

April 2016

NCAA – An Overview of Socioeconomic Status’s Impact on College Athletes, and the Regulations and Impact That Can Revolutionize the Amateurism World

Bryan Kelly
Pace Law School

Follow this and additional works at: <http://digitalcommons.pace.edu/pipself>

 Part of the [Entertainment, Arts, and Sports Law Commons](#), and the [Intellectual Property Law Commons](#)

Recommended Citation

Bryan Kelly, *NCAA – An Overview of Socioeconomic Status’s Impact on College Athletes, and the Regulations and Impact That Can Revolutionize the Amateurism World*, 6 *Pace. Intell. Prop. Sports & Ent. L.F.* 212 (2016).
Available at: <http://digitalcommons.pace.edu/pipself/vol6/iss1/9>

This Article is brought to you for free and open access by the School of Law at DigitalCommons@Pace. It has been accepted for inclusion in Pace Intellectual Property, Sports & Entertainment Law Forum by an authorized administrator of DigitalCommons@Pace. For more information, please contact cpittson@law.pace.edu.

NCAA – An Overview of Socioeconomic Status’s Impact on College Athletes, and the Regulations and Impact That Can Revolutionize the Amateurism World

Abstract

This article will begin with a review of the rules and regulations concerning the likeness of athletes, and amateurism status used by the NCAA. It will also shed light on several key cases including: *Oliver v. NCAA*, *Keller v. NCAA*, and *O’Bannon v. NCAA*. After that, a discussion of how one’s socioeconomic status further illustrates that the ongoing problem with the current NCAA amateurism system. Finally, this paper will present suggestions for solving the current issues with the NCAA amateurism system, and provide different alternatives that the NCAA could take to revolutionize the world of amateurism, while remaining profitable.

Keywords

NCAA, amateurism, college sports

PACE INTELLECTUAL PROPERTY, SPORTS & ENTERTAINMENT LAW FORUM

VOLUME 6

SPRING 2016

NUMBER 1

NCAA – AN OVERVIEW OF SOCIOECONOMIC STATUS’S IMPACT ON COLLEGE ATHLETES, AND THE REGULATIONS AND IMPACT THAT CAN REVOLUTIONIZE THE AMATEURISM WORLD

Bryan Kelly

TABLE OF CONTENTS

INTRODUCTION	212
I. NCAA RULES AND REGULATIONS ON AMATEURISM, AND RELEVANT CASE LAW	214
II. SOCIOECONOMIC STATUS AND THE IMPACT ON COGNITIVE ABILITY.....	217
III. HOW THE NCAA CAN REVOLUTIONIZE THE WORLD OF AMATEURISM	218
CONCLUSION	223

INTRODUCTION

The National Collegiate Athletic Association (NCAA) has monopolized the amateur sports world to a point where the average student athlete has become a tool for profit growth. Throughout a college athlete’s career, it would be fair to say that an individual athlete signs numerous contracts and waivers per individual season. Coaches and students alike believe that there is too much paperwork involved. As such, this has caused numerous problems, both from a media perspective of big corporation versus small college athletes, and a college athlete’s amateurism versus their ability to support themselves.

As the world of collegiate sports has grown over the past several decades, profits have also grown exponentially. College Football with BCS Bowl Games, and College Basketball with March Madness, are two prime

examples of college athletic programs that have led to enormous profit growth. College Football programs alone have grown to be close to 200 million dollars as of 2015.¹ College Basketball as well has provided significant profits as of 2015.² This leads inquiring minds to ponder where all this profit goes. The answer is simple; the profits are retained by the university.³ This begs to ask a more troublesome question; that if athletes know their talents are being used to raise profits, then what benefits do the college athletes receive? The NCAA and universities would argue that the college athletes receive an education, something that they can use for the rest of their lives. Although this is true, a major underlying theme that many universities, “do not acknowledge” is that at the time these high school athletes try to go to college, they have to sign numerous contracts that they do not understand. The typical contract that a minor has to sign to become a college athlete contains numerous legal terms that the average high school student may have trouble understanding.⁴ Thus, it becomes apparent that there is an opportunity that students may not understand the contracts they enter, as they enter college.

