**The Cost of Paying Athletes Would Be Far Too High**

By [Andrew Zimbalist](http://www.usnews.com/topics/author/andrew_zimbalist)April 1, 2013 | 5:56 p.m. EDT+ More

Advocates of paying college athletes need to explain (a) how the labor market for players would function, (b) how the Division I colleges could afford this expense when the median DI athletics program loses $11 million a year on an operating basis and much more when capital and indirect costs are included, (c) how the new system would impact college culture, and (d) what would happen to the branding of intercollegiate athletics that tens of millions of fans have come to love.

For its part, the NCAA has to come to terms with the fact that it has applied an arbitrary, morphing, and overly restrictive definition of amateurism, the outcome of which is that student-athletes are unnecessarily manipulated and exploited. Until the 1940s, the NCAA defined amateurism like the rest of us: An amateur (the word means lover) is someone who engages in an activity for fun, not remuneration. A scholarship was seen an extrinsic inducement and not compatible with amateurism.

After the 1940s, what the NCAA allowed to be included in a scholarship was changed every few years. In 1973, the NCAA restricted scholarships to one year at a time, meaning that a coach could revoke a player's scholarship if he or she wasn't performing well on the field, regardless of how well they performed in the classroom. More recently, the NCAA has allowed athletes on winning teams to receive gifts worth hundreds and sometimes thousands of dollars.

Now in dispute is the claim of former UCLA basketball star Ed O'Bannon. His team won the national basketball championship back in 1995. Through its Collegiate Licensing Company, the NCAA licenses the right to Electronic Arts to produce a video game of the 1995 team, using the images and likenesses of its players. Not a penny of the licensing income is shared with these players. Current and former college players also have their names, images and likenesses used in a variety of other commercial forms: Jerseys, photos, bobbleheads, replay of old games, play footage for ads, etc. They don't get paid.

The O'Bannon suit argues that the former student-athletes are no longer amateurs and should be compensated for the exploitation of their publicity rights. It also claims that current student-athletes should have money put into trust funds for their subsequent use.

These claims make perfect sense, and with the reduction of pervasive waste, inefficiencies and unjust enrichment of coaches and administrators, there would be more than enough money to go around.

## College Athletes Are Already Paid With Their Education

By [Richard Burton](http://www.usnews.com/topics/author/richard_burton)April 2, 2013 | 12:21 a.m. EDT+ More

Remember the line in the Mel Brooks movie Blazing Saddles where one of the cowboys is offered a tin shield and sneeringly says, "Badges? We don't need no stinkin' badges"?

I always think of that line when I'm asked if NCAA Division I athletes should be paid for their collegiate contributions. It invokes the strained logic of Blazing Saddles because college athletes are already paid. They're just not paid what the market is capable of bearing.

Whoa, wait a minute. What do I mean they're already paid?

Well, let's set aside the value of their free or partially-funded education and assume no college athlete goes to class or actually gains any knowledge in class that has a useful value. That purposeful sarcasm (or cynicism) removes a healthy percentage of what many readers consider to be the bulk of the collegiate athlete's current compensation.

However, since you can't trade knowledge (i.e., mental enhancement) for an immediate financial asset, higher education is often (and falsely) assumed to have no value for athletes.

But even removing this educational asset from the equation, NCAA Division I athletes still receive expert coaching (that could lead to a professional career as an athlete or as a coach), on-campus housing, frequent meals (if not elaborate training tables), non-uniform clothing, free medical consultation, free access to state-of-the-art training facilities and free professional development (media/public relations, life skills, networking, etc.). That all has to count for something, right?

But what about cash for student athletes? Shouldn't they get money too?

Oh, so this discussion is about the Benjamins, eh? Well, why is that? Is the amount (the perceived value) a college athlete currently receives not enough? Are we asking this last question because an NCAA coach might be making millions (or a very hefty six-figure salary)? Or is it because the student-athlete's university is making millions from ticket and merchandise sales? Is it because the athlete's athletic conference is headed to the bank with a massive TV deal? Or is it because the NCAA is raking in billions off the performances of college athletes?

We know the answers to all of those questions are yes but if some "force for good" wants to pay the athletes cash, it seems likely some other party will have to take less.

