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The Broken System of Collegiate Athletics: Pennsylvania Student-Athlete Bill of Rights

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The Broken System of Collegiate Athletics:
Pennsylvania Student-Athlete Bill of Rights

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INTRODUCTION

The National Collegiate Athletic Association (“NCAA”) is currently at a crossroads. Commentators have called for change to the system of “amateurism” that the NCAA has adopted, and insist that the NCAA mistreats its student-athletes. Namely, athletic scholarship awards are not guaranteed to student-athletes, are only single-year awards, and are not accompanied with health insurance coverage. In order to fill the gaps that exist in the scholarship system, Pennsylvania must adopt a Student-Athlete Bill of Rights to meet the scholarship and health care needs of the state’s student-athletes. The Student-Athlete Bill of Rights will guarantee an equivalent scholarship for a student-athlete whose athletic scholarship is not renewed due to injury or other non-disciplinary reason. Additionally, the Student-Athlete Bill of Rights will present a meaningful state-managed insurance trust fund to cover the medical costs associated with sports-related injuries that are suffered by student-athletes.

This paper will address the problems that exist within the current system of collegiate athletics. Part I will explain the structure of the NCAA and its three divisions, the revenue generated by student-athletes, and recent legislation and litigation that has attacked the NCAA. Part II will focus specifically on the issues that surround Pennsylvania’s student-athletes. Finally, Part III will propose legislation to protect Pennsylvania’s student-athletes.

PART I. CURRENT STATE OF THE NCAA

A. Divisions

After years of injuries, deaths, and paid non-collegiate athlete participation, President Theodore Roosevelt called the leaders of universities from across the country

to the White House and discussed reform.¹ Following two meetings with the President, 62 colleges and universities formed the Intercollegiate Athletic Association of the United States (“IAAUS”), which in 1910, changed its name to NCAA.²

Currently, the NCAA comprises three different types of member institutions: Division I, II, and III.³ Division I (“D-I”) is the highest level of collegiate athletics, and includes the most prominent programs in the country, such as Notre Dame and Alabama, as well as Pennsylvania’s own University of Pittsburgh and Pennsylvania State University. D-I institutions offer at least 14 varsity sports: either at least seven sports for men and seven for women, or six sports for men and eight for women.⁴ D-I institutions also offer numerous full athletic scholarships to student-athletes. Institutions with the largest athletic programs compete within the Football Bowl Subdivision (“FBS”), are eligible to compete in the college football Bowl Championship Series (“BCS”) games upon conclusion of the regular and intra-conference football schedule, and are known as FBS institutions.⁵ Non-FBS institutions are not eligible to participate in BCS games.

The NCAA limits the number of athletic scholarships that D-I institutions may award annually in “head count sports. The head count scholarship limitations are as follows:

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1. Lindsay J. Rosenthal, *From Regulating Organization to Multi-Billion Dollar Business: The NCAA Is Commercializing the Amateur Competition It Has Taken Almost A Century to Create*, 13 Seton Hall J. Sport L. 321, 322 (2003).
 2. Daniel E. Lazaroff, *The NCAA In Its Second Century: Defender of Amateurism or Antitrust Recidivist?*, 86 Or. L. Rev. 329, 331 (2007).
 3. National Collegiate Athletic Association, *History*, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/about+the+ncaa/history> (last modified Aug. 13, 2012).
 4. National Collegiate Athletic Association, *Differences Among the Three Divisions: Division I*, <http://www.ncaa.org/wps/wcm/connect/public/NCAA/About+the+NCAA+OLD/Who+We+Are/Differences+Among+the+Divisions/Division+I/About+Division+I> (last modified Dec. 7, 2011).
 5. Lazaroff, *supra* n. 2, at 336.

- men's basketball – 13 scholarships⁶
- women's basketball – 15 scholarships⁷
- FBS football – 85 scholarships⁸
- women's gymnastics – 12 scholarships⁹
- women's tennis – 8 scholarships¹⁰
- women's indoor volleyball – 12 scholarships¹¹

The NCAA does not require institutions to report data on the rate of renewals for one-year athletic scholarship awards. Additionally, in February 2012, D-I institutions narrowly voted to uphold the October 2011 decision by the NCAA Board of Directors that first authorized multi-year scholarship award offers to be made to prospective student-athletes.¹²

Based on current scholarship limitations and restrictions, athletic departments and coaches may refuse to renew an athletic scholarship to a student-athlete for any number of reasons, including injury or expended eligibility. Coaches and athletic departments, therefore, annually award and renew scholarships for student-athletes based on athletic performance, and often do not consider academic performance, injuries or financial need of student-athletes.¹³

Division II ("D-II") institutions offer at least 10 varsity sports, either five sports

6. National Collegiate Athletic Association, NCAA Division I Manual 2012-13, *15.5.5 Basketball Limitations*, 215.

7. *Id.*

8. National Collegiate Athletic Association, NCAA Division I Manual 2012-13, *15.5.6 Football Limitations*, 215-16.

9. National Collegiate Athletic Association, NCAA Division I Manual 2012-13, *15.5.2 Head-Count sports other than Football and Basketball*, 212.

10. *Id.*

11. *Id.*

12. Alicia Jessop, *Which Schools and Conferences Support Multi-year Scholarships?*, Business of College Sports, <http://businessofcollegesports.com/2012/02/24/which-schools-and-conferences-support-multi-year-scholarships/> (Feb. 24, 2012).

13. *Id.*

for men and five for women, or four sports for men and six for women.¹⁴ They may offer full athletic scholarships to student-athletes but offer substantially fewer “full” scholarships than are available through D-I institutions. Many D-II student-athletes receive some “partial” scholarship or financial aid for participation in a varsity sport. Division III (“D-III”) institutions offer at least five varsity sports for both men and women, but offer no athletic scholarships to student-athletes.¹⁵

At the NCAA level, a student-athlete is only permitted to compete in any one sport for four seasons over a period of five years, “from the beginning semester or quarter in which the student-athlete first registered for a minimum full-time program of studies” at a member institution.¹⁶

B. Media Rights Revenue Generation

1. NCAA

As the complaint in *Pennsylvania v. NCAA* states, college athletics is “big business in the United States.”¹⁷ The NCAA generates over \$800 million in revenue annually.¹⁸ Over 80% of that revenue is derived from television, media, and marketing rights fees. The NCAA contracts with television and radio broadcasters, video game designers, and sponsors to cash in on the business of college sports. For example, in 2011, the NCAA agreed to an unprecedented 14-year, \$10.8-billion contract with CBS to

14. National Collegiate Athletic Association, *Differences Among the Three Divisions: Division II*, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/about+the+ncaa+old/who+we+are/differences+among+the+divisions/division+ii/about+division+ii> (last modified Mar. 31, 2011).

15. National Collegiate Athletic Association, *Differences Among the Three Divisions: Division III*, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/about+the+ncaa+old/who+we+are/differences+among+the+divisions/division+iii/about+division+iii> (last modified Mar. 5, 2012).

16. National Collegiate Athletic Association, NCAA Division I Manual 2012-13, 14.2.1 *Five-year Rule*, 154.

17. Compl., at ¶¶ 11 (M.D. Pa. Jan. 2, 2013) (No. 1:13-cv-00006-YK).

18. *Id.*

broadcast March Madness, the NCAA Men's D-I basketball tournament.¹⁹ Not to be outdone by March Madness, the current value of the BCS television contract is \$180 million per year. In addition, when D-I football programs move to the College Football Playoff, a four-team playoff system for the 2014 football season, ESPN will reportedly pay the NCAA \$470 million to televise the annual tournament.²⁰

2. Conference Television Deals

Member institutions and the athletic conferences where they compete enjoy even more television and media revenue than the NCAA. Forbes annually reports the most valuable Football and Men's Basketball programs, based on Department of Education information from NCAA institutions. The University of Texas Football program was the most valuable athletic program in the country for 2012.²¹ It generated over \$104 million in revenue, with profits of approximately \$78 million.²²

Penn State's Football program was ranked 13 on Forbes list, with reported revenue of \$66 million and profits of \$36 million in 2012.²³ Penn State Football was able to generate this revenue despite NCAA and Big Ten Conference sanctions that were levied against the program following the scandal surrounding former Penn State Assistant Football Coach Jerry Sandusky.²⁴ Overall, Penn State generated \$108,252,284

19. NCAA Release, *CBS Sports, Turner Broadcasting, NCAA Reach 14-Year Agreement*, <http://www.ncaa.com/news/basketball-men/2010-04-21/cbs-sports-turner-broadcasting-ncaa-reach-14-year-agreement> (April 22, 2010).

20. Rachel Bachman, WSJ.com: College Football, *ESPN Strikes Deal for College Football Playoff*, <http://online.wsj.com/article/SB10001424127887324851704578133223970790516.html> (Nov. 21, 2012).

21. Chris Smith, Forbes.com: Sports Money, *College Football's Most Valuable Teams: Texas Longhorns On Top, Notre Dame Falls*, <http://www.forbes.com/sites/chris-smith/2012/12/19/college-footballs-most-valuable-teams-texas-longhorns-still-on-top/> (Dec. 19, 2012).

22. *Id.*

23. *Id.*

24. Alicia Jessop, Forbes.com: Sports Money, *The Financial Implications of the NCAA's Sanctions on Penn State*, <http://www.forbes.com/sites/aliciajessop/2012/07/23/the-financial-implications-of-the-ncaas-sanctions-on-penn-state/> (July 23, 2012).

in athletic revenue from 2011-12.²⁵ In addition, Penn State receives over \$20 million annually in media rights revenue from the Big Ten Conference's television broadcast contract.²⁶

When the University of Pittsburgh ("Pitt") moves to the Atlantic Coast Conference ("ACC") for the 2013-14 school year, it will benefit from a new television broadcast deal that the ACC signed with ESPN. The deal is reportedly for 15 years and worth \$3.6 billion.²⁷ Pitt will receive \$17.1 million in media rights revenue annually by joining the ACC.²⁸ Pitt received \$56,338,449 in athletic department revenue from 2011-12.