As students begin their transition to college, numerous changes occur in their lives. Many are leaving home for the first time, gaining new responsibilities, and pursuing their dreams. Students ranging from all different economic statuses attempt to achieve their dreams, some of which are pursuing careers in athletics. A previous study revealed that the majority of football and basketball student-athletes competing at the Division I level come from low socioeconomic backgrounds.⁵ This essentially states that the majority of these athletes come from poorer backgrounds, meaning that the education that they have is considerably less than students or athletes who come from higher socioeconomic backgrounds. This provides significant leverage during the high school student’s entrance into the world of collegiate

1. See, Steve Berkowitz, et. al., *NCAA Finances Top School Revenue*, <http://sports.usatoday.com/ncaa/finances/>.

2. See, Cork Gaines, *Duke’s basketball program makes more money than every other Final Four school*, BUSINESS INSIDER (Apr. 3, 2015), <http://www.businessinsider.com/mens-college-basketball-revenue-2015-4>.

3. See, Kristi A. Dosh, *College Football Revenue: Running the Numbers*, SMARTY CENTS (Sept. 24, 2014), <http://smartycents.com/articles/college-football-revenue/>.

4. See, Debra D. Burke & Angela J. Grube, *The NCAA Letter of Intent: A Voidable Agreement For Minors?*, 81 MISS. L.J. 265, (2011).

5. See, Landon T. Huffman & Coyte G. Cooper, *I’m taking my talents to.. an examination of hometown socio-economic status on the college-choice factors of football student-athletes at a southeastern university*, 5 J. of Issues in Intercollegiate Athletics, 225, (2012).

sports, to both the NCAA and the university, creating a significant problem for all athletes involved.

Recently, the media has shed light onto this problem of, “monopolizing amateurism”, by the NCAA and the different universities, however, few modifications have been implemented concerning revolutionizing the current system to shift the balance towards all parties involved including: universities, the NCAA, and college athletes. This article will begin with a review of the rules and regulations concerning the likeness of athletes, and amateurism status used by the NCAA. It will also shed light on several key cases including: *Oliver v. NCAA*⁶, *Keller v. NCAA*⁷, and *O’Bannon v. NCAA*.⁸ After that, a discussion of how one’s socioeconomic status further illustrates that the ongoing problem with the current NCAA amateurism system. Finally, this paper will present suggestions for solving the current issues with the NCAA amateurism system, and provide different alternatives that the NCAA could take to revolutionize the world of amateurism, while remaining profitable.

I. NCAA RULES AND REGULATIONS ON AMATEURISM, AND RELEVANT CASE LAW

To understand the rules and regulations that the NCAA imposes on its athletes, it is best to first look at the amount of student athletes currently participating in a colligate sport, including how many of those athletes are on scholarships. Then it is best to review some of the rules and regulations that an athlete must follow to remain eligible. Finally, we must review relevant case law, before addressing the socioeconomic issues and its relationship with college athletes.

In a report done by the NCAA, the current number of student-athletes participating in intercollegiate athletics is over 460,000.⁹ Of those 460,000 students who participate in athletics, roughly 150,000 Division I and II athletes receive scholarships for their abilities.¹⁰ Thus, it is fair to say that roughly 33% of student athletes receive a scholarship based on athletics as of

6. *Oliver v. Nat’l Collegiate Athletic Ass’n*, 155 Ohio Misc.2d 17 (2009).

7. *Keller v. Nat’l Collegiate Athletic Ass’n*, No. 4:09-cv-1967 CW, 2015 U.S. Dist. LEXIS 113474 (N.D. Cal. Aug. 18, 2015).

