Further, by not focusing on earning a degree, the athlete forsakes both a quality education and better career opportunities. Hence, by not benefiting from these goods, the student-athlete is harmed, and so allowing athletes to pursue outside compensations will therefore (likely) bring about such harms.

I grant it is certainly possible that student-athletes will miss out on these benefits if they are allowed to pursue certain outside compensations.<sup>7</sup> The problem however is that it is quite feasible that they could miss out on these goods even if they do not pursue such compensations. Many professors (I'm speaking for myself and assuming the scenario is the same for many teachers in higher education) have student-athletes that have little regard for their education, and their indifference toward their education has nothing to do with whether they receive outside compensations. Moreover, whether through selfishness or apathy, it is not hard to imagine athletes who do not care about representing their school, winning championships, helping their team improve, or being a loyal teammate. For instance, some college football and basketball players opt to quit on their team during the season because they wish to focus on their potential professional athletic career. (Breer, 2017)

Furthermore, even if they receive outside compensations, it seems athletes would still have incentive to pursue the other benefits associated with being a student-athlete; for in many cases, an athlete needs to stay in school for three to four years before he or she is prepared for a career in professional sports.<sup>8</sup> Further, it is in the best interest of most student-athletes to attend college, develop their athletic abilities, and earn a degree. There are a number of economic reasons why this is so: one such reason is that the amount of college athletes who become professional athletes is alarmingly small—e.g. less than 2% of male basketball players and football players become pro-athletes (NCAA, 2015). Still, most college athletes who become professional athletes have neither long nor profitable careers (as stated in a footnote above, the average NFL career is little more than three years). Earning a college degree is often imperative if one is to secure future financial stability. Moreover, even if they abandon their education to play professionally, it is still in their best interest to do well

academically, as they might attempt to earn their degree once their athletic careers end. It is hard to see how they could if they left college in poor academic standing.

But perhaps the team itself will be harmed if athletes are allowed to pursue outside compensations?<sup>9</sup> The idea is that if some student-athletes are focusing on earning extra income, then the success of the team will be compromised since its players will not be focusing on helping the team reach its goals. Perhaps, but I think student-athletes would still have incentive to help their team achieve certain goals since obtaining such goals mandates that one be a good teammate. First, winners are appealing to professional teams, and so it is in a professional team's best interest to hire athletes who will most likely will help them win; professional teams want players that can win, especially when such players are (or will be) well-compensated—e.g. by way of lucrative contracts or endorsement deals. Second, any intelligent coach would bench or suspend a player who might create a bad team atmosphere or who makes the team worse. Coaches get fired for his or her team's failures. In which case, it is in the coach's best interest to play or keep individuals who increase the team's likelihood of success. Hence, student-athletes, even if receiving outside compensations, have a strong incentive to help their teams succeed.

The bottom line is that it is doubtful the student-athlete or team would be harmed if he or she is allowed to pursue outside compensations. Accordingly, I have defended my second claim that student-athletes would not be harmed if allowed to pursue outside compensations. If so, then it seems one motivation for prohibiting outside compensations—that they prevent harms to either student-athletes or their teams—is not well-grounded.<sup>10</sup> In the next section, I consider whether allowing athletes to receive outside compensations comprises the integrity of higher education.

## 5. The Integrity of Higher Education

However, one might press that higher education would be harmed or compromised if student-athletes are allowed to receive outside compensations. The worry is that by allowing student-athletes to receive outside compensations, we create a culture where academics are at best secondary; for some students, college would become a venue that primarily promotes their non-academic interests. The result being that college would no longer be fundamentally about academics, which is arguably higher education's most important feature. Instead, college becomes a venue where student-athletes merely use the college as a means to make as much money as possible. As such, the image of colleges as an educational venue would be destroyed, and this consequence is worse than any that would result if student-athletes are prohibited from receiving outside compensation—or so the worry goes. Admittedly, I am not sure anyone advances this objection, but I respond to it nonetheless.