While other member institutions in Pennsylvania do not generate the same level of revenue as Penn State or Pitt, all of Pennsylvania's colleges benefit from their athletic departments. Temple University athletics earned \$38,973,885 from 2011-12, and will receive between \$3 and \$6.5 million in media rights revenue as a member of the Big East Conference.²⁹

C. NCAA and the Law

1. O'Bannon Litigation

25. Smith, *supra* n. 21.

26. Kristi Dosh, ESPN.com, *College TV Rights Deals Undergo Makeover*, http://espn.go.com/blog/bigten/post/_/id/49883/college-tv-rights-deals-undergo-makeovers (May 10, 2012).

27. Smith, *supra* n. 21.

28. Dosh, *supra* n. 26.

29. Brett McMurphy, ESPN.com: Big East Blog, *Big East Hung Up on 14th Member*, http://espn.go.com/college-football/story/_/id/8398279/big-east-conference-divided-14th-football-member-sources-say (Sept. 19, 2012).

Even Carnegie Mellon University, a D-III institution not known for its athletics, garnered \$4,374,486 in athletics revenue for 2011-12. See, United States Department of Education, *The Equity in Athletics Data Analysis Cutting Tool: Carnegie Mellon University*, (available at <http://ope.ed.gov/athletics/InstDetails.aspx?756e697469643d32313134343026796561723d323031312673656172636843726974657269613d33313336436333631373236653635363736393635323036643635366336633666366532303735366536393736363537323733363937343739323637323634373433364333432663332333932663332333033313333323033313330336133323335336133333331323034313464267264743d342f32392f323031332031303a32353a333120414d>).

In July 2009, a former UCLA basketball player, Edward O'Bannon, filed an antitrust lawsuit against the NCAA, as well as its licensing partner, Collegiate Licensing Company, and the video game company, Electronic Arts (EA).³⁰ O'Bannon alleged that the NCAA and its co-defendants engaged in anticompetitive conduct in violation of Sherman Act § 1. According to O'Bannon, student-athletes are prevented from entering the market for student-athlete likenesses due to Article 12.5.1.1 of the NCAA Bylaws, and because every year a student-athlete must sign the NCAA's Form 08-3a.³¹ That form authorizes the NCAA to enter into licensing agreements, on its own behalf, with companies that use student-athlete images. The authorization for the NCAA to use a student-athlete's likeness lasts in perpetuity. O'Bannon alleged that student-athletes are forced to sign away their licensing rights through Form 08-3a "under duress and without informed consent."³²

In January 2010, the *O'Bannon* case was consolidated with a similar lawsuit filed by a former football player for Nebraska, Sam Keller.³³ O'Bannon and Keller moved for class certification in March 2010.³⁴ At the time, members of the class action complaint consisted of former (1) D-I men's basketball players, and (2) FBS football players.³⁵ The class seeks unspecified damages for the NCAA's use of former student-athlete images and likenesses in championship DVDs it sells, the rebroadcasts of old games on

30. National Collegiate Athletic Association, *Student-Athlete Likeness Lawsuit Timeline*, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/resources/latest+news/2012/september/student+athlete+likeness+lawsuit+timeline> (accessed April 25, 2013).

31. Compl., *O'Bannon v. National Collegiate Athletic Assn.*, at ¶¶ 9-10 (N.D. Cal. July 21, 2009) (No. 09-3329).

32. *Id.* at ¶¶ 9.

33. Consol. Amend. Compl., at ¶¶ 2, *In Re NCAA Student-Athlete Name & Likeness Licensing Litigation*, (N.D. Cal. March 10, 2010) (No. 09-01967).

34. *Id.*

35. *Id.* at ¶¶ 14-15.

television, and the classic teams that are available for play in EA's NCAA basketball video game.³⁶

In fall 2012, O'Bannon sought judicial permission to expand the class of plaintiffs to also include current men's D-I football and basketball players.³⁷ Rather than seek payment for current athletes, O'Bannon proposed the creation of a temporary trust for the licensing revenue earned by current student-athletes.³⁸ The District Court will hear the merits of class certification in June 2013.

2. Successful Legislation to Aid Student-Athletes

In September 2012, California became the first state to adopt a Student-Athlete Bill of Rights when the Governor signed SB 1525.³⁹ The statute was designed to provide a continued educational opportunity to student-athletes of individual sports teams that have annual graduation rates of less than 60%. Additionally, the statute is limited in its coverage to only the college or university athletic departments that annually receive an average of \$10 million or more in revenue derived from media rights.⁴⁰ Based on the \$10 million media rights revenue provision, the statute only applies to Stanford University, University of California Los Angeles, University of Southern California, and University of California Berkeley, out of the 24 D-I institutions in California.⁴¹

36. Michael McCann, SI.com: Sports Law, *NCAA Faces Unspecified Damages, Changes in Latest Anti-trust Case*, http://sportsillustrated.cnn.com/2009/writers/michael_mccann/07/21/ncaa/index.html (last modified July 22, 2009).

37. Michael McCann, SI.com: Sports Law, *O'Bannon Expands NCAA Lawsuit*, http://sportsillustrated.cnn.com/2012/writers/michael_mccann/09/01/obannon-ncaa-lawsuit/index.html (last modified Sept. 1, 2012).

38. *Id.*

39. Dennis Dodd, CBS Sports.com: NCAA FB, *California Passes Student-Athlete Bill of Rights*, <http://www.cbssports.com/collegefootball/blog/dennis-dodd/20525847/california-passes-student-athlete-bill-of-rights> (Oct. 9, 2012).

40. *See* Cal. Educ. § 67452.

41. Dodd, *supra* n. 51.

The key provision of the statute mandates colleges or universities to provide an equivalent scholarship for a student whose athletic scholarship is not renewed because of (1) non-disciplinary reasons or (2) injury from athletic participation. Schools must provide this equivalent scholarship for athletes that are injured for the lesser of either a total of four years or until the student-athlete completes an undergraduate degree.⁴² An equivalent scholarship must also be provided for athletes whose scholarships are not renewed based on non-disciplinary reasons, in order to allow that former student-athlete to graduate.⁴³

Another provision of the statute requires the schools that receive annual media rights revenue of \$10 million or more to pay the medical premiums and insurance deductibles for each student-athlete who is injured during athletic participation.⁴⁴ The schools must continue to pay for the premiums and deductibles for up to five years after the date of the injury.⁴⁵ However, the insurance provisions of the statute only apply to student-athletes whose income and assets do not exceed a statewide asset ceiling of approximately \$30,000-34,000 per year.⁴⁶

The Student-Athlete Bill of Rights for California also includes provisions that govern the transfer of student-athletes, and offering a form of life skills training for all first- and third-year student-athletes at the university.⁴⁷ The life skills training includes providing student-athletes with information on debt management, credit cards, and

42. Cal. Educ. § 67452(a)(1), (3).

43. *Id.*

44. Cal. Educ. § 67453(a)(1).

45. *Id.*

46. *Id.*

47. Cal. Educ. § 67453(b), (d).

student loan repayment.⁴⁸ The statute will take affect during the 2013-14 academic year.⁴⁹

California and Connecticut have also passed different forms of Student-Athlete Right to Know laws.⁵⁰ These Right-to-Know laws require greater transparency in the recruiting process by making certain information about a university's athletic department available to the public. While both California's and Connecticut's laws originally proposed written disclosures of the information to recruits, the provisions were "diluted" to require athletic departments to post athletic scholarship information on the university's athletics website.⁵¹ The Right to Know laws in both California and Connecticut obligate universities to post information regarding the rate of scholarship renewals and cancellations, medical insurance information, and transfer rates.⁵²

3. Failed Attempts to Aid Student-Athletes

Pennsylvania State Representative William Kortz introduced a Student-Athletes' Right to Know Bill to the State House in 2009.⁵³ The Bill was also co-sponsored by Representatives Briggs, Brown, Gergely, Mahoney, McGeehan, Melio, Siptroth, and Micozzie.⁵⁴ The purpose of the Bill was to "establish[] and mandat[e] written disclosures to individuals being recruited as student-athletes by Pennsylvania colleges and universities."⁵⁵

48. Cal. Educ. § 67453(b).

49. Cal. Educ. § 67452.

50. Dan Fitzgerald, Connecticut Sports Law, *Laws Help Recruited Student-Athletes Ask the Right Questions*, Legal Issues In Collegiate Athletics, <http://ctsportslaw.com/2011/11/22/new-laws-help-student-athletes-ask-the-right-questions-during-the-recruiting-process/> (Nov. 22, 2011).

51. *Id.*

52. *Id.*

53. Pa. H. 2077, 2009-2010 Reg. Sess. (Nov. 12, 2009).

54. *Id.*

55. *Id.*

Specifically, the Bill required recruiters from universities and colleges to provide written information to prospective student-athletes and recruits concerning the medical insurance policies that “affect student-athletes;” “the total sum of medical payments . . . that the postsecondary institution did not pay for sports-related injuries” over the last four years; scheduling conflicts with required courses in the majors offered by the university and team practice times; the number of student-athletes in each major; the number of student-athletes who change majors, each sport’s policy on renewal of an athletic scholarship award; the “average percent of decrease in the dollar amount of a renewed one-year athletic scholarship” for temporarily or permanently injured student-athletes for each sport over the last four years; and the “number and percentage of student-athletes on each athletic team whose scholarships were not renewed in each of the previous four years.”⁵⁶ The Bill also required the written disclosure of student-athletes transfer rates and transfers granted, and the sum of the cost of attending the university that are not included in a full athletic scholarship award.⁵⁷

Though the provisions of the Bill were admirable, it died after it was referred to the Education Committee of the Pennsylvania House. Representative Kortz released a Memorandum on January 15, 2013, and expressed his intent to reintroduce the Student-Athletes’ Right to Know Act for the 2013-14 legislative session.⁵⁸

Georgia also proposed a Student-Athlete Right to Know Bill, but it was not adopted.⁵⁹ A bill for Kansas was also proposed in 2012 by Representative McCray-

56. *Id.*

57. *Id.*

58. Memo. from William Kortz, Representative, *Student-Athlete’s Right-to-Know Act* (Jan. 15, 2013) (available at <http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20130&cosponId=11007>).