8. *O’Bannon v. Nat’l Collegiate Athletic Ass’n*, 802 F.3d 1049 (9th Cir. 2015).

9. *See, Current Student-Athletes*, Nat’l Collegiate Athletic Ass’n, <http://www.ncaa.org/student-athletes/current>.

10. *See, Scholarships*, Nat’l Collegiate Athletic Ass’n, <http://www.ncaa.org/student-athletes/future/scholarships>.

the 2015 college admitted students.¹¹ When taking this into consideration, this number is extremely low, when considering the release statements one must sign to participate in a collegiate sport.

When incoming student athletes prepare to take part in a college sport, they must first sign a release that states how they should behave, as well as what guidelines they must follow to remain eligible. These rules consist of ethical conduct, amateurism, and their academic standards. Bylaws 12.5.2.1 and 12.5.2.2 state that “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].”¹² This limits the ability to sell one’s image at the college level. Due to the inability to accept any sponsorship, it limits the ability to sell one’s image at the college level and gives the NCAA power in regards to the use of the athlete’s image. In addition to this, incoming college athletes must enter into contracts which obligates them to adhere to the rules and regulations of the universities they agree to go to.¹³ These are also just a few regulations that must be taken into consideration when a high school student attempts to become a college athlete. Similarly other issues exist, as later discussed, with college players speaking with athlete-agents.¹⁴ When a letter of intent is signed, an express contract is formed.¹⁵ All NCAA regulations, must be agreed to by the student, before they can take part in the sport. After the student has agreed to the terms created by the NCAA, and has signed the contract, only then can a college athlete participate in in collegiate sport.

Three key cases have confronted the NCAA over the regulations they enforced. These cases included *Oliver v. NCAA*¹⁶, *Keller v. NCAA*¹⁷, and

11. This article will only focus on Division I athletes. Specifically, this article will review the current arrangement of all NCAA regulations, do an analysis of what socioeconomic status is and its impact on cognitive ability, and what that impact on cognitive ability does to the student athlete concerning decision making regarding regulations.

12. See, *2015-16 Summary of NCAA Regulations*, NAT’L COLLEGIATE ATHLETIC ASS’N, <http://www.ncaa.org/sites/default/files/Summary%20of%20NCAA%20Regulations.pdf>; see also, <http://www.ncaa.org/sites/default/files/Form%2015-3a%20-%20Student-Athlete%20Statement.pdf>.

13. Derek Q. Johnson, *Educating Misguided Student Athletes: An application of Contract Theory*, 85 COLUM. L. REV. 96, 104-05 (1985).

14. Other regulations include whether or not a player can speak with an athlete-agent, which is addressed further in a later part of this article.

15. *Supra*, note 13 at 104.

16. *Oliver v. NCAA*, 2009-Ohio-6587, 920 N.E.2d 203 (Ohio Ct. Com. Pl. 2009).

17. *Keller v. NCAA*, No. 4:09-cv-1967 CW, 2015 U.S. Dist. LEXIS 113474 (N.D. Cal. Aug. 18, 2015).

*O'Bannon v. NCAA*¹⁸. In 2008, the first case, *Oliver v. NCAA* took place which was over a college baseball player who attended a meeting with a former attorney and a professional baseball team.¹⁹ Oliver, rejected playing for the professional team, and instead decided on attending college on a full scholarship instead.²⁰ Oliver was suspended, due to the meeting being against NCAA regulations.²¹ From there litigation took place, and an injunctive relief was granted to allow the player to continue playing due to a violation of the covenant of good faith and fair dealings within the NCAA athlete agreement.²²

The next important case occurred in 2009; the case of *Keller v. NCAA*. Keller a former football player sued the NCAA as well as EA Sports for the improper use of his likeness in video games, as well as photographs and promotions.²³ The NCAA in this case assured multiple sources that their agreement with EA Sports was intact because it prohibited the use of names and pictures of current student athletes in games.²⁴ This is a current class action lawsuit that is currently ongoing.²⁵