My response is that we have little reason to think student-athletes will either be entirely career-focused or that the primary purpose of college would be compromised. First, as already stated, it is doubtful many student-athletes—presuming they are rational—would abandon their academic pursuits. In many cases, a student-athlete needs to stay in school for three to four years before he or she is prepared for a career in professional sports. Further, it is in many athletes' self-interest to not only develop their athletic abilities in college, but to also earn a college degree. The importance of earning a degree is well-supported by the fact that few athletes become professional athletes. Moreover, most college athletes do not have profitable professional careers (as stated in a footnote above, the average NFL career

is little more than three years). A college degree, then, is imperative for future financial stability (NCAA, 2015).

Hence, even if student-athletes are permitted to pursue or receive outside compensations, it is still in their interest to perform well academically: for being in academic good-standing is a necessary condition for being eligible to play collegiate sports, and it is largely through playing collegiate sports that one becomes adequately prepared for a professional sports career. Moreover, given the meager odds of having a financially sustainable athletic career, student-athletes need an education in order to secure future financial stability. The upshot is that even the most-talented athletes have incentive to perform well academically. As such, I think it is too quick to say student-athletes will only be career, rather than academic, minded if they are permitted to pursue outside compensations.

Second, in order to preserve the notion that college should fundamentally be about education, colleges and universities should either increase or more strongly enforce their academic standards. Accordingly, through either enhancing or reinforcing student academic standards (increasing the grade-point-average requirement required to earn academic and athletic eligibility), universities should create an academic environment where student-athletes must behave like college students in order to remain academically eligible. While student-athletes can pursue outside compensations, the university or college should still emphasize and enforce the importance of academic success. Thus far, I have tried to motivate the claim that pursuing or receiving outside compensations would neither harm student-athletes nor compromise the integrity of higher education. I now proceed to consider whether the receipt of compensations threatens the integrity of college sports.

## 6. The Integrity of College Sports

The last issue concerns whether the integrity of college sports would be compromised if student-athletes are allowed to pursue or receive outside compensations. The worry is that I make a mistake in treating the relationship between the student-athlete and university as primarily economic: I depict the relationship as being primarily an employee–employer relationship—e.g. a lawyer and the firm that employs her. However, as the concern goes, there is more to sports, particularly college sports, than the economic relationship between student-athletes and the schools for which they represent. Instead, there is what one might call the purpose or essential feature of sports. One such purpose or feature is that sport involves athletes competing against one another in a fair, rule-enforced environment. In order to preserve fair competition among athletes, certain rules must be enforced.

One such rule concerns prohibitions against gambling: many professional and college sports prohibit athletes and coaches from gambling on their own sport. The worry is that if athletes or coaches are allowed to make such gambles, they might bet on games in which they play, which might result in players and coaches deliberately losing games in order to win such bets. Prohibitions against gambling help prevent these unfavorable events from occurring, and in doing so help preserve fair competition. In many cases, violations of this prohibition are treated with serious punishments. In a famous example, Pete Rose, one of the greatest baseball players, is forever banned from baseball for gambling on baseball games while a player and manager (including games in which his team played).

Now regarding the integrity of college sports, the general worry is that if students can pursue outside compensations, fair competition (an integral part of sport) could be

compromised. The idea is that, among many negative possibilities, student-athletes might receive money from gamblers or businesses in return for deliberately losing games, and such actions threaten the integrity of sports: non-deserving teams win, games lose their realism since their outcomes are fixed, and one's teammates, coaches, and fans are cheated.

Moreover, the general worry does not just pertain to gambling. For example, some players might refuse to play (or play well) if they feel as if they are not adequately compensated by outside businesses that pay them. Or they might be induced to cheat if it means they could receive extra compensation for doing so; they might use steroids if doing so provides them with an advantage over the competition. Another worry is that athletes might only go to certain schools if they receive sizable returns for enrolling in that school; for example, Nike might give University X a million dollars if John Doe enrolls and plays for its baseball team. Knowing this, the university gives John Doe a hefty portion of this payment on the condition he or she enrolls and plays for them. In this scenario, a student-athlete is effectively bought by the school rather than being treated like other students. The negative possibilities abound.