59. *Id.*

Miller, and died it the Committee on Education for the Kansas House of Representatives.⁶⁰ The Kansas Bill was also limited to a disclosure on the front page of a university's athletic department website.⁶¹

Other states have also proposed Student-Athlete Bill of Rights legislation that is similar to the California statute, but to date, no other state has passed a statute. Most recently, a Connecticut Senator proposed Student-Athlete Bill of Rights for his state.⁶² The Connecticut statute would, however, apply to only those public universities in the state that receive \$5 million or more annually in media rights revenue for athletics.⁶³

A failed attempt at the legislation by Oklahoma had proposed mandating an equivalent scholarship for student-athletes for up to five years (including time from the original athletic scholarship award), or until the student-athlete graduated.⁶⁴ The legislation also would have formed a statewide insurance trust fund to cover the costs to student-athletes for the injuries they may suffer a sports-related injury.⁶⁵

The fund would have paid the insurance premiums of the injured athlete and would have required athletic departments that received \$10 million or more in television revenue to provide \$500,000 annually for the insurance fund.⁶⁶ Any money that was not used up by the fund each year would be distributed to pay for the medical expenses incurred by student-athletes.⁶⁷ Those colleges or universities that did not comply with the requirements of the trust fund would have to pay the insurance

60. Kansas Legislature, *HB 2589*, http://www.kslegislature.org/li_2012/b2011_12/asures/hb2589/ (accessed April 24, 2013).

61. Kan. H. 2589, 2012 Sess. (Jan. 31, 2012).

62. Mit Winter, Business of College Sports, *Connecticut Follows California's Lead With Proposed Student-Athlete Scholarship Bill*, <http://businessofcollegesports.com/2013/01/31/connecticut-follows-californias-lead-with-proposed-student-athlete-scholarship-bill/> (Jan. 31, 2013).

63. *Id.*

64. Okla. S. 1533, 53rd Legis., 2d Sess. (Feb. 28, 2012).

65. *Id.*

66. *Id.*

67. *Id.*

premiums for the injured athlete and pay a \$500 fine for each day that student-athletes of the school were not covered by the fund.⁶⁸

Additionally, all of Oklahoma's colleges and universities would have had to pay annually into the trust fund based on 50% of the cost of university attendance, multiplied by the total number of men's football and basketball players that receive athletic scholarships.⁶⁹ This provision would have allowed men's basketball and football players to withdraw from the fund to finish their undergraduate degrees.⁷⁰ The student-athletes would have received money from the fund in the form of reimbursements, while remaining funds would have been distributed to the student-athletes annually, upon exhaustion of eligibility and completion of and undergraduate degree.⁷¹

PART II. PROBLEM

A. Overview

Pennsylvania college student-athletes cannot rely upon athletic scholarship awards continuing annually through graduation. Under Pennsylvania law and NCAA Bylaws, institutions are not required to put scholarship offers in writing. An athletic department's recruiter may offer only an oral promise that does not always include a multi-year scholarship. In addition, each year a student-athlete faces the possibility of losing a scholarship at the discretion of a head coach and the athletic department, possibly ending his or her collegiate studies due to such factors as injury, exhaustion of athletic eligibility, illness, or inferior athletic performance.

Because of these loopholes in the scholarship process, Pennsylvania's student-athletes face (1) poor graduation rates; (2) clustering in "easier" majors; and (3) living in

⁶⁸. *Id.*

⁶⁹. *Id.*

⁷⁰. *Id.*

⁷¹. *Id.*

poverty while attending and competing for that institution. Reform is imperative; Pennsylvania universities must provide student-athletes with up to a six-year guaranteed or equivalent scholarship in order to ensure that current and future generations of student-athletes enter the workforce armed with a valuable degree.

B. Academics

1. Graduation Rates

The graduation success rate (“GSR”), a formula used by the NCAA to calculate graduation of student-athletes, has improved substantially since 2001, up to 81% for all student-athletes who entered college in 2005.⁷² The NCAA does not distinguish between scholarship and non-scholarship student-athletes for the GSR calculation. Rather, the GSR begins with the Federal Graduation Rate for first-time student-athletes, and adds “transfer students, mid-year enrollees, and non-scholarship students” to the student-athlete “cohort” calculation.⁷³ As such, the U.S. Department of Education data determined that only 65% of all D-I student-athletes who entered college in 2005 actually graduated.⁷⁴ That graduation rate for student-athletes is only slightly better than the 63% graduation rate for non-athletes at D-I institutions over that period.⁷⁵

Additionally, the graduation success rate for student-athletes who participated in a 2012-13 football bowl game increased from the 2011-12 season, up to 69% from 68%.⁷⁶ Despite this overall improvement, there is a significant disparity between white and

72. Caitlin Peterkin, *The Chronicle of Higher Education Graduation Rates of Football and Men's Basketball Players Reach New Highs, NCAA Says*, <http://chronicle.com/article/Graduation-Rates-of-Football/135400/> (Oct. 25, 2012).

73. NCAA Research Staff, National Collegiate Athletic Association, *Trends in Graduation Success Rates and Federal Graduation Rates at NCAA Division I Institutions*, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/pdfs/2012/2012+gsr+and+fed+trends> (Oct 2012).

74. Peterkin, *supra* n. 72.

75. *Id.*

76. Steven Gaither, *Diverse Issues in Higher Education, Student-Athlete Graduation Rates Up; Blacks Still Have Work to Do*, <http://diverseeducation.com/article/50266/#> (Dec. 26, 2012).

African-American student-athlete graduation rates among D-I football teams that competed in a bowl game during the 2012-13 season.⁷⁷ The graduation rate for white players was 82%, compared to African-American players at only 62%.⁷⁸ Moreover, 19% of the 70 bowl teams graduated less than 50% of their African-American football student-athletes, while only one of the 70 bowl teams graduated less than 50% of their white football players.⁷⁹

According to the most recently available GSR data for Pennsylvania's colleges, many athletic programs graduate fewer student-athletes than the national average for all D-I institutions.⁸⁰ While the data for Pennsylvania's student-athletes only reflects the class of 2002-2005, the figures demonstrate that institutions have not provided student-athletes with the necessary resources to graduate with an undergraduate degree. In addition, Pennsylvania colleges must be required to publish these vital graduation statistics for current and prospective student-athletes to make meaningful decisions to attend a college or participate in athletics.

2. Clustering Majors

In 2003, the NCAA passed rules that were designed to improve the graduation rates for student-athletes. The NCAA adopted the Academic Progress Rate ("APR") rules to provide individual teams with practice time reductions or postseason sanctions if a certain point system is not attained each year.⁸¹ The APR system calculates academic eligibility for each team and awards a point per student-athlete if he or she (1) remains enrolled at the institution, and an additional point if (2) the student-athlete

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ See *infra* Appendix D.

⁸¹ Phillip C. Blackman, *The NCAA's Academic Performance Program: Academic Reform or Academic Racism?*, 15 UCLA Ent. L. Rev. 225, 235-36 (2008).

remains eligible.⁸² Those total points are used in a formula to determine if the team met the minimum APR for the current year.

In 2012-13, teams had to earn a minimum 900 four-year APR or a 930 average over the most recent two years to be eligible to participate in post-season games.⁸³ For 2014-15, teams must earn a 930 four-year average APR or a 940 average over the most recent two years.⁸⁴ In 2015-16 and beyond, teams must earn a four-year APR of 930 to compete in championships.⁸⁵ While the rules have improved the overall graduation rates for student-athletes, there have been adverse consequences as well. The penalties for non-attainment of the minimum APR include limits on team practices to 16 hours per week, and only five days of practice allowed.⁸⁶ The four hours that otherwise would be spent practicing must be replaced with academic activities.

One consequence of the new APR standards has led student-athletes to enroll in majors and courses of study that will not necessarily provide the student-athletes with the education and skills needed to obtain meaningful employment after graduation.⁸⁷ Rather, “athletes might sometimes be drawn to an academic program less because of its academic attractiveness than because it is easy or overly friendly to athletes.”⁸⁸ The term “clustering” has been applied to individual athletic programs that have 30% or

82. *Id.* at 237.

83. National Collegiate Athletic Association, *Division I: Academic Progress Rate (APR)*, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/academics/division+i/academic+progress+rate> (July 9, 2012).

84. *Id.*

85. *Id.*

86. *Id.*

87. Yuri Nicholas Walker, *Playing the Game of Academic Integrity Vs. Athletic Success: The Americans With Disabilities Act (ADA) and Intercollegiate Student-Athletes With Learning Disabilities*, 15 Marq. Sports L. Rev. 601, 629 (2005).