Finally, while the case of *Keller v. NCAA* occurred, O'Bannon as well as other former athletes began to look into the NCAA's power over their image. Later in 2009, O'Bannon filed an antitrust lawsuit against the NCAA, because his image was being used in an EA Sports video game, and he did not receive compensation.²⁶ This case was then combined with *Keller v. NCAA*, and was reviewed by the U.S. District Court of North Carolina.²⁷ Numerous other athletes such as Oscar Robertson, as well as Bill Russell have also joined the case. O'Bannon has also been trying to include current student athletes as well. The overall goal throughout of these cases was to form two classes of athletes under Federal Rule of Civil Procedure 23, athletes who have had their images used in video games since July 21, 2005, and current players.²⁸ Thus, eliminating the NCAA's ability to continuously profit off of college athletes, and their success without proper payment.²⁹

18. *O'Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2015).

19. *Oliver v. NCAA*, 2009-Ohio-6587, 920 N.E.2d 203, at 4.

20. *Oliver v. NCAA*, 2009-Ohio-6587, 920 N.E.2d 203, at 4.

21. *Id.* at 7.

22. *Id.* at 9.

23. *Keller v. NCAA*, 2015 U.S. Dist. LEXIS 113474, at 41.

24. *Id.* at 31-32.

25. *Id.* at 1.

26. *O'Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2015).

27. *Id.*

28. *See*, MELISSA ALTMAN LINSKY, *THE LITTLE BOOK OF BASKETBALL LAW*, 150 (American Bar Association 2014).

29. *Id.*

II. SOCIOECONOMIC STATUS AND THE IMPACT ON COGNITIVE ABILITY

After understanding how the NCAA process works, the next step is understanding the college athletes themselves. As noted earlier the majority of college athletes come from lower socioeconomic backgrounds.³⁰ Although this is true, how does this relate to the NCAA and their regulations? The answer is simple, through numerous psychological studies done, results have shown that those who come from various socioeconomic backgrounds have different cognitive ability, which determines their ability to comprehend things differently. In other words, high school students who come from higher socioeconomic backgrounds have a higher opportunity to understand things, such as terms of a contract, better than those from lower socioeconomic backgrounds do. This includes understanding the decision of going to a specific college and what factors they use to determine going to a certain college or university.

A study was done by Huffman and Cooper which researched why college athletes chose a specific college.³¹ This study used the ideas of corporate social responsibility (CSR) which was a mindset that colleges should help their students give back to the community.³² The results of this study showed college athletes from a southeastern university football team who came from the lowest third of athletes from a socioeconomic standpoint sought out college atmosphere and environment and predominately athletic minded.³³ In comparison, those from the middle and highest athletes from a socioeconomic standpoint, had some athletic aspirations, but also factored in academics and college degrees, into their decision to go to that school.³⁴ Taking a deeper look into this study, a key cognitive skill within brain development is reasoning.³⁵ As this study indicated, the reasoning used by these students ranged anywhere from athletic career goals, to education depending on what economic status the college athlete came from.³⁶ Further in application of this study, it was theorized that if incoming students coming from similarly situated socioeconomic statuses lack key cognitive skills such as reasoning, they will lack the comprehension of the broad terms used by the NCAA because the cognitive skill of reasoning was underdeveloped.³⁷ There

30. Huffman et al., *supra* note 5.

31. Huffman et al., *supra* note 5.

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. Huffman et al., *supra* note 31.

are however, other cognitive skills to evaluate as well such as reading and language skills, which could play a role in a student athletes understanding of the terminology the NCAA uses in their rules and regulations.