The importance of rules of fair play cannot be underappreciated. If college students are allowed to pursue outside compensations, then why not dismiss other rules that are supposed to preserve fair competition? For example, many sports prohibit the use of steroid and other performance-enhancing drugs. Part of the justification for such prohibitions is that they help preserve fair play and fair competition. If some non-risk-averse athletes are willing to use performance-enhancing drugs (especially drugs that endanger their health), then they have an unfair advantage over more health-conscious competition. Ultimately, the atmosphere of fair competition collapses. Such regulations—whether they prohibit gambling, steroid use, or the receipt of outside compensations—are thus essential to preserving the integrity of sport.

This is a strong objection, but I have two replies. First, I grant that the consequences raised by this objection could arise. In which case, measures should be taken to ensure that the integrity of sports is preserved. Of course, one obvious route is to ban most if not all outside compensations. However, I think this move is too quick, for we can regulate outside compensations without completely banning them. Accordingly, the NCAA can develop policies that monitor and regulate compensations such that athletes do not, say, deliberately lose or cheat.

Moreover, even professional sports ban some activities in which an athlete can partake. For instance, as mentioned above, many professional sports leagues ban their players from gambling on sports or taking certain types of performance-enhancing drugs. Additionally, leagues forbid players from faking injuries or pretending to be fouled. One motivation for forbidding these actions is it to help preserve the atmosphere of fair play and competition that is integral to sport. As such, the NCAA can, mimicking the policies of professional sports leagues, regulate the activities of their student-athletes without completely banning many forms of outside compensation. I admit that there is the practical issue about how the NCAA might best go about regulating outside compensations. For now, I leave aside this practical issue, and instead point out that, at least in principle, the NCAA can regulate without banning outside compensations.

Second, the potential problems that motivate the objection are neither unique to college sports nor student-athletes. For the sake of money, professional athletes engage in activities that potentially undermine or destroy the integrity of their sport: for years baseball players abused steroids; Pete Rose gambled on games in which his team played. Such problems

motivate many of the rules that prohibit athletes from gambling, using performance-enhancing drugs, and other behaviors that undermine a sport's integrity (e.g. buying off officials). The point is that while the reception of outside compensations could undermine the integrity of college sports, the same problem arises with professional sports. Regardless of the league or age of the player, cheating arises, especially when athletes have motivation or incentive to do so. Accordingly, if the integrity of professional sports can be preserved by certain regulations, why cannot similar regulations be implemented in college sports? To me, it seems feasible that the integrity of college sports, similar to the integrity of professional sports, can be preserved even if some outside compensations are permitted.

## 7. Conclusion

I close with the following vignette: Andrew Luck was a star quarterback at Stanford University. He was co-*valedictorian* in high school and earned a bachelor's degree in architectural design (Mays, 2013). This much is true. But now let us imagine that while he was not studying, going to class, or playing football, Luck decided to spend a few hours each week signing autographs and endorsing certain products. Let us also suppose that he received compensation for these activities. It seems feasible that, while pursuing and receiving such compensations, he also satisfied his academic and team duties. Further, it is hard to imagine how either Stanford's academic integrity or the integrity of college football has been compromised. To me, Luck has done nothing wrong, and the NCAA has no good reason to prohibit him from or punish him for receiving them.

## Notes

1. One might agree that there is something wrong about the NCAA's prohibitions, yet not prefer my claim that the wrongness is a matter of unfairness. However, there may be multiple ways to explain the central problem discussed in this paper, and I thank an anonymous reviewer for bringing this important point to my attention. One such alternative, then, is to think of both student-athletes and student non-athletes as having the same rights. They might have these rights in virtue of being free, rational agents. Such rights include the rights to pursue certain economic activities or opportunities. Since they are equals with equal rights—one of which is a right to pursue certain economic activities or opportunities—then it is wrong to deprive one and not the other the right to pursue or receive outside compensations. If the reader prefers this account of what makes the NCAA's prohibitions wrong, then he or she is welcome to accept it instead. I ultimately think the argument works under multiple accounts, whether it fairness, rights, or perhaps some alternative.
2. At least, I am not aware of such a policy or association. I admit that I open myself to the embarrassing result that such a policy or association exists. However, there are real-life examples where actors simultaneously attend acting school and participate in a number of television, movie, or theater performances—and are compensated for their roles. For instance, while getting a master's degree from Columbia in acting and production, James Franco starred and received compensation for a number of acting roles. In the acting realm, if a policy against receiving such remuneration exists, then it is weakly enforced.
3. I leave a clear, precise definition of what constitutes a conflict of interest for another time and place. However, I maintain that it seems possible that Gates can receive outside compensations for his computer science abilities without engaging in activity that constitutes a conflict of interest with his university. While there are clear-cut cases where certain outside compensations create such conflicts (e.g. endorsing a rival computer program or publically stating that the computer he helped create is significantly worse than the competition's), there seem to be