88. Douglas Lederman, USA Today, *Major Issue: Athletes' Studies*, http://usatoday30.usatoday.com/sports/college/2003-11-18-athletes-majors_x.htm (Nov. 19, 2003).

more of its student-athletes registered in a particular major.⁸⁹ According to a USA Today 2007-08 report of 118 D-I institutions, several of Pennsylvania's member institutions have clusters of student-athletes in a number of majors.⁹⁰ The USA Today report focused on the sports of Men's and Women's Basketball, Football, Baseball and Softball.⁹¹

The report indicated that the University of Pittsburgh has clusters of Men's Basketball players in Communications (50% of all student-athletes); Football and Baseball players both have clusters in Administration of Justice (35.7% each).⁹² Temple University has clusters among the Women's Basketball team in Business (50%) and the Football team in Criminal Justice (47.4%).⁹³ Villanova University has a cluster of Baseball players in Communications (36.8%).⁹⁴ Penn State did not provide the USA Today with data for the study.⁹⁵

3. Poverty

Student-athletes at the D-I level are generally unable to work when a sport is "in-season." While the NCAA Bylaws limit the number of in-season hours student-athletes are permitted to engage in athletics to a maximum of four hours per day and 20 hours per week, these limitations are frequently violated by athletic departments.⁹⁶ For example, in February 2013, the University of Southern California fired the Head Coach of its Baseball team, Frank Cruz, for violating the rules regarding time limits when he

89. Jodi Upton & Kristen Novak, USA Today, *College Athletes Cluster Majors At Most School*, http://usatoday30.usatoday.com/sports/college/2003-11-18-athletes-majors_x.htm (Nov. 19, 2008).

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. Walker, *supra* n. 87, at 629.

“exceeded the allowed [c]ountable [a]thletically-[r]elated [a]ctivities hours.”⁹⁷ The University of Southern California also announced a self-imposed reduction in the number of practice hours for the baseball team as a result of the infraction.⁹⁸

In an NCAA Infractions Report from November 2010, the University of Michigan Football program was found to have violated the time limit rules when student-athletes from January 2008-September 2009 “were required to participate in as many as five countable athletically related activities per day,” and “as many as 10 hours of voluntary weight training and conditioning activities per week.”⁹⁹ Michigan was also sanctioned for exceeding the maximum of eight hours of athletically related activities when football was not in-season.¹⁰⁰ As a result of the extensive time commitment to athletics, student-athletes are at an economic disadvantage when compared to the rest of the collegiate student body because it is difficult for student-athletes to work, study, and compete.

In addition, the NCAA Bylaws also foreclose student-athletes from receiving monetary or other benefits because it may violate the rules of amateurism and prevent a student-athlete from being eligible to compete.¹⁰¹ According to the Bylaws, student-athletes may only receive the same benefits that are “generally available to the institution’s students and their relatives or friends.”¹⁰² The Bylaws are very clear that a student-athlete may not receive things like loans, free or reduced-cost services,

97. The Associated Press, *USC Fires Head Coach Cruz For Violating NCAA Rules Regarding Practice Time*, <http://www.ncaa.com/news/baseball/article/2013-02-14/usc-fires-head-coach-cruz-violating-ncaa-rules-regarding-practice-t> (last modified Feb. 14, 2013).

98. *Id.*

99. National Collegiate Athletic Association, *University of Michigan Public Infractions Report*, 6 (Nov. 4, 2010) (available at <http://media.freep.com/documents/ncaareport/>).

100. *Id.*

101. See National Collegiate Athletic Association, NCAA Division I Manual 2012-13, *12.1.1 Validity of Amateur Status*, 60.

102. National Collegiate Athletic Association, NCAA Division I Manual 2012-13, *16.11.1.1 General Rule*, 235.

telephone or credit card services, automobiles and transportation, or entertainment services.

Not only do NCAA Bylaws prohibit tangible and monetary benefits for student-athletes, but they also restrict member-institutions from offering additional meals and per diems to student-athletes. The game-day meal and per diem rules of NCAA Bylaw 16.5.2(d) stipulate that student-athletes may only receive a per diem when either (1) it is a game day at home and during a university vacation day, or when the dining hall is closed; (2) after a home game, but no more than \$15 in per diem; (3) at an away game; (4) for non-game day travelling days; and (5) when the university or dining halls are closed and the team is required to practice.¹⁰³ No snack money may ever be distributed to student-athletes.

Over the last two years, the NCAA has discussed the possibility of providing all D-I student-athletes who are awarded a “full” athletic scholarship with an annual stipend of \$2000.¹⁰⁴ The stipend debate has divided D-I member institutions.¹⁰⁵ Some that oppose the measure say that the athletic departments at their universities would be unable to afford the stipend because they do not generate the same revenue as the major conferences.¹⁰⁶ Other member institutions simply oppose the measure because it would somehow change the landscape of amateur athletics, a laudable goal that was once the spirit of the NCAA.¹⁰⁷ Despite the opposition, the Student-Athlete Well-Being Working

103. National Collegiate Athletic Association, NCAA Division I Manual 2012-13, 16.5.2(d) *Meals Incidental to Participation*, 228-29.

104. Brad Wolverton, The Chronicle of Higher Education, *NCAA Faces Continuing Opposition on Increasing Aid to Players*, <http://chronicle.com/blogs/players/ncaa-faces-continuing-opposition-on-increasing-aid-to-players/32843> (April 10, 2013).

105. *Id.*

106. *Id.*

107. *Id.*

Group will continue to explore the stipend and possible alternatives through the summer of 2013.¹⁰⁸

While many college students live in poverty, student-athletes are confronted with a unique set of circumstances that limit them from supplementing income while college. Given the time commitments and benefit limitations imposed on student-athletes by member institutions and NCAA Bylaws, the economic reality is often poverty during college. A recent comparison of the full-value of a NCAA D-I student-athlete scholarship award and the federal poverty line for 2012 confirms that student-athletes at Pennsylvania's largest athletic programs live below the federal poverty line, whether the student-athlete lives on- or off-campus.¹⁰⁹

Nearly 86% of all student-athletes are living in poverty despite the millions of dollars that they annually generate for institutions.¹¹⁰ A study entitled "The Price of Poverty in Big Time College Sport," by the National College Players Association and Drexel University Sports Management Program, collected data on the revenue for BCS Bowl-eligible member institutions from the men's basketball and football programs.¹¹¹ The study then divided that revenue in accordance with the respective revenue splits in the NFL or NBA between players and teams in order to determine a "fair market value" for each football or men's basketball player.¹¹²

108. *Id.*

109. Brian Montopoli, CBS News.com, *Study: College Athletes Denied \$6.2 Billion Over Four Years*, [http://www.cbsnews.com/8301-400_162-57575327/study-college-athletes-denied-\\$6.2-billion-over-four-years/](http://www.cbsnews.com/8301-400_162-57575327/study-college-athletes-denied-$6.2-billion-over-four-years/) (March 20, 2013).

110. Matt Hayes, Sporting News: NCAAF, *Report Concludes 86 Percent of Student Athletes Live In Poverty*, <http://aol.sportingnews.com/ncaa-football/story/2013-01-15/student-athletes-poverty-paid-scholarships-nepa-texas-duke> (Jan. 15, 2013).

111. National College Players Association News Articles, *The \$6 Billion Heist: Robbing College Athletes Under the Guise of Amateurism*, http://www.ncpanow.org/news_articles?id=0050 (March 20, 2013).

112. Ramogi Huma & Ellen J. Staurowsky, *The \$6 Billion Heist: Robbing College Athletes Under the Guise of Amateurism*, 11.

According to that study, the value of a “full athletic scholarship” at a BCS Bowl-eligible member institutions is \$23,204 per year for both football and men’s basketball scholarships.¹¹³ Conversely, the fair market value for a football player’s services is \$137,357 per year for all BCS Bowl-eligible member institutions.¹¹⁴ The fair market value of a football player’s services from a “Big 6” or Independent Conference is \$201,168 per year. The total fair market value for a team of 85 scholarship football players in a “Big 6” Conference is \$17,099,280.¹¹⁵ Similarly, the fair market value for a men’s basketball player at a BCS Bowl-eligible member institution is \$289,031 per year. The fair market value for men’s basketball players in “Big 6” Conferences is \$418,928 per year. The total fair market value for a team of 15 men’s basketball with athletic scholarships is \$6,283,920.¹¹⁶

School	Football Revenue (2011-12)	Football Player FMV (2011-12)	Football Player FMV Denied for Next Four Years	Men’s Basketball Revenue (2011-12)	Men’s Basketball Player FMV (2011-12)	Men’s Basketball Player FMV Denied for Next Four Years
Penn State	\$66,210,503	\$362,210	\$1,341,032	\$9,612,001	\$369,692	\$1,370,960
Pitt	\$22,041,631	\$120,581	\$375,636	\$12,075,292	\$464,434	\$1,751,048

113. *Id.* at 12.

114. *Id.*

115. *See infra* Appendix E.

116. *See infra* Appendix E.

Temple	\$16,961,995	\$92,792	\$268,896	\$4,080,845	\$156,956	\$525,552
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The study recommended an increase in scholarship award per student-athlete of just \$3285 each year to “free many from poverty and reduce their vulnerability to breaking NCAA rules to make ends meet” should be adopted.¹¹⁷ The study also concluded that this award increase would only cost \$47 million annually for all of 120 FBS football programs and 338 Men’s D-I basketball programs that offer “full” athletic scholarships.¹¹⁸ Taking into account the requirements of Title IX, to spend equally for men’s and women’s teams, the total for all D-I programs to increase scholarship awards by \$3285 per student-athlete would only amount to \$94 million annually.¹¹⁹

This increase in award amounts for student-athletes could easily be funded by the NCAA through its respective television deals, the \$10.8-billion agreement with CBS for March Madness, and anticipated \$500 million annual deal with ESPN for the college football playoff games. The institutions could also independently fund the increase in scholarship awards by using portions of media rights revenue, or restructuring the contracts for the head Football and Men’s Basketball coaches to account for the decrease in athletic department revenue.