And that's where this discussion stops. Because the NCAA, major BCS conferences, big-time universities and well-paid coaches are all expert at practicing the first law of capitalism … which is to capitalize on inefficient suppliers. Simply stated, college athletes have been convinced they are paid enough. And their appropriate share of the revenue pie has been given to others.

But I predict, someday, in the not too distant future, college athletes will learn they are leaving money on the training table and they will grasp that the whole NCAA pyramid crumbles unless they perform. When that day arrives, collegiate athletes will start getting paid in cash instead of psychology classes, track suits, knee braces and ice baths.

## Real Scholarships Need to Make a Comeback

By [Allen Sack](http://www.usnews.com/topics/author/allen_sack)April 1, 2013 | 5:56 p.m. EDT+ More

I have always believed that colleges and universities that treat athletes like employees should have to pay them and provide other employment benefits. Under common law, an employee is a person who performs services for another under a contract of hire, subject to the other's control in return for payment.

In the first half of the twentieth century, as college sport morphed into mass commercial entertainment, a market developed for skilled athletes. In the resulting recruiting frenzy, under-the-table payments became commonplace. In a desperate effort to restore sanity, the NCAA, in 1957, allowed schools to pay the room, board, tuition, and other fees of college athletes.

When I played football at Notre Dame the 1960s, I received one of these scholarships. I clearly remember coaches visiting my house and promising my parents, often in writing, that my grant was a four-year deal, even if I were injured or turned out to be a recruiting mistake. The message was that I was valued as a student, regardless of how things turned out on the athletic field.

In 1973, the NCAA made the biggest error in its legislative history when it replaced four-year scholarships with one-year renewable grants. By conditioning the renewal of financial aid on an athlete's contribution to team success, the scholarship became a contractual quid-pro-quo and coaches gained control over athletes not unlike that of employers over employees.

Because athletes fit the definition of employees, they are arguably entitled to the kinds of benefits that athletes receive in professional leagues like the NFL and the NBA. This seems only fair. However, I would like to propose another (far less expensive) solution to the payment problem that I think is in the best interests of athletes and the faculty that teach them.

Last year, the NCAA's leadership did the unthinkable when it rammed through legislation that gives universities the option to award multiyear scholarships like the one I was privileged to have at Notre Dame. What is needed is a national movement of faculty and others to support multiyear scholarships that extend to graduation (five year maximum).

These scholarships could still be canceled if athletes withdraw from sports voluntarily, fail to meet academic standards, or violate team rules, but they could not be canceled for injury or not living up to advanced billing as a recruit. A five-year scholarship is priceless if it leads to a real education.

## NCAA Amateurism Is an Illusion

By [Warren Zola](http://www.usnews.com/topics/author/warren_zola)April 1, 2013 | 5:48 p.m. EDT+ More

For decades, the NCAA has artificially restricted compensation to a labor force generating billions of dollars in revenue—justifying itself by citing the self-imposed definition of "amateurism"—while redirecting profits to athletic departments and sending the free market compensation system underground.

Unfortunately, [NCAA amateurism is an illusion](http://www.huffingtonpost.com/warren-k-zola/college-athletes-pay-to-play_b_2663003.html), and quite likely [an antitrust violation](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=926339). Former NCAA Executive Director Walter Byars declared, "Amateurism is not a moral issue; it is an economic camouflage for monopoly practice." Now is the time to radically change intercollegiate athletics rather than passively wait for the courts or Congress to address the existing collusive wage fixing.

I propose the following:

1. Student-athletes must be paid the full cost of attendance associated with their institution. Presently, the NCAA imposes an artificial cap for scholarships by restricting them to tuition and fees, room and board, and required books. This limitation is $3,200 less, on average, than the full cost of attendance. While academic scholarships are allowed to provide recipients monies for school supplies, transportation and entertainment, these are denied under athletic scholarships. Additionally, NCAA restrictions on student-athletes' employment precludes students them from closing the gap between athletic scholarships and the full cost of attendance.

2. Create a "Student-Athlete Trust Fund" which would hold a percentage of revenue generated by television and licensing contracts and place it into a trust for student-athletes to access upon the completion of their collegiate careers.

