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Athletic Donors' Control Over the Future of Collegiate Athletics

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I. Introduction and Overview

Within collegiate athletics, one thing has remained constant over the years: Alumni donor's influence and control over colleges' athletic funding and success. Donors have a direct impact on athletic directors and coaches' long-term success with their respective schools. There is no hiding the fact that at the top college football and basketball schools every off-season millions and millions of dollars are given to the schools for the purpose of having better athletics. With the introduction of the Name, Image, and Likeness (NIL) for athletes, it has become easier for donors to openly donate for the purpose of recruiting athletes.

Throughout the history of the NCAA, college donors or boosters have been able to influence their school's success based on how much money they give to their respective athletic programs. As a member of the NCAA, the university is responsible for the actions of its alumni, supporters, and fans.¹ Boosters can support teams and athletics departments through donation decision-making financial resources which help student-athletes succeed on and off the playing field.² Boosters may not encourage a prospect's participation in university athletics or provide benefits to prospects that were not previously provided.³ While the boosters have a hand in the decision making process within the university, the school and athletic department heads are the ones that must handle the backlash if boosters do not follow the NCAA rules.

¹ *Role of Boosters*. NCAA. (2024). <https://www.ncaa.org/sports/2013/11/27/role-of-boosters.aspx>

² *Ibid*. Boosters are any individual who has provided a donation to obtain season tickets at the University, participated in promoting the schools' athletic programs, made financial contributions to the athletic department, arranged for employment of student athletes, assisted in providing benefits to athletes' families, or involved otherwise in promoting athletics.

³ *Ibid*.

Within the NCAA guidelines, there are impermissible extra benefits for enrolled students that boosters cannot give to athletes. For example, as a booster, you may not provide student-athletes or student-athletes friends with tickets to college or pro sporting events, free or reduced rent, transportation, payment of expense or loan of any automobile, or cash or loan.⁴ Boosters are also not allowed to contact a prospect either in person or over the phone.⁵ With the increase of donor backed NIL collectives, donors are finding ways to circumvent the NCAA guidelines by indirectly providing athletes with a way of obtaining gifts by paying for their housing, transportation or other monetary benefits.

Within a college athletic department, donors have the most control over NIL funding and college coaching selections and buyouts. With the introduction of NIL into the collegiate sports space, donors and alumni have a new avenue of recruiting athletes to come to their respective schools. NIL collectives have been created by donors and alumni for the purpose of being able to recruit athletes to play for their schools.

With the current way college coaching contracts are designed, they will continue to contain buyout provisions. The only way to successfully continue to use buyout provisions is through donor money. The current college coaching contract model encourages coaches to sign long-term contracts, and as soon as they are unsuccessful donors can pour a bunch of money into the program or threaten to withdraw donations until the school hires a new coach. This creates a lot of pressure for success from current coaches, and it can take power away from the athletic departments at each individual school in making their coaching decision.

⁴ *Ibid.* Boosters may make contributions to university programs and other gift-in-kind arrangements and attend university athletic events and show student athletes' support.

⁵ *Ibid.*

The purpose of the paper is to (1) take a look at why donor's make donations to athletic departments, (2) outline the current control donors and alumni have on the success of collegiate athletics, (3) examine donors' impact on NIL funding and how that has impacted player recruitment, (4) examine donor's impact on college coaching hiring decisions and the coaching buyout processes, and (5) provide an outlook on how this could impact the future of college athletics and if this is a sustainable model for college athletics.

Donors have a significant impact on college sports teams' decision-making process, and the NCAA and schools must accept donors are the necessary driving force for their school's success. While donors can be bad for college basketball and football because they take away from the decision-making process within athletic departments, they are necessary for any big decision a school is going to make. Donors help schools make the best decision for their programs, but unfortunately the best decision is not always the right decision. When determining the current impact donors have, it is first imperative to figure out why donors make their individual contributions to schools.