C. Injuries

There are inherent risks of injuries for those who participate in sports. That risk does not diminish when student-athletes take the field or court for competition. The NCAA states that it provides “guidelines for each institution to consider in developing

¹¹⁷. Huma & Staurowsky, *supra* n. 112, at 14.

¹¹⁸. *Id.*

¹¹⁹. *Id.*

sports medicine policies appropriate for its intercollegiate athletics programs.”¹²⁰ The NCAA itself is not “principally responsible” for the health, safety, and wellbeing of student-athletes.¹²¹

In its annual sports medicine handbook, the NCAA explains that “the following components of a safe athletic program are an important part of injury prevention:”

(1) a physical exam before the season begins; (2) student-athletes are covered by some health insurance policy; (3) pre-season conditioning and practices; (4) student-athlete “acceptance of risk;” (5) proper student-athlete supervision during practice and games; (6) minimizing legal liability for member institutions; (7) non-discrimination in “availability or accessibility to medical resources;” (8) sports equipment that meets safety standards; (9) facilities that are safe and fit for athletics; (10) eliminating exposure to blood-borne pathogens; (11) proper emergency care; (12) concussion management and care plans; (13) compliance with NCAA drug testing policies; and (14) compliance with NCAA legislation.¹²²

The NCAA has also recommended a series of guidelines for NCAA staff when dealing with serious on-field injuries in championship games.¹²³ The burden of medically removing a student-athlete from a practice or game rests upon each team’s

120. David Klossner, *2012-13 Sports Medicine Handbook*, 2 (available at <http://www.ncaapublications.com/productdownloads/MD12.pdf>).

121. *Id.*

122. *Id.* at 6-7.

123. Those guidelines are as follows:

1. Players and coaches should go to and remain in the bench area once medical assistance arrives. Adequate lines of vision between the medical staffs and all available emergency personnel should be established and maintained; 2. Players, parents and nonauthorized personnel should be kept a significant distance away from the seriously injured player or players; 3. Players or non-medical personnel should not touch, move or roll an injured player; 4. Players should not try to assist a teammate who is lying on the field (i.e., removing the helmet or chin strap, or attempting to assist breathing by elevating the waist); 5. Players should not pull an injured teammate or opponent from a pile-up; 6. Once the medical staff begins to work on an injured player, they should be allowed to perform services without interruption or interference; 7. Players and coaches should avoid dictating medical services to the athletic trainers or team physicians or taking up their time to perform such services.

Id. at 12.

physician or athletic training staff.¹²⁴ Alternatively, the NCAA tournament physician must determine if a student-athlete is unable to return or begin play in a championship event.¹²⁵ The NCAA provides a series of recommendations for athletic departments to develop a protocol for “catastrophic” injuries to student-athletes, and establish an effective and safe pre-season training plan to reduce injury rates.¹²⁶ The NCAA also emphasizes a pre-season training program for student-athletes as a method of injury prevention because it recorded nearly two or three times greater injury rate among student-athletes during pre-season practice when compared to in-season practice injuries.¹²⁷

A prominent injury and player safety issue in sports is the risk and rates of concussion for players. The NCAA has recently focused its efforts on studying and preventing concussions in football. In order to determine the rate of concussions sustained by student-athletes, the NCAA also recorded nearly 535,000 football “exposures” during the 2011-12 season to study the rates of concussion, as well as 1.5 million fall sport “exposures.”¹²⁸ According to an NCAA Injury Surveillance Program press release, concussion rates in football remained steady throughout the NCAA from 2004-2012.¹²⁹ The NCAA also indicated that the concussion rate for the fall sports soccer, field hockey, and volleyball, have experienced a similarly level trend in concussion rates in 2011.¹³⁰ While the NCAA made “[r]ecent efforts to address

124. *Id.* at 28.

125. *Id.*

126. *See id.* at 16-17.

127. *See id.* at 23.

128. Brian Hendrickson, *Concussion Rates Remain Steady*,

<http://www.ncaa.org/wps/wcm/connect/public/NCAA/Resources/Latest+News/2012/September/Concussion+rate+remains+steady> (Sept. 21, 2012).

129. *Id.*

130. *Id.*

concussions through [] legislation,” it acknowledged that the rates of concussions have remained fairly even despite its focus.¹³¹

D. Insurance

1. General Coverage

The NCAA provides multiple insurance options for student-athletes and member institutions. However, member institutions are not required to purchase a health insurance plan that serves as the primary plan for student-athletes.¹³² The NCAA does require member institutions to “certify” that all student-athletes have some form of health care coverage.¹³³

By and large, most student-athletes are covered under their family’s primary insurance policy.¹³⁴ If a student-athlete’s parents do not have an insurance policy, a student-athlete may obtain the same group insurance through the member institutions as non-athletes.¹³⁵ An example of a student health insurance policy is the policy that Pitt has made available through UPMC Health Plan. The student policy provides 100% coverage for routine care, with the following co-pay amounts: primary care physician visit- \$10; specialist \$25; emergency room- \$75; urgent care \$45; inpatient- \$250. The policy also provides a prescription coverage and copay amount for various prescriptions. The cost of the policy is \$141.97 per month for undergraduate students, with vision and dental coverage at an additional fee of \$20 per month.

131. *Id.*

132. Bill Pennington, NY Times: College Basketball, *When Injured Athlete Leaves Campus, College’s Responsibility Ends*, http://www.nytimes.com/2013/04/05/sports/ncaabasketball/broken-leg-renews-focus-on-college-athletes-health-insurance.html?ref=sports&_r=3&pagewanted=all (April 4, 2013).

133. *Id.*

134. *Id.*

135. Note: This data is based on the Author’s conversations with UPMC Health Plan.

In the event that an athlete suffers a “catastrophic injury,” the NCAA does provide an insurance program to cover such injuries. The “Catastrophic Injury Insurance Program is an insurance policy held by the NCAA covers student-athletes . . . who are catastrophically injured while participating in a Covered Event.”¹³⁶ The policy is underwritten by Mutual of Omaha Insurance Company, and the NCAA pays the benefits to the student-athlete.¹³⁷ Though NCAA does not report the cost of the program, the plan provides lifetime benefits, and the deductible amount is \$90,000, with a maximum annual benefit at \$250,00.¹³⁸ Generally, there are not many injuries that are severe enough to meet the deductible threshold for this policy.¹³⁹

While “catastrophically injured” is not defined, the NCAA does define a “Covered Event” as “(a.) a Qualifying Intercollegiate Sport competition scheduled by the Insured Person's Participating School; (b.) official team activities; (c.) Conditioning; or (d.) practice sessions.”¹⁴⁰ Additionally, a “Covered Event must be authorized by, organized by or directly supervised by an official representative of the Insured Person's Participating School.”¹⁴¹

2. Superstar Athlete Insurance and its Limits

The NCAA also offers an insurance program for student-athletes who are likely to become professional athletes after college. The program is called “Exceptional Student-Athlete Disability Insurance” (“EDSI”) Program, and it was designed to insure the elite

136. National Collegiate Athletic Association, *NCAA Catastrophic Injury Insurance Program Benefit Summary For the Period of 8/1/12 Through 7/31/13*, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/pdfs/2011/catastrophic+injury+insurance+program+benefit+summary>.

137. *Id.*

138. *Id.*

139. Pennington, *supra* n. 132.

140. National Collegiate Athletic Association, *supra* n. 136.

141. *Id.*

student-athletes in the event that one suffers an injury that ends a playing career.¹⁴² In order to be eligible for the program, a student-athlete must be projected as an early round draft pick in Men's or Women's Basketball, Football, Men's Ice Hockey, or Baseball.¹⁴³

The program allows student-athletes to borrow \$50,000 from his or her institution in order to purchase the policy, and the policy is capped at \$5 million if the student-athlete purchases the insurance through the NCAA.¹⁴⁴ Most significantly, the program will not pay out to a student-athlete if his or her draft stock was reduced by an injury. Due to the advances in medicine, "most anterior cruciate ligament (ACL) injuries now keep a player out for eight to 12 months but rarely end careers" and are not the type of permanently disabling injury that would be covered by the program, even though an athlete may lose millions and sit out a professional season to recover from an ACL tear.¹⁴⁵ According to reports, only one pay out has occurred through the 23-year history of the EDSI Program. "In 1998, Ed Chester, a Florida defensive tackle who severely injured his knee, collected \$1 million on a policy that cost him \$8,000."¹⁴⁶

John Calipari, the Head Coach for the University of Kentucky Men's Basketball team, wrote about the EDSI program on his personal website following an ACL injury to

142. National Collegiate Athletic Association, *Exceptional Student-Athlete Disability Insurance Program*, <http://www.ncaa.org/wps/wcm/connect/public/NCAA/NCAA+Insurance+Programs/Student+Athlete+Insurance+Programs/Exceptional+Student+Athlete+Disability+Insurance+Program> (Aug. 30, 2011).

143. *Id.*

144. Warren K. Zola, Sports Law Blog, *The NBA's "One and Done Rule" is Patently Unfair*, <http://sports-law.blogspot.com/2013/02/the-one-and-done-rule-is-patently-unfair.html> (Feb. 13, 2013).

145. Marc Isenberg, George Raveling: Coaching For Success, *The "Student-Athlete Disability Insurance Program" Isn't What the NCAA Cracks It Up to Be*, <http://coachgeorgeraveling.com/the-student-athlete-disability-insurance-program-isnt-what-the-ncaa-cracks-it-up-to-be/> (March 20, 2013).