3. Eliminate restrictions on student-athletes' abilities to seek commercial opportunities by permitting endorsement deals or being compensated when entities use their rights of publicity. The money could be held in the "Trust Fund" until graduation, and provide a legal right to any future earnings from profits a school receives from using their image.

4. Form a union to represent student-athletes in these matters, advocating on their behalf with the NCAA, conferences, and institutions.

If, as Big 10 Commissioner Jim Delany threatens, the end result of reform is a restriction by many schools on their athletic expenditures and a migration to the Division III model, then all the better. However, to be clear, the argument that the industry needs to deny compensation to the labor force to operate at a profit is disingenuous and illegal, typically proffered by those who benefit directly from a collusive-market system.

Intercollegiate athletics' current position of balancing between commercialism and education is untenable—greed has won. Now is the time for reasoned and meaningful change.

## A Fair Day's Pay for a Fair Day's Work

By [Ramogi Huma](http://www.usnews.com/topics/author/ramogi_huma)April 1, 2013 | 5:47 p.m. EDT+ More

The NCAA argues that college athletes are paid with a free education. The reality is that players' opportunities are not free, and half of the revenue-producing athletes don't graduate. College athletes spend 40 hours per week of labor in their sport alone (according to an NCAA study), generate billions of dollars per year, and can lose their scholarship if they're injured.

[A joint study](http://www.ncpanow.org/news_articles?id=0050) between the National College Players Association and Drexel University shows that the NCAA will strip football and men's basketball players of $6 billion of their fair market value between 2011-2015. In contrast, the NCAA admits that its scholarship limit leaves "full" scholarship athletes with $3,000 to $5,000 in out-of-pocket-expenses each year.

Meanwhile, recent television deals pay the NCAA and its colleges over $1 billion per year in brand new revenue. Most would expect that this tax-free revenue would be spent primarily on their educational missions, but historical spending patterns show it will be spent exclusively on mega-stadiums and salary increases for coaches and administrators.

[[See a collection of political cartoons on the economy](http://www.usnews.com/cartoons/economy-cartoons).]

Colleges should fully support their players' education by increasing full scholarships equal to the cost of attendance. It would cost an affordable $95 million per year to increase scholarships for revenue athletes and pay matching funds to female athletes for Title IX compliance. They should also direct a percentage of new TV revenues into a trust fund where former FBS football players and Division I men's basketball players who abide by NCAA rules would receive an equal portion upon graduation, or to complete an undergraduate degree. Furthermore, all athletes should be allowed to earn money from commercial endorsements (like their schools), which could be put in the trust fund. These reforms would increase graduation rates and decrease violations, which should be prioritized.

The NCAA claims that increasing compensation for revenue athletes would force colleges to eliminate nonrevenue sports. However, robust participation in NCAA Division II non-revenue sports must be inconvenient for those that make this argument. Over 300 Division II colleges manage just fine without reliance on millions of dollars from football and men's basketball programs. Similar to Division III, NAIA, and high school sports, Division II programs field teams because they value sports participation, not because they wish to pay multimillion-dollar salaries and build luxury boxes with massive revenue.

At the end of the day, college athletes are just like all other hard working Americans who should receive a fair day's pay for a fair day's work.

## Without Athletes, The Big Money in College Sports Disappears

By [Bobby Rush](http://www.usnews.com/topics/author/bobby_rush_)April 2, 2013 | 10:35 a.m. EDT+ More

Of course, student athletes should be paid (compensated). Indeed, we should flip the question around: Why shouldn't collegiate student athletes be paid?

Without them—on the field or on the court, performing and entertaining millions of college sports fans—the billions of dollars that collegiate athletics generates simply would not exist. Without them, we wouldn't have millions of fans buying tickets for games and subscribing to expensive cable and satellite sports television packages, corporate sponsors purchasing luxury suits and boxes in college arenas and stadiums, or consumers paying top dollar for sports paraphenelia, jerseys and video games bearing the likenesses and autographs of their favorite college players.

[[See a collection of political cartoons on the economy](http://www.usnews.com/cartoons/economy-cartoons).]

Most, if not all counter-arguments against paying student-athletes are fallacious and anachronistic. These counterarguments are even moreinvalid, unimpressive and bankrupt of reason and sound economic justification when one sees that big-time college sports often discourage and even preclude student-athletes from pursuing and earning their college degrees.