II. Donor Psychology

Donors have constantly been involved in the biggest decisions athletic departments have made over the years, but what is driving donors to want to make big donations. Donors want their school to be more successful, and they want to feel like they are the ones making the difference for their respective school. The two main psychological reasons donors have been giving more to schools over the years are to feel like they are a part of the team/decision-making process and being able to receive some tax benefit from their donations.

i. Donors Want Control Over a School's Decision-Making Process

In examining the amount of money donors have been giving to universities over the years, it is important to first examine why donors donate. The greatest area of potential growth within athletics is seen at the private donor level and the major gift donor who has the financial capacity to make a one million dollar plus gift.⁶ A report from Nancy Carol Hixson listed seven major themes of major donor motivations: (1) history of family philanthropy, (2) thankful for the ability to give, (3) appreciation and gratitude towards the institution, (4) lasting and sustainable giving, (5) inside knowledge of fundraising needs, (6) relationships, benefits, and recognition, and (7) winning and prestige.⁷ Out of these seven motivations, the ones that stick out as relevant to today's college sport's environment are relationships, benefits, recognition, and winning and prestige.

Along with the seven themes listed above, a further report from *ResearchGate* broke Athletic Donor motivation into 8 different motivations for why people give money to a university athletic department. The eight donor motivation dimensions are: (a) philanthropy (e.g., feel good and support the department), (b) vicarious achievement (e.g., intrinsic rewards achievement, and basing in reflected glory), (c) commitment (e.g., love for the school and athletes), (d) affiliation (e.g., sense of belongingness), (e) socialization (e.g., associate with other donors), (f) public recognition (e.g., ego enhancement and save fact), (g) tangible benefits (e.g. better seats, parking, and suites), and (h) power (e.g., involvement in programmatic decisions).⁸ Along with the other

⁶ Hixson, Nancy Carol, "Million dollar plus donors within intercollegiate athletics: A qualitative analysis of donor motivations" (2012). Dissertations. 159. <https://digscholarship.unco.edu/dissertations/159>

⁷ *Ibid.* The qualitative study sought to explore the motivational factors of \$100,000+ donors to intercollegiate athletics.

⁸ Ko, Yong Jae, & Rhee, Yong Chae, & Walker, Matthew, & Lee, Jae-Bong, "What Motivates donors to Athletic Programs: A New Model of Donor Behavior" (2013). Retrieved on April 1, 2024, from <https://journals.sagepub.com/doi/10.1177/0899764012472065>. Using a sample of college sport donors the results yielded a sound eight-factor measurement scale; A Scale of Athletic Donor Motivation (SADOM).

motivations listed above, it is clear the major reasons donors are giving to their respective schools is so they can have influence and power over the decision making process.

Power is one of the main reason donors contribute to collegiate sports funding. Power examines that the end goal of a donation is to influence others, and donor giving is performed to contribute to organizational success (McClelland & Burnham, 1976).⁹ Donors want to have control over the decision-making process and feel like their team's success is directly contributed to their donations.

On the other hand, the failure of these coaches or teams is never due to the donors. It is the coaches and athletic directors that must deal with the aftermath of any failed coaching selection. To solve this issue, the best way for the team to succeed is to have the donor and athletic department work together and share the wins and losses. The goal-oriented donation behavior might be maximized when donors share similarity with the primary beneficiary and have a strong feeling of affiliation (Bennett, 2011).¹⁰ When donors and athletic directors can align on the decision making of coaches and athletes, both the school and donor benefit.

Aside from the feeling of power and influence, donors can also receive a tangible benefit from universities because of their donation. Fund-raising studies have suggested that tangible benefits (priority seating, parking, and season tickets) are important factors in donor behavior

⁹ McClelland, D. C., & Burnham, D. H. (1976). Power is the great motivator. *Harvard Business Review*, 54, 100-110. McClelland argued humans' needs are learned and acquired through life experiences. Therefore, the contents of needs were classified into Achievement, Affiliation, and Power. Power seekers attempt to control others for their own goals or group goals.

¹⁰ Bennett, R. (2011). Why urban poor donate: A study of low-income charitable giving in London. *Nonprofit and Voluntary Sector Quarterly*, 41, 870-891.

and are connected to the enhancement of donor well-being.¹¹ Along with tangible benefits, donors have also been able to receive tax benefits from their donations and collectives.

ii. Donors Receive Tax Benefits from Their NIL Contributions

The ability to obtain tax-exempt status is at the forefront of donors' minds when deciding how much money to give to their collectives. Their tax-exempt status can shield them from future tax liability and save thousands of dollars. If donors can continue to save large sums of money through tax benefits, the IRS is going to continue to question the legality of their tax-exempt status.