clear cases where no such conflict would arise—e.g. appearing in advertisements that endorse certain kinds of computer software.

4. This definition of ‘autonomy’ is a bit fast and loose, but I think it works for the purposes of this paper. For a thorough and useful account of this important philosophical term, see: Christman, J. 2018. Autonomy in moral and political philosophy, *The Stanford Encyclopedia of Philosophy*, E. Zalta (ed.), Available at <https://plato.stanford.edu/archives/spr2018/entries/autonomy-moral/>.
5. The average NFL career lasts little over three years. Age and health significantly influence the longevity of one’s career, and so most NFL athletes have a short time to earn income as an athlete (SI Wire, 2016).
6. An anonymous reviewer pointed out the scope of this paper is quite narrow since it only applies to college sports in the United States. This is a great concern. However, I think this paper’s context can be broadened: I have argued that in some cases, student-athletes should receive outside compensations. I did so on the grounds that it would be arbitrary and unfair to deny them access to such compensations; and I did so also because receiving such compensations does not necessarily bring about negative consequences (as the reader will see from sections 4–6). Moreover, since, in many cases, the pursuit and reception of such compensations does not bring about conflicts of interest, they should be permitted.

Now I think the basic idea of this argument can be extended to other areas; first broadly construed, if two groups or individuals are, for all relevant purposes, equals, then it would be both arbitrary and unfair to allow one to receive certain compensations but not the other (at least, it would be arbitrary and unfair if there was no justifiable reason for compensating one but not the other). Moreover, if receiving certain compensations or benefits does not: (a) impede one’s ability to fulfill his or her duties to an employer—or any group in which the individual is duty or contractually bound; (b) harm his or her employer or group; or (c) create conflicts of interest, then it seems the pursuit and reception of such compensations should be permitted.

This is a quick and hasty response, but I hope it suffices to show how the context of my argument might be broadened.

7. Such problems are made evident by the National Basketball Association’s current policy that players must be at least one-year removed from high school before they are eligible to enter the league. This policy has resulted in many athletes only attending college for one year; such players are recruited even though it is well-known that they will attend college for one year or stop attending classes once the college season ends. Here, it appears athletes are only using the university’s or college’s services for one academic year before joining the NBA. Such student-athletes seem to be career-focused rather than team or academic-focused. The worry being that academics and team success are an afterthought, which in turn means the student misses out on goods associated with playing for a team or achieving academic success.
8. For example, college football players must be three-years removed from high school before they are eligible to play professional football. For baseball players who choose to attend college, they must also be three-years removed from high school before they are eligible to play professional baseball. For the National Basketball Association, eligible players must be one-year removed from high school. (Nisse, 2015).
9. I owe and thank an anonymous reviewer for bringing this point to my attention.
10. One might press that I am making an arm-chair, conceptual point about a largely empirical issue. Accordingly, it might be that it is an empirical issue whether student-athletes would be harmed if allowed to receive outside compensations. The problem, then, is that I assume without empirical support that student-athletes would not be harmed. However, I have argued that it is in the student-athlete’s best interest to pursue the benefits of both participating in college sports and earning a degree. For given the unlikelihood of a financially viable career as a professional athlete, it is in the student-athlete’s best interest to be as good a teammate and student as possible. Thus, I think it is quite feasible that student-athletes would still (successfully) pursue these goods even if allowed to pursue outside compensations.

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