Another study was performed to understand socioeconomic impact on those exact cognitive skills, reading and language skills.³⁸ This study focused on how ranging socioeconomic statuses impacted brain development on 5 year old children.³⁹ The results indicated that 5 year old children who came from a lower socioeconomic status had a negative correlation in the hemispheric specialization in the left inferior frontal gyrus, whereas those from a higher socioeconomic status had a positive correlation.⁴⁰ The study found that the children from low socioeconomic statuses had a direct negative relation to the size of gray matter in areas that developed those cognitive skills while the children from higher socioeconomic statuses had a direct positive relation to the size of gray matter in those areas.⁴¹ This meant that the children who grew up in lower socioeconomic status areas, lacked key brain development, specifically in areas of reading and language skills.⁴²

As the results of that study showed, a further consequence of lower socioeconomic status indicated that children at the age of 5 from had been impacted in a negative way resulting in their cognitive skills having hindrances in the future. In application to high school athletes, seeking to become college athletes, when necessary to sign documents and contracts to participate in colligate sports students from lower socioeconomic statuses will not have the capacity to fully comprehend the language and terms of the agreements they sign, which has been apparent from the developing court cases previously mentioned.⁴³

III. HOW THE NCAA CAN REVOLUTIONIZE THE WORLD OF AMATEURISM

Now that it has been established that the current amateurism structure has led to numerous cases entering the limelight, using information on how lower socioeconomic statuses altered people, in this instance, college athletes, cognitive skills, the final steps that must be taken are ways to evaluate the system. This includes alternatives that the NCAA could consider that would revolutionize the world of amateurism. During the final steps,

38. Rajeev D.S. Raizada, et al., *Socioeconomic Status Predicts Hemispheric Specialisation of the Left Inferior Frontal Gyrus in Young Children*, 40 *NEUROIMAGE* 1392, (2008).

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.*

43. Huffman et al., *supra* n. 19; n. 24; n. 26.

information pertaining to different arguments on both sides of the field are important to take into consideration. From the NCAA's position, there is a strong belief, that all college athletes are provided with an opportunity to receive an education, and what opportunities they make of those situations, are decisions they make.⁴⁴ They contend that any type of reform to the system is to retain their amateurism status. However, from the college athletes' perspective, athletes in the NCAA provide a form of profit either through advertisement, representation of the university itself, having their images used throughout the recruiting process, and even having their images used later in life.⁴⁵ Furthermore, there has been an ongoing movement of athletes seeking to go professional earlier, or going abroad to chase their athletic dreams. Thus, as the current sides stand there remains room for negotiations and options that both the NCAA and college athletes alike should consider to revolutionize the world of college sports.

One of the first options that has been considered by students, is the ability to talk with agents during their collegiate careers. Black's Law Dictionary defines an agent as: "One who is authorized to act for or in place of another..."⁴⁶ These "sports agents" have many roles in the athletes life, including negotiating contracts for athletes, and helping athletes out with everyday life including finances, public relations, and even legal counsel if needed.⁴⁷ However, how does this relate to the college level? Depending on the sport, some athletes, such as track and field athletes or swimming athletes, are recruited by agents in high school, while other athletes, are recruited by agents out of college before they enter the professional world.⁴⁸ This is where the college athlete and the agent begin their relationship towards a professional career in sports.

There are many limitations that the NCAA has created through its rules and regulations. When reviewing the NCAA regulations concerning

44. NCAA, 2002-2003 NCAA Division I Manual, art. 2.2.9, 5 (Michael Earle, ed. 2002) ("student athletes shall be amateurs in an intercollegiate sport, and their participation should be motivated primarily by education and by the physical mental and social benefits derived. Student participation in intercollegiate athletics is an avocation, and the student-athletes should be protected from exploitation by professional and commercial enterprises"). *See*, *Jones v. Wichita State University*, 698 F.2d 1082, 1087 (10th Cir. 1983).

45. Huffman et al., *supra* n. 19; n. 24; n. 26.

46. BLACK'S LAW DICTIONARY 72 (9th ed. 2009).

47. Bryan Couch, Comment, How Agent Competition and Corruption Affects Sports and the Athlete-Agent Relationship and What Can Be Done to Control It, 10 SETON HALL J. SPORT L. 111, 112 (2000) (citing Michael A. Weiss, The Regulation of Sports Agents: Fact or Fiction?, 1 SPORTS LAW. J. 329 (1994)).