## Fans Must Understand That College Sports Is Big Business

By [Brian Frederick](http://www.usnews.com/topics/author/brian_frederick)April 1, 2013 | 5:46 p.m. EDT+ More

Most fans are not in favor of paying players. This is primarily because many still buy into the myth of "amateur athletics." Fans who oppose paying athletes frequently refer to the "free education" student-athletes receive and, indeed, there is some value to what they learn on campus. However, that education is conditioned on their health and success and always comes second to athletics.

If a student-athlete is hurt or unsuccessful, the coaches and administrators suddenly discard the noble ideals of "education" and a player is left with nothing. Fans would no doubt feel differently about the issue if a student-athlete was in their own family.

Moreover, no one mentions the lifetime of health care bills that await some student-athletes in contact sports. How can a "free education" compensate them for debilitating injuries caused during their time on campus? And how can we as fans truly enjoy a football game knowing that one player's career-ending injury will leave him saddled with nothing more than a lifetime of pain and doctor's bills?

[[See a collection of political cartoons on the economy](http://www.usnews.com/cartoons/economy-cartoons).]

Fans also like to imagine that college sports are somehow simpler and less corrupt than professional sports. Nothing could be further from the truth. College athletics are just as much of a big business as professional sports—it's just that the money goes into the pockets of coaches, athletic directors, conference commissioners and sports media executives. Further, the current system leads to corruption ,as coaches and boosters regularly find ways to circumvent the rules and provide benefits to young athletes.

It's time for all sports fans to wake up and realize that the current system benefits only the elite few who continue to perpetuate the myth of "amateur athletics." Everyone would benefit from a college athletics system that provides its athletes with better compensation and lifetime health care. If we truly enjoy college athletics and want them to continue, we better start calling for changes now. Because if we continue to throw more and more money into this broken system, it won't be long before the whole thing falls apart and we all lose.

# *N.C.A.A. Must Allow Colleges to Pay Athletes, Judge Rules*

**By BEN STRAUSS and MARC TRACY**AUG. 8, 2014

Photo



Ed O’Bannon, who played college basketball, sued the N.C.A.A. after his image as a player was used years later in a video game. CreditIsaac Brekken for The New York Times

In a decision that could drastically reshape the world of college sports, a federal judge ruled on Friday that the N.C.A.A.’s decades-old rules barring payments to college athletes were in violation of antitrust laws.

In a [99-page ruling](http://www.nytimes.com/interactive/2014/08/09/sports/09obannondoc.html), Judge Claudia Wilken of United States District Court in Oakland, Calif., delivered a resounding rebuke to the foundation of the N.C.A.A., issuing an injunction against current rules that prohibit athletes from earning money from the use of their names and images in video games and television broadcasts.

The decision in the so-called O’Bannon case would allow universities to offer football players in the top 10 conferences and all Division I men’s basketball players trust funds that can be tapped after graduation, giving players a chance to share in the billions of dollars in television revenue they help generate for their colleges and the N.C.A.A.

The ruling, which would take effect in 2016, does not mandate that players be paid. But it could allow universities to engage in bidding wars for the best athletes, though the N.C.A.A. would probably try to prevent that by capping payments, which Judge Wilken said was permissible.

But she said she fully expected the universities to shoulder the additional costs.

“The high coaches’ salaries and rapidly increasing spending on training facilities at many schools suggest that these schools would, in fact, be able to afford to offer their student-athletes a limited share of the licensing revenue generated from their use of the student-athletes’ own names, images, and likenesses,” Judge Wilken wrote.

Her ruling [allows universities to provide athletes trust funds](http://www.nytimes.com/2014/08/09/sports/what-the-obannon-ruling-means-for-colleges-and-players.html), as well as annual payments that reflect the full cost of attending school.

Advocates for student-athletes declared it a major victory.

“The decision goes behind the curtain of amateurism and says there’s nothing there,” William Isaacson, a lawyer for the plaintiffs, said. “It’s a remarkable step forward for decency for college athletes.”

The O’Bannon case was the most prominent of several recent [challenges to the N.C.A.A.'s principles of amateurism](http://www.nytimes.com/2014/07/24/sports/24ncaa.html).