146. *Id.*

a star Kentucky Freshman player, Nerlens Noel.¹⁴⁷ Coach Calipari said that, “[m]y problem with the insurance is the players have to agree to pay the premiums for it to receive it. Why wouldn’t the school or the NCAA, which is making billions of dollars, make sure that those kids that come to school and have that opportunity to be drafted are insured?”¹⁴⁸ Calipari also explained that the EDSI program requires a student-athlete to repay the loan, “[i]f the kid doesn’t make it to the NBA, he is still obligated to pay it back himself even if he went to school for four years, did everything right academically, graduated, and helped the school win games and championships. It all adds up.”¹⁴⁹

3. Pa Assigned Risk Plan Insurance Scheme

One viable solution to the lack of insurance coverage for student-athletes could be a state-run medical insurance program. The Assigned Risk Plan is an example of a Pennsylvania insurance program that provides coverage for automobile drivers who would not otherwise be protected with insurance. The Commonwealth of Pennsylvania requires all automobile drivers to obtain insurance coverage in order to own a vehicle. Pennsylvania has created an Assigned Risk Plan for automobile drivers who are unable to obtain insurance coverage on the “voluntary” market, through insurance carriers.¹⁵⁰ The Assigned Risk Plan created by the state assigns insurance carriers to provide “high risk drivers” eligible for the Plan to offer automobile insurance at a rate specified by the Pennsylvania Insurance Department that is not “inadequate, excessive, or unfairly

147. John Calipari, CoachCal.com, *Let’s Do Everything We Can to Take Care of Our Kids*, <http://www.coachcal.com/20709/2013/02/lets-do-everything-we-can-to-take-care-of-our-kids/> (Feb. 14, 2013).

148. *Id.*

149. *Id.*

150. 75 Pa. C.S.A. § 1741 (West 2006).

discriminatory.”¹⁵¹ This not only ensures that all automobile owners have insurance, but also guarantees that the insurance will not become prohibitively expensive for “high risk drivers.” A similar mechanism of health insurance coverage, assignment to an insurance provider, or set insurance rates would provide cost-effective health care for student-athletes who may not otherwise be able to pay medical bills associated with sports-related injuries.

PART III. Pennsylvania Student-Athlete Bill of Rights

A. Equivalent Scholarships

The Student-Athlete Bill of Rights must provide a mechanism for student-athletes to complete undergraduate studies. The current state of the NCAA’s scholarship system is in disarray and leaves scholarship renewal decisions in the hands of coaches and athletic departments who are focused on athletic success, rather than academic results. The Student-Athlete Bill of Rights would require Pennsylvania institutions to fund an equivalent scholarship for a student-athlete whose scholarship is not renewed due to injury, illness, or another non-disciplinary reason. The institution would provide the equivalent scholarship at an amount equal to or greater than the previous year’s athletic award, and the equivalent award must last for the lesser of either, a total of six years (including the previous athletic awards), or until the student-athlete receives an undergraduate degree.

The equivalent scholarship requirements will only apply to those institutions that receive at least \$5,000,000 or more in annual media rights revenue, or to individual teams at an institution that generate at least \$3,000,000 in annual media rights revenue for the athletic program. This media rights revenue provision would limit the equivalent

¹⁵¹ 75 Pa. C.S.A. § 1743 (West 2006).

scholarship requirements to Pennsylvania's largest and most profitable athletic departments: Penn State, Pitt, Temple, and Villanova Men's Basketball (pending the final television contract signed by the "Catholic Seven" conference).

Additionally, a student-athlete will not be entitled to an equivalent scholarship if he or she fails to maintain the minimum academic standards for the institution. This will ensure that only those current and former student-athletes who meet the same academic standards as the rest of the student body are provided the equivalent scholarship opportunity.

B. Health Insurance

Applying the Assigned Risk Plan principle of "coverage to all" to student-athlete insurance, there are two health insurance options for the Student-Athlete Bill of Rights. Firstly, Pennsylvania could require all institutions to offer and fund a specialized health insurance for its student-athletes, independent from the insurance plan offered to all students at the institution. A second option is to create a state-run insurance trust scheme. Rather than assign a student-athlete to a health insurance carrier, the trust scheme would establish a pool of funds from Pennsylvania institutions that student-athletes can use to pay their medical insurance premiums or expenses. The Pennsylvania trust fund would require all institutions that meet a \$5,000,000 media rights revenue threshold to pay \$500,000 into the fund annually. Those institutions that failed to comply with the annual deposit would be subject to fines, and potential lawsuits by student-athletes.

CONCLUSION

Today's college sports landscape often leaves student-athletes used and spit back out into the world uneducated, injured or both. Coaches and athletic departments focus

on athletic performance, revenue, and championships, at the expense of the student-athletes who take the physical punishment of the competition. The NCAA has also failed to provide the necessary protection for its student-athletes. With athletic associations and institutions failing, it is up to Pennsylvania to come to the aid student-athletes.

The Student-Athlete Bill of Rights will serve as a mechanism to fill the gaps that currently exist in collegiate athletics. Specifically, the Student-Athlete Bill of Rights provides scholarship athletes with the opportunity to continue and complete an undergraduate degree, even if his or her athletic scholarship is not renewed. Additionally, the Student-Athlete Bill of Rights offers a much-needed form of health insurance coverage for current and former student-athletes who suffer sports-related injuries.

Appendix A
Pennsylvania Student-Athlete Bill of Rights (Original)

An Act

Preamble: Pennsylvania's institutions of higher education that participate in Division I and Division II intercollegiate athletics collectively generate millions of dollars annually in media contracts, and this revenue would not exist without the efforts of student athletes.

Pennsylvania's Findings:

- (a) Student-athletes generate significant revenues for many athletic programs.
- (b) Providing adequate health and safety protection for student-athletes can help prevent serious injury and death.
- (c) Current and former student-athletes can be left to pay for medical expenses incurred from injuries suffered while participating in intercollegiate athletics.
- (d) Institutions of higher education should provide their student-athletes with the same due process protection for scholarship renewal that is afforded to students who do not participate in athletics.
- (e) An institution of higher education should not use funds for purposes of this part that are dedicated for the benefit of the general student body.

For purposes of the Student-Athlete Bill of Rights:

- 1. "Athletic program(s)" means any intercollegiate athletic program at an institution of higher education in Pennsylvania;
- 2. "Individual athletic team(s)" means any men's or women's intercollegiate athletic team within any intercollegiate athletic program in Pennsylvania;
- 3. "Athletic association(s)" means any organization that is responsible for governing intercollegiate athletic programs. "Athletic associations" include the National Collegiate Athletic Association, National Association of Intercollegiate Athletics, and athletic conferences;
- 4. "Institution(s) of higher education" means any four-year public or private college university located in Pennsylvania that maintains an intercollegiate athletic program;
- 5. "Athletic director(s)" means an administrator who oversees the athletic programs at any four-year public or private college or university located in Pennsylvania;
- 6. "Student-athlete(s)" means any college student who participates in an intercollegiate athletic program;
- 7. "Non-Disciplinary cause(s)" means any dismissal that is not based on a student-athlete's compliance to team, institution or Athletic association rules or bylaws.
- 8. "For cause" means any dismissal that is a result of a student-athlete's failure to comply with team, institution or Athletic association rules or bylaws.
- 9. "Temporary leave of absence(s)" means any interruption in a student-athlete's studies for one or two semesters.
- 10. "Media rights" means rights to the live coverage, tape-delayed coverage, and

post event footage use of athletic games, practices, and interviews; computer or electronic games played on video devices; royalties for the use of a player's likeness or uniform, signage, or other sponsorships; and luxury box sales;

11. "Sports-related injury(ies)" means an injury to a student-athlete resulting from his or her participation in the sport for which the student-athlete has a scholarship, is a team member, and is sponsored by the athletic program;

12. "State trust fund" means the Student-Athlete Bill of Rights Trust Fund created by this Act.

Section 1. Short title.

This act shall be known and may be cited as the Student-Athlete Bill of Rights.

Section 2. Equivalent scholarship.

(1) If an athletic program that receives at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete who has suffered a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(2) If an athletic program that receives at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete for a non-disciplinary cause other than suffering a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(3) If an individual athletic team within an athletic program that receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete who has suffered a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(4) If an individual athletic team within an athletic program that receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete for a non-disciplinary cause other than

suffering a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(5) If a student athlete takes a temporary leave of absence from an institution of higher education, the duration of that leave of absence shall not count against the six-year limit on eligibility for an equivalent scholarship imposed by Paragraph 1.

(6) An athletic program may dismiss a student-athlete from participation in the program for cause. A student-athlete who is dismissed for cause from an athletic program shall receive all benefits under this Section, if he or she files appeal the dismissal within 60 days to either,

(a) the institution of higher education attended by the student, or

(b) an Athletic association of which that institution of higher education is a member.

(7) A student-athlete who voluntarily ends his or her participation in an athletic program shall receive no benefits under this Section.

(8) An institution of higher education governed this Section shall rely exclusively on media rights revenue derived from intercollegiate athletics to defray any costs accrued under this Section. An institution of higher education shall be subject to annual audits of media rights revenue at the discretion of the Pennsylvania Department of Education.

(9) A student-athlete who fails to meet the minimum academic requirements of the institution of higher education will not be entitled to an equivalent scholarship for the next academic year.

Section 3. Department of education requirements.

A. The Pennsylvania Department of Education shall ensure that all athletic programs:

(1) Renew each athletic scholarship at an amount that is no less than the previous year, as long as the student-athlete maintains academic, disciplinary, and Athletic association participation standards.

(2) Conduct a financial and life skills workshop for all student-athletes at the beginning of the academic year. The workshop shall include, but is not limited to,

(a) information concerning financial aid, debt management, interest rates,

personal credit scores, and a recommended budget for full and partial scholarship student-athletes living on- and off-campus during the academic school year and the summer, based on the current year's cost of attendance.
(b) information on time management skills necessary for success as a student-athlete, such as available academic resources on-campus.