48. Charles B. Lipscomb & Peter Titlebaum, *Selecting a Sports Agent: The Inside for Athletes and Parents*, 3 (2001) note 25, at 97 (citations omitted).

player representation through agents during their colligate years, NCAA Bylaw 12.3.1 provides instances when speaking with representatives is allowed, when it isn't, and what consequences a student may have if they violate the NCAA rules.⁴⁹ Under the current NCAA Bylaw, information is provided which explains that individuals may engage in discussions or “socializing” with an agent, but that no agreement for representation by the agent can be established.⁵⁰ If a student were to violate NCAA Bylaw 12.3.1 and entered an agreement with an agent for representation, then the student-athlete is ineligible to participate in intercollegiate competition from that point on.⁵¹ Furthermore, under the same Bylaw, the NCAA goes further, explaining that if a student-athlete were to accept benefits such as transportation from an athlete-agent, or have a friend or relative receive a benefit from an athlete-agent, that student-athlete's amateurism status is taken away from them.⁵²

Under the current agent system, the NCAA has found itself in a bind. On one hand, the NCAA fosters communication between their student athletes and athlete-agents.⁵³ On the other hand, there are numerous traps that student athletes can fall into. Specifically, there are numerous athlete-agents who act freely due to a belief they are not bound by NCAA regulations.⁵⁴ Thus, there is greater room for penalty among student athletes, who depending on their socioeconomic status, cannot understand the regulation from the onset, have family or relatives who's decisions have a direct impact on their lives, and a potential pool of athlete-agents determined to sign premiere talent regardless of the regulations established by the NCAA. Not only that, for the student athletes, who are in need of gathering all the information to determine whether or not a professional career is an achievable goal, these guidelines prevent those discussions from taking place.⁵⁵ Thus, as the current agent system is established in the NCAA, there are numerous issues that need to be addressed.

49. NCAA *supra* note 13, § 12.3.1, at 73.

50. Overview of NCAA Bylaws Governing Athlete Agents, NCAA, <http://www.liberty.edu/media/1912/compliance/newformsdec2010/currentflames/agents/Overview%20of%20NCAA%20Bylaws%20for%20Agents.pdf> (last visited Mar. 3, 2015).

51. NCAA, *supra* note 13, § 12.3.1, at 73.

52. NCAA, *supra* note 13, § 12.3.1, at 73.

53. *Id.*, at 73-74.

54. George Dohrmann, *Confessions of an Agent*, SPORTS ILLUSTRATED (Oct. 18, 2010), at 62, <http://www.si.com/more-sports/2010/10/12/agent>.

55. Jack Carey, *Incidents Lead Saban, SEC to Scrutinize Athlete-Agent Contract*, USA TODAY (July 22, 2010), http://www.usatoday.com/sports/college/football/sec/2010-07-21-saban-agents_N.htm?csp=34sports.

First and foremost, for the benefit of both the NCAA and student athletes, if a change in the current agent system, it would need to keep the true meaning of amateurism intact, while provide the student athlete with the opportunity to make the best decision possible for themselves. One change that would do exactly that is providing student-athletes with NCAA sanctioned events that would provide them with the opportunity to meet with accepted athlete-agents for the sport they are seeking to be a part of. For instance, such an event could be created with the NFL Drafting Combine, or the NBA Drafting Combine for those specific sports. For example the NFL specifically has agent guidelines that are provided by the National Football League Players Association (“NFLPA”).⁵⁶ Under the NFLPA, people who are permitted to negotiate with an NFL team on behalf of a player must be certified as a “contract advisor”.⁵⁷ Having a NCAA sanctioned event providing guidelines for the agents to follow, with the enforcement of a major sporting league would provide the best scenario for student athletes with the opportunities to make connections, and get advice all while under the guidance of the NCAA and major sports league. Another option would be restraining the loss of amateurism to solely what the student athlete does regarding receiving benefits, and not holding the student athlete accountable for the actions of his or her family and friends. Finally, a third approach to revolutionize the current system regarding the agents, is to have student athlete lectures concerning the potential regulations they could violate. These are several options that would change the current perspective of unfair treatment towards college athletes, but provide the NCAA a way to continue the amateurism status.