Just the day before, the [N.C.A.A. voted to grant its five highest-profile conferences a significant degree of autonomy](http://www.nytimes.com/2014/08/08/sports/ncaafootball/ncaa-votes-to-give-greater-autonomy-to-richest-conferences.html) over setting athletes’ benefits. As a result of that vote, by next season the 65 universities in those conferences, which include virtually all of the most successful football and men’s basketball teams, are likely to offer their [athletes a few thousand dollars more than current scholarships](http://www.nytimes.com/2014/08/08/sports/ncaas-vote-on-new-rules-contradicts-its-mission.html).

A [unionization drive among football players at Northwestern](http://www.nytimes.com/2014/04/27/sports/union-effort-at-northwestern-may-not-mean-much-for-public-colleges.html) has also gained traction. And a suit that essentially demands that college athletes be paid at market rates has been filed by Jeffrey Kessler, a prominent antitrust lawyer. But many saw the O’Bannon case as perhaps the biggest threat of all to the N.C.A.A.

[Ed O’Bannon, a former U.C.L.A. basketball star, filed the lawsuit in 2009](http://www.nytimes.com/2014/06/10/sports/ncaabasketball/understanding-ed-obannons-suit-against-the-ncaa.html) after seeing himself in a video game years after he had graduated. He wondered why others were making money off him.

“The main thing is you control your likeness,” Mr. O’Bannon, 41, said in an interview Friday night. “It means everything because that’s what this whole thing is about. I’m really happy players can control their likeness, because in any other walk of life you can. I never understood why the student-athlete wasn’t able to, and now he can.”

Amid the flurry of lawsuits, the N.C.A.A. discontinued its partnership with EA Sports last year, terminating the popular college football and basketball video games.

Donald Remy, the N.C.A.A.'s chief legal officer, issued a statement saying he disagreed with the ruling. The N.C.A.A. is expected to appeal the decision.

# In major blow to NCAA, judge rules that colleges can pay athletes



College football and basketball players would be able to earn money from use of their names and likenesses.

A federal judge struck a major blow against the NCAA’s ban on paying college athletes by ruling that they are entitled to a limited share of licensing revenue.

The landmark decision on Friday that student basketball and football players can earn money from the use of their likenesses could dramatically upend college athletics, which has, until now, been based on the idea of amateurism.

U.S. District Court Judge Claudia Wilken ruled in an antitrust case that NCAA rules prohibiting payments “unreasonably restrain trade.” She said that schools should be free to give athletes “a limited share of the revenues generated from the use of their names, images, and likenesses in addition to a full grant-in-aid.”

The [case](http://fortune.com/2013/11/18/offering-equal-pay-to-college-athletes-wont-work/), brought in 2009 by former UCLA basketball star Ed O’Bannon, unfolded over three weeks in Oakland, Calif. The plaintiffs argued that the NCAA was a cartel whose rules made schools wealthy while athletes received little to none of the profits from licensing of their names and images.

NCAA attorneys, meanwhile, defended the system by saying it’s necessary to ensure a competitive balance among schools and that profits from money-making sports was used to fund programs without lucrative television deals. Donald Remy, the organization’s chief legal officer, responded to the judge’s ruling with disappointment.

“We disagree with the Court’s decision that NCAA rules violate antitrust laws,” he said in a [statement](http://www.ncaa.org/about/resources/media-center/press-releases/ncaa-statement-o%E2%80%99bannon-decision). “We note that the Court’s decision sets limits on compensation, but are reviewing the full decision and will provide further comment later. As evidenced by yesterday’s Board of Directors action, the NCAA is committed to fully supporting student-athletes.”

There was no mention of whether the NCAA would appeal the decision.

The judge’s ruling puts an injunction on the NCAA enforcing rules that block major schools and conferences from creating trusts funded with a limited share of licensing revenue for football and basketball recruits. Those funds could be payable when the athletes leave school or after their eligibility expires.

In her ruling, the judge said the NCAA could cap the amount of money that goes to the trust. But that cap must be no less than $5,000 for every year an athlete competes, she said. In addition, athletes would still be eligible for athletic scholarships covering tuition and housing.