B. Any written agreement concerning athletic scholarships or grants-in-aid signed by both an athletic director and a student-athlete shall be legally binding on the institution of higher education.

Section 4. Student-athlete insurance trust fund.

A. (1) Any athletic program that issues athletic scholarships and receives at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue shall provide Five Hundred Thousand Dollars (\$500,000.00) each year to be deposited in the state trust fund for the purpose of paying for medical insurance premiums for student-athletes.

(2) Any individual athletic team within an athletic program that issues athletic scholarships and receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue shall provide One Hundred Thousand Dollars (\$100,000.00) each year to be deposited in the state trust fund for the purpose of paying for medical insurance premiums for student-athletes.

(3) Any funds not used to purchase medical insurance premiums shall pay for medical expenses for former student-athletes that suffered a sports-related injury while participating in the athletic program.

(a) Funds shall be made available to former student-athletes in the order of claims submitted to the Department of Education as trustee.

B. Funds paid to the trust fund shall be in addition to current levels of funding for student-athlete medical expenditures or medical benefits provided to or on behalf of student-athletes by an athletic program.

(1) Institutions of higher education that do not comply with provisions of this Section shall

(a) be held liable for medical expenses incurred by student-athletes which would have been covered by the deposit to the state trust fund, and

(b) pay fine of Five Hundred Dollars (\$500.00) for each day that student-athletes are not covered by a medical insurance plan beginning August 1, 2013.

(2) Any student-athlete who suffers a sports-related injury but did not receive funds from the state trust may file suit against his or her institutions of higher education that do not comply with provisions of this Section.

(a) A student-athlete may file his or her suit with the Commonwealth Court.

Section 5. Effective date.

This act shall take effect on August 1, 2013.

Appendix B
Pennsylvania Student-Athlete Bill of Rights (Final Proposal)

An Act

Pennsylvania's Findings:

(d) for scholarship renewal

For purposes of the Student-Athlete Bill of Rights:

1. an institution of higher education in Pennsylvania;
2. "Individual athletic team(s)" means a men's or women's intercollegiate athletic team within any intercollegiate athletic program in Pennsylvania;
3. "Athletic associations" include the National Collegiate Athletic Association, National Association of Intercollegiate Athletics, and athletic conferences;
4. "Institution(s) of higher education" means any four-year public or private college university located in Pennsylvania;
5. "Athletic director(s)" means an administrator who oversees the athletic programs at any four-year public or private college or university located in Pennsylvania;
7. "Non-disciplinary cause(s)" means any dismissal that is not based on a student-athlete's compliance to team, institution or Athletic association rules or bylaws.
8. "For cause" means any dismissal that is a result of a student-athlete's failure to comply with team, institution or Athletic association rules or bylaws.
9. "Temporary leave of absence(s)" means any interruption in a student-athlete's studies for one or two semesters.
10. computer or electronic games played on video devices;
11. "Sports-related injury(ies)" means an injury to a student-athlete resulting from his or her participation in the sport for which the student-athlete has a scholarship, is a team member, and is sponsored by the athletic program;

Section 1. Short title.

This act shall be known and may be cited as the Student-Athlete Bill of Rights.

Section 2. Equivalent scholarship.

(1) If an athletic program that receives at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete who has suffered a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(2) If an athletic program that receives at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete for a non-disciplinary cause other than suffering a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(3) If an individual athletic team within an athletic program that receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete who has suffered a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(4) If an individual athletic team within an athletic program that receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete for a non-disciplinary cause other than suffering a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(6) shall receive all benefits under this Section if he or she files appeal the dismissal within 60 days to either,

(7) A student-athlete who voluntarily ends his or her participation in an athletic program shall receive no benefits under this Section.

(8) An institution of higher education shall be subject to annual audits of media rights revenue at the discretion of the Pennsylvania Department of Education.

(9) A student-athlete who fails to meet the minimum academic requirements of the institution of higher education will not be entitled to an equivalent scholarship for the next academic year.

Section 3. Department of education requirements.

(1) Athletic association participation standards.

Section 4. Student-athlete insurance trust fund.

A. (1) Five Million Dollars (\$5,000,000.00) in annual media rights revenue shall provide Five Hundred Thousand Dollars (\$500,000.00)

(2) Any individual athletic team within an athletic program that issues athletic scholarships and receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue shall provide One Hundred Thousand Dollars (\$100,000.00) each year to be deposited in the state trust fund for the purpose of paying for medical insurance premiums for student-athletes.

(3) Any funds not used to purchase medical insurance premiums shall pay for medical expenses for former student-athletes that suffered a sports-related injury while participating in the athletic program.

(a) Funds shall be made available to former student-athletes in the order of claims submitted to the Department of Education as trustee.

(2) Any student-athlete who suffers a sports-related injury but did not receive funds from the state trust may file suit against his or her institutions of higher education that do not comply with provisions of this Section.

(a) A student-athlete may file his or her suit with the Commonwealth Court.

Section 5. Effective date.

This act shall take effect on August 1, 2013.

Appendix C
Pennsylvania Student-Athlete Bill of Rights (Proposal with Changes)

An Act

Preamble: Pennsylvania's institutions of higher education that participate in Division I and Division II intercollegiate athletics collectively generate millions of dollars annually in media contracts, and this revenue would not exist without the efforts of student athletes.

Comment [1]: I changed the preamble of California's Student-Athlete Bill of Rights (Cal. Educ. § 67450(b)) to Pennsylvania.

Deleted: California's

Pennsylvania's Findings:

(a) Student-athletes generate significant revenues for many athletic programs.

(b) Providing adequate health and safety protection for student-athletes can help prevent serious injury and death.

(c) Current and former student-athletes can be left to pay for medical expenses incurred from injuries suffered while participating in intercollegiate athletics.

(d) Institutions of higher education should provide their student-athletes with the same due process protection for scholarship renewal that is afforded to students who do not participate in athletics.

(e) An institution of higher education should not use funds for purposes of this part that are dedicated for the benefit of the general student body.

Comment [2]: I deleted this wording from Cal. Educ. § 67450(c) because not all student-athletes spend 40 hours, and the graduation rates are generally higher than they have been in the past.

Deleted: large revenues for many athletic programs, spend approximately 40 hours per week participating in their respective sports, and suffer current and historically low graduation rates

Comment [3]: This is from Cal. Educ. § 67450(d).

Comment [4]: This is from Cal. Educ. § 67450(e).

Comment [5]: This is from Cal. Educ. § 67450(f). I added "for scholarship renewal" because that is the focus of the statute, to ensure that an equivalent scholarship is provided.

Comment [6]: This is from Cal. Educ. § 67450(i).

Comment [7]: This comes from Cal. Educ. § 67451(b).

Deleted: within the meaning of subdivision (d)

Comment [8]: This comes from Part 40.3 Chapter 2, Section 67451(a).

Comment [9]: This comes from Cal. Educ. § 67451(d).

Deleted: campus of the University of California or the California State University, or any four-year private university located in California

Comment [10]: This comes from Cal. Educ. § 67451(f). It is very similar to Oklahoma's Okla. S. 1533, 821.11.4.

Deleted: of an institution of higher education, and includes student athletes who participate in basketball, football, and other intercollegiate sports

Comment [11]: This comes from Cal. Educ. § 67451(e).

For purposes of the Student-Athlete Bill of Rights:

1. "Athletic program(s)" means any intercollegiate athletic program at an institution of higher education, in Pennsylvania;

2. "Individual athletic team(s)" means any men's or women's intercollegiate athletic team within any intercollegiate athletic program in Pennsylvania;

3. "Athletic association(s)" means any organization that is responsible for governing intercollegiate athletic programs. "Athletic associations" include the National Collegiate Athletic Association, National Association of Intercollegiate Athletics, and athletic conferences;

4. "Institution(s) of higher education" means any four-year public or private college university located in Pennsylvania that maintains an intercollegiate athletic program;

5. "Athletic director(s)" means an administrator who oversees the athletic programs at any four-year public or private college or university located in Pennsylvania;

6. "Student-athlete(s)" means any college student who participates in an intercollegiate athletic program;

7. "Non-disciplinary cause(s)" means any dismissal that is not based on a student-athlete's compliance to team, institution or Athletic association rules or bylaws.

8. "For cause" means any dismissal that is a result of a student-athlete's failure to comply with team, institution or Athletic association rules or bylaws.

9. "Temporary leave of absence(s)" means any interruption in a student-athlete's studies for one or two semesters.

10. "Media rights" means rights to the live coverage, tape-delayed coverage, and

post event footage use of athletic games, practices, and interviews; computer or electronic games played on video devices; royalties for the use of a player's likeness or uniform, signage, or other sponsorships; and luxury box sales;

11. "Sports-related injury(ies)" means an injury to a student-athlete resulting from his or her participation in the sport for which the student-athlete has a scholarship, is a team member, and is sponsored by the athletic program;

12. "State trust fund" means the Student-Athlete Bill of Rights Trust Fund created by this Act.

Comment [12]: This is from Oklahoma's Okla. S. 1533, 821.11.6.

Deleted: Collegiate

Deleted: in Section 6 of

Section 1. Short title.

This act shall be known and may be cited as the Student-Athlete Bill of Rights.

Section 2. Equivalent scholarship.

(1) If an athletic program that receives at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete who has suffered a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

Comment [13]: This comes from Cal. Educ. § 67452(a)(1). I added the monetary limitations into the body of the section, rather than in its own subsection the way California did.

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree,

whichever period is shorter.

Deleted: four

(2) If an athletic program that receives at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete for a non-disciplinary cause other than suffering a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

Comment [14]: This comes from Cal. Educ. § 67452(a)(3). I removed the 60% exception for teams because all teams should provide the equivalent scholarship, irrespective of the graduation rate.