Within NIL collectives, there is an added benefit for donors to receive tax exemptions for their donations. The IRS has granted tax exemptions under Section 501(c)(3) to some collectives, including Clemson's TigerImpact and Purdue's Boilermaker Alliance.¹² Internal Revenue Code section 501(c)(3) tax exempt purposes are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals.¹³ Associated tax deduction for donors is a powerful incentive, giving these collectives the same status as the American Heart Association and Habitat for Humanity.¹⁴ A top-tax-bracket donor can give \$100,000 to a charity and save \$37,000 in federal taxes.¹⁵ If donors are able to achieve tax-exempt status through NIL contributions, there is all the more incentive to continue to give large donations.

¹¹ Ko, Yong Jae, & Rhee, Yong Chae, & Walker, Matthew, & Lee, Jae-Bong, "What Motivates donors to Athletic Programs: A New Model of Donor Behavior (2013). Retrieved on April 1, 2024, from <https://journals.sagepub.com/doi/10.1177/0899764012472065>

¹² Rubin, R., & Higgins, L. (2023, June 13). *IRS Nixes Tax Edge for College-Sports Booster Groups Paying Athletes*. The Wall Street Journal. <https://www.wsj.com/sports/irs-tax-edge-college-sports-booster-groups-427d403f>

¹³ I.R.C. § 501(c)(3)

¹⁴ Rubin, R., & Higgins, L. (2023, June 13). *IRS Nixes Tax Edge for College-Sports Booster Groups Paying Athletes*. The Wall Street Journal. <https://www.wsj.com/sports/irs-tax-edge-college-sports-booster-groups-427d403f>

¹⁵ *Ibid.*

The IRS has been trying to limit the amount of tax-exempt status individuals that come from donor collectives. A memo from the IRS stated that the collectives provide too much private benefit to individuals.¹⁶ Advancing education is a permissible charitable purpose, but student-athletes aren't a recognized charitable class.¹⁷ The IRS stated the purpose of NIL collectives, in the IRS mind, was not to benefit the donors with tax exempt status. Nevertheless, donors continue to receive tax benefit from their large donations, despite the purposes of the IRS.

Whether or not donors should be able to receive tax-exempt status is a highly debated topic. Jason Belzer, founder of Student Athlete NIL, said he believes collectives should operate as revenue-generating business.¹⁸ Mr. Belzer noted that charitable organizations that exist to “get money into the hands of student-athletes as soon as possible” are “completely the antitheses of what the point of a 501(c)(3) organization is.”¹⁹ Overall, donors are taking advantage of tax exemptions that are not meant for their exact donation purpose. Thus, it is likely that donors will continue to donate if they are able to achieve the 501(c)(3) tax exempt status.

Overall, donors have the power to influence athletic directors to make the decisions they want, and coaches and athletic departments are under unbelievable pressure to create a winning program. Donors are going to continue to contribute to athletic funding if they can feel like they are a part of the decision-making process and are able to receive tax benefits. Donors have been at the forefront of creating success within college athletics, but success is not always immediate.

¹⁶ *Ibid.*

¹⁷ *Ibid.* Phil Hackney, a law professor at the University of Pittsburgh who was an IRS attorney, when asked about the charitable status of student-athletes stated, “It just does not fit into the panoply that we call charitable organizations. It just doesn't.”

¹⁸ *Ibid.*

¹⁹ *Ibid.* For example, the 12th Man Foundation is registered as a 501(c)(3) organization that funds scholarships and facility upgrades.

III. Donor Led Success Within College Basketball and Football

When a college has athletic success, that can be directly related to their ability to raise more revenue and recognition for their school. Donations, along with ticket sales, have become a primary source of generated revenue, not including revenue allocated to the athletic department by the university. (Fulks, 2008).²⁰ When a university's athletics program is successful at an elite level, the media exposure can cast a wide spotlight and positive perception on that institution. (Goff, 2000).²¹ Thus, it is vital that athletic directors are working directly with the other heads of their institutions in managing how much outside influence they allow into their sporting teams.