Another issue that needs to be addressed by the NCAA is the ongoing inquiry of whether or not college athletes deserve to be paid. As previously mentioned, the overall profits for NCAA sports has grown exponentially. College Football has brought in over 200 million dollars as of 2015.⁵⁸ This means that incoming profit gives way to conversations that college athletes are not provided with the ability to earn money, while the universities have profit margins on the athlete themselves, in addition to what they pay, if any for an education. Thus, as it has become more polarized by the ongoing media attention, the NCAA has found itself in another situation where the true meaning of collegiate sports, may need compromising.

56. See NFL Players Ass’n, NFL Players Association Constitution pmb., §§1.01-03 (2007), http://www.ipmall.info/hosted_resources/SportsEntLaw_Institute/League%20Constitutions%20&%20Bylaws/NFLPA%20Constitution%20-%20March%202007.pdf.

57. NFL Players Ass’n, NFLPA Regulations Governing Contract Advisors § 2(A), at 3 (2007), <https://www.nflpa.com/agents/how-to-become-an-agent>.

58. *Supra*, note 1.

Under the current scenario, the NCAA's belief is that they are proving their student athletes with an education, a platform to demonstrate their athletic talents, and an opportunity for individual growth. The belief of the college athlete, and ex-college athletes, such as Ed O'Bannon, contend that although on an appearance this is what the NCAA may provide college athletes, when these high school athletes enter the world of college, they lack proper understanding of the position they are in, the opportunities in front of them, and are being taken advantage of during the regulations they must sign. This has led to the belief that these regulations provide support for an antitrust violation, creating a significant issue for the NCAA.⁵⁹

Although both sides of the argument present fair analyses of the current system, what adjustments in the system would provide a proper arrangement where student athletes receive proper value, and universities and the NCAA, still retain profits and amateurism status? As discussed above cognitive ability in reasoning, reading, and language skills portrays the NCAA's behavior in an unfavorable light. Taking the research into consideration, one could theoretically argue that the NCAA is taking advantage of its student athletes. This, however, is not the case. The issue at hand, is not one party seeking to take advantage of another, but both parties' inability to understand the other's perspective. Media reports have suggested that players are unable to support themselves. Stories of student athletes' inability to support themselves while being a college athlete range from going to bed hungry at night, being unable to find a home during semester breaks, as well as the need to unionize teams.⁶⁰ These stories create narratives that shift the burden onto the NCAA to make concessions towards providing these students with the ability to properly survive.

The NCAA may have to make a choice that would change the world of amateurism. If done properly, the NCAA would still have the opportunity to keep their current structure intact. Under the current scenario, with regards to student athletes seeking payment, one option would be to pay the college athletes fair wages, or what would be the equivalent of a work study. Under

59. See, e.g., Becker, *College Athletes Should Get Paid What They're Worth*, BUS. WK., Sept. 30, 1985, at 18; *Pro and Con: Should College Athletes Be Paid Salaries?*, U.S. NEWS & WORLD REP., Dec. 23, 1985, at 56.