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree,

whichever period is shorter.

Deleted: injury resulting from his or her participation in the athletic program

Deleted: except that an athletic program with a graduation rate that is above 60 percent, disaggregated by sport, shall not be subject to the requirements of this paragraph.

(3) If an individual athletic team within an athletic program that receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete who has suffered a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree,

whichever period is shorter.

(4) If an individual athletic team within an athletic program that receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue does not renew an athletic scholarship of a student-athlete for a non-disciplinary cause other than

suffering a sports-related injury, the institution of higher education shall provide an equivalent scholarship that,

(a) combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete,

(i) will be provided for a total of up to six academic years, or

(ii) until the student-athlete completes his or her undergraduate degree, whichever period is shorter.

(5) If a student-athlete takes a temporary leave of absence from an institution of higher education, the duration of that leave of absence shall not count against the six-year limit on eligibility for an equivalent scholarship imposed by Paragraph 1.

Comment [15]: This comes from Cal. Educ. § 67452(a)(3).

Deleted: four

(6) An athletic program may dismiss a student-athlete from participation in the program for cause. A student-athlete who is dismissed for cause from an athletic program shall receive, all benefits under this Section, if he or she files appeal the dismissal within 60 days to either,

Comment [16]: This comes from Cal. Educ. § 67452(a)(4). I shifted the burden of not providing the equivalent scholarship somewhat by saying that a student-athlete is entitled to the award during the appeal process.

Deleted: no

Deleted: part

Deleted: but may appeal

Deleted: or within the conference

Deleted: as appropriate.

(a) the institution of higher education attended by the student, or

(b) an Athletic association of which that institution of higher education is a member.

(7) A student-athlete who voluntarily ends his or her participation in an athletic program shall receive no benefits under this Section.

(8) An institution of higher education governed this Section shall rely exclusively on media rights revenue derived from intercollegiate athletics to defray any costs accrued under this Section. An institution of higher education shall be subject to annual audits of media rights revenue at the discretion of the Pennsylvania Department of Education.

Comment [17]: This comes from Cal. Educ. § 67452(f).

(9) A student-athlete who fails to meet the minimum academic requirements of the institution of higher education will not be entitled to an equivalent scholarship for the next academic year.

Comment [18]: This is from Oklahoma's Okla. S. 1533, 821.12(A)(1). I wanted to include this provision to ensure that equivalent scholarships are at the same level.

Formatted: Normal, Widow/Orphan control, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers, Tabs: Not at 0.39" + 0.78" + 1.17" + 1.56" + 1.94" + 2.33" + 2.72" + 3.11" + 3.5" + 3.89" + 4.28" + 4.67"

Section 3. Department of education requirements.

A. The Pennsylvania Department of Education shall ensure that all athletic programs:

(1) Renew each athletic scholarship at an amount that is no less than the previous year, as long as the student-athlete maintains academic, disciplinary, and Athletic association participation standards,

Deleted: If a student-athlete's athletic scholarship is not renewed for reasons other than failure to maintain good academic, disciplinary, or participation standards, then the institution of higher education shall provide an equivalent scholarship for the next academic year.

(2) Conduct a financial and life skills workshop for all student-athletes at the beginning of the academic year. The workshop shall include, but is not limited to,

Comment [19]: This is from Oklahoma's Okla. S. 1533, 821.12(A)(4). Rather than limit the program to first- and third-year students, I wanted all student-athletes to have a program each year.

Deleted: of first-year and third-year

(a) information concerning financial aid, debt management, interest rates,

personal credit scores, and a recommended budget for full and partial scholarship student-athletes living on- and off-campus during the academic school year and the summer, based on the current year's cost of attendance.

(b), information on time management skills necessary for success as a student-athlete, such as available academic resources on-campus.

B. Any written agreement concerning athletic scholarships or grants-in-aid signed by both an athletic director and a student-athlete shall be legally binding on the institution of higher education.

Section 4. Student-athlete insurance trust fund.

A. (1) Any athletic program that issues athletic scholarships and receives, at least Five Million Dollars (\$5,000,000.00) in annual media rights revenue shall provide Five Hundred Thousand Dollars (\$500,000.00) each year to be deposited in the Student-Athlete Insurance Trust Fund for the purpose of paying for medical insurance premiums for student-athletes.

(2) Any individual athletic team within an athletic program that issues athletic scholarships and receives at least Three Million Dollars (\$3,000,000.00) in annual media rights revenue shall provide One Hundred Thousand Dollars (\$100,000.00) each year to be deposited in the state trust fund for the purpose of paying for medical insurance premiums for student-athletes.

(3) Any funds not used to purchase medical insurance premiums shall pay for medical expenses for former student-athletes that suffered a sports-related injury while participating in the athletic program.

(a) Funds shall be made available to former student-athletes in the order of claims submitted to the Department of Education as trustee.

B. Funds paid to the trust fund shall be in addition to current levels of funding for student-athlete medical expenditures or medical benefits provided to or on behalf of student-athletes by an athletic program.

(1) Institutions of higher education that do not comply with provisions of this Section shall

(a) be held liable for medical expenses incurred by student-athletes which would have been covered by the deposit to the state trust fund, and

(b) pay fine of Five Hundred Dollars (\$500.00) for each day that student-athletes are not covered by a medical insurance plan beginning August 1, 2013.

(2) Any student-athlete who suffers a sports-related injury but did not receive funds from the state trust may file suit against his or her institutions of higher education that do not comply with provisions of this Section.

(a) A student-athlete may file his or her suit with the Commonwealth Court.

Section 5. Effective date.

Deleted: The workshop shall also include

Deleted: and the value of building relationships with the non-athletic campus community. Athletic programs that pay any of the fees described in Section 4 of this act shall provide relevant financial guidance to the student-athletes that may become eligible to receive funds.

Comment [20]: This is from Oklahoma's Okla. S. 1533, 821.12(B).

Comment [21]: This is from Oklahoma's Okla. S. 1533, 821.13(A)(1).

Deleted: an average of Ten Million Dollars (\$10,000,000.00) in annual television

Comment [22]: This is from Oklahoma's Okla. S. 1533, 821.13(A)(1). I wanted to make this its own subsection of the Act.

Comment [23]: This is from Oklahoma's Okla. S. 1533, 821.13(A)(1)(a). I also wanted to make this its section of the Act so that schools know this is an additional payment that is required.

Comment [24]: This is from Oklahoma's Okla. S. 1533, 821.13(A)(1)(b).

Deleted: All fines are due by the state's regular tax deadline for institutions of higher education, and a late fee of five percent (5%) per business day will be assessed for each day that the fine is not paid.

This act shall take effect on August 1, 2013.

School	Men's Basketball	Football	Men's Track	Baseball	Women's Basketball	Women's Track	Gymnastics
Bloomsburg	67%	72%	90%	63%	65%	97%	N/A
Bucknell	100%	98%	88%	100%	100%	100%	N/A
Clarion	71%	39%	N/A	59%	71%	88%	N/A
Drexel	100%	N/A	N/A	N/A	100%	N/A	N/A
Duquesne	71%	80%	86%	N/A	100%	86%	N/A
Edinboro	77%	64%	79%	N/A	100%	88%	N/A
La Salle	64%	N/A	79%	93%	100%	89%	N/A
Lafayette	82%	96%	100%	100%	100%	100%	N/A
Lehigh	86%	72%	86%	93%	92%	96%	N/A
Lock Haven	55%	68%	91%	69%	80%	93%	N/A
Mercyhurst	88%	78%	85%	79%	79%	100%	N/A
Millersville	61%	70%	86%	75%	81%	100%	N/A
Penn State	92%	91%	74%	70%	100%	90%	73%
Robert Morris	43%	69%	74%	N/A	89%	85%	N/A
St. Francis	80%	68%	76%	N/A	100%	50%	N/A
St. Joseph's	83%	N/A	75%	90%	100%	96%	N/A
Temple	43%	66%	75%	70%	67%	89%	91%
Penn	89%	97%	100%	100%	100%	97%	100%
Pitt	54%	70%	71%	58%	100%	88%	100%
Villanova	100%	89%	92%	93%	100%	100%	N/A

App D. 1

Appendix E
Fair Market Value of Student-Athletes

FB Players in 6 Major Conferences & Independents

Player Revenue Split (Based on NFL CBA)	46.5%
Avg Fair Market Value/Yr	\$201,168
Avg Value of a "Full" Scholarship/Yr	\$22,534
Avg Fair Market Value Denied/ FB Player/Yr	\$178,634
Avg Value of a "Full" Scholarship Over 4 Yrs	\$90,136
Avg Fair Market Value Denied/ FB Player Over 4 Yrs	\$714,536
% of Fair Market Value Received	11.2%
% of Fair Market Value Denied	88.8%

BB Players in 6 Major Conferences & Independents

Player Revenue Split (Based on NBA CBA)	50.0%
Avg Fair Market Value/Yr	\$418,928
Avg Value of a "Full" Scholarship/Yr	\$22,534
Avg Fair Market Value Denied/ BB Player/Yr	\$396,394
Avg Value of a "Full" Scholarship Over 4 Yrs	\$90,136
Avg Fair Market Value Denied/ BB Player Over 4 Yrs	\$1,585,576
% of Fair Market Value Received	5.4%
% of Fair Market Value Denied	94.6%

If a student-athlete's athletic scholarship is not renewed for reasons other than failure to maintain good academic, disciplinary, or participation standards, then the institution of higher education shall provide an equivalent scholarship that, combined with the total duration of the previous athletic scholarship received by the student-athlete, shall be provided for at least five (5) years or until the student-athlete receives his or her undergraduate degree, whichever is shorter, as long as the student-athlete maintains the academic performance level required of current student-athletes;