60. See, Sara Ganim, *UConn guard on unions: I go to bed 'starving'*, CNN (April 8, 2014), <http://www.cnn.com/2014/04/07/us/ncaa-basketball-finals-shabazz-napier-hungry/>; also see, Jerry Hinnen, *Baylor RB: NCAA declared me ineligible for accepting place to live*, CBS SPORTS (Feb. 25, 2015), <http://www.cbssports.com/collegefootball/eye-on-college-football/25081275/baylor-rb-ncaa-declared-me-ineligible-for-accepting-place-to-live>; see also, Benn Strauss, *N.L.R.B. Rejects Northwestern Football Players' Union Bid*, N.Y. TIMES (Aug. 17, 2015), http://www.nytimes.com/2015/08/18/sports/ncaafootball/nlrbsays-northwestern-football-players-cannot-unionize.html?_r=0.

this option, the student athlete would not be paid under the belief of their talent, but an equal amount determined by the NCAA, for their employment at the school. This would be similar to a university providing a paycheck to students who work in admissions and provide tours to prospective students. By choosing this option, the NCAA would be able to compete with options incoming student athletes have of receiving payment outside of the United States.⁶¹ Furthermore, this option would provide students with the ability to choose the ability to make some money through a work study, helping them live an everyday life, in addition to receiving some additional funding through a work study.⁶² This would in essence provide the NCAA with a stronger argument that they value education, as well as the well-being of the student athlete, making sure that the students' welfare all around are protected. This is just one option that could be considered by the NCAA that would keep the current structure intact, and keep college athletics at the amateurism level.

Although the above issues mentioned show different criticism towards the NCAA's current structure, it would be inappropriate to not mention the attempts the NCAA have made towards providing benefits to student athletes. Subsequent to the case *Agnew v. NCAA*, the prohibition of multiyear athletic scholarship awards was removed.⁶³ This case saw former college athletes challenge the NCAA's ban of multiyear athletic scholarships, but ultimately was dismissed by the United States Court of Appeals for the Seventh Circuit.⁶⁴ However, in October 2011, the NCAA Division I board of directors adopted a revolutionizing position to allow multiyear scholarships to Division I athletes, showing that changes to the current system were possible.⁶⁵ This provided the belief that the NCAA was willing to work with the students, and that reform of the current system is possible where amateurism could be revolutionized to remain as a profitable, but fair mechanism for athletes to learn, grow, and showcase their talents.

CONCLUSION

As this paper has shown, there have been regulations created by the NCAA that have had devastating effects on both high school and college

61. See, *Hennessey v. Nat'l Collegiate Athletic Ass'n*, 564 F.2d 1136, 1153 (5th Cir. 1977).

62. See McKenzie & Sullivan, *Does the NCAA Exploit College Athletes? An Economic and Legal Reinterpretation*, 1987 ANTITRUST BULL. 373 (1987), at 378,79.

63. *Agnew v. Nat'l Collegiate Athletic Ass'n*, 683 F.3d 328, 332 (7th Cir. 2012).

64. *Id.*, at 332-34.

65. Mary Grace Miller, *The NCAA and the Student-Athlete: Reform is on the Horizon*, 46 U. RICH. L. REV. 1141, 1149 (2012).

athletes, from ranging socioeconomic statuses. As the studies suggest, socioeconomic status plays a vital role in key cognitive skills such as reasoning, comprehension, and language skills. These important skills arguably have a direct correlation to decision making, and theoretically could have a connection between the ongoing court cases concerning the NCAA.

Taking the above into account, reform then, must be something to consider as we proceed in the ongoing world of amateurism and collegiate sports. Although both proposals of reform above are steps to consider, there are numerous other steps that when discussed may provide the NCAA with greater opportunities, for either profit or enhancing the student athletes' education. On the other hand, the NCAA could deem that using basic comprehensive language would be just as sufficient of a change. However, as numerous cases continually approach the court system, and reach higher levels of the court system, change is upon the NCAA. Provided that the NCAA, does not look into the current situation, there are various other prospects for high school athletes to choose from, and where they can display their talents. Thus, overall, the NCAA, must educate themselves on the student athletes they profit off of, and revolutionize the world of amateurism to compete with the other options the same student athletes choose from, before making a life altering decision.