When looking at the success of college athletics, it is important to examine the relationship between donation amount and on-the-field success. In college football, the ten schools that had the most donations, from ten to one are Florida State, Auburn, Oklahoma, LSU, Oklahoma State, Georgia, Florida, Texas, Texas A&M, and Oregon.²² From this list, it is not clear that donations have directly led to college football success. LSU and Georgia have won the college football national championship within the last five years and are in the top ten for amount donated, but schools like Texas A&M, Oklahoma State, and Auburn have been unable to maintain long-term postseason success. Even if a successful record is not apparent, teams will try whatever it takes to get the top talent to their school.

²⁰ Shapiro, S., & Ridinger, L. (2011). An analysis of donor involvement, gender, and giving in college athletics. *Sport Marketing Quarterly*, 20(1), 22-32. The journal outlined the differences in donation based on gender, which is outside the scope of this paper except for the excerpt included above.

²¹ Walker, A. (2015). Division I Intercollegiate Athletics Success and the Financial Impact on Universities. *Sage Journals*. 1-13. <https://journals.sagepub.com/doi/pdf/10.1177/2158244015611186>

²² Crawford, B. (2023, August 29). *College sports top donors: Ranking the most generous athletics boosters*. 247Sports. Retrieved March 31, 2024, from <https://247sports.com/longformarticle/college-sports-top-donors-ranking-the-most-generous-athletics-boosters-214986422/#2225318>

Aside from teams with the highest donation amounts, teams within the 2024 College Football Playoff were able to use collectives to make it to the highest stage in college football. For example, in 2021, Texas finished the season 5-7. That off-season, Texas started to recruit players with NIL funding in mind.²³ Texas found a newly legal way to recruit players: cash.²⁴ Cameron Williams was one of those lineman who had already committed to play for Oregon, but switched to Texas he was offered \$50,000 a year.²⁵ The once unsuccessful football team was able to recruit the best players because of their donor-backed collective, and two years later they were playing in the College Football Playoff. In this new era of college athletics, a school's ability to obtain funding from donors directly relates to their ability to obtain the best players.

On the other hand, teams like Alabama have been very vocal against the outlook of college athletics and NIL. Former Alabama head coach, Nick Saban said in 2022 that, "Texas A&M bought every player on their team, and we didn't buy one player."²⁶ In 2022, Texas A&M almost beat Alabama, and the next year Alabama had two new collectives.²⁷ The story of Alabama is one that is becoming all the more clear now within college sports, you must adapt or the schools that you once beat will compete with you because they are getting backed by more donor collective money. Alabama has been able to have more long-term success than Texas A&M, but with the increasing donations and player recruitment, the gap between the two teams is shrinking.

²³ Fahrenthold, D. & Wiltz, B. (2023, December 31). *The Best Teams that Money Could Buy*. The New York Times. Retrieved on April 1, 2024, from <https://www.nytimes.com/2023/12/31/us/college-athletes-nil-sugar-rose-bowl.html?pgtype=Article&action=click&module=RelatedLinks>

²⁴ *Ibid.* Texas was able to set up a new tax-exempt charity called Horns With Heart which promised to pay every Longhorn offensive lineman a salary of \$50,000.

²⁵ *Ibid.* Cameron Williams stated, "Me growing up, I really didn't have money. So, the \$50,000, it was just amazing, I was just thinking about helping out my family."

²⁶ *Ibid.*

²⁷ *Ibid.* One for-profit company called Yea Alabama releases few details about how it spends its money and declines to call itself a collective. The other collective is a tax-exempt charity called Walk of Champions. One of its members, Elliot Maisel, told the times that he estimated that the collective paid the football team \$2,500 per month, per player.

Texas A&M has the 12th Man Foundation that generates large amounts of money via donations. Texas A&M is in the process of a \$120 million Centennial Campaign that will fund a new 140-yard indoor football practice facility, a new academic and nutrition center for all athletes, and a new indoor track which is going to need \$88 million in pledges from donors.²⁸ Texas A&M has also been at the forefront of the NIL era.²⁹ Unfortunately for Texas A&M these large donations have not lead to the on-the-field success A&M was hoping to achieve, proving that the amount of money donors invest in their schools does not always create success.

Overall, a key to having success within the current college athletic system is to have a large donor base, but that is not always the case. As we have seen with Texas A&M, the donor base can do everything possible to allow the school to get the best players possible, but it is then up to the coaches to create success. Where donors have had a big impact is within athlete recruitment, where the transfer portal is more active than ever before, and players are making their decisions with money in mind. Next, it is important to examine where a school's athletic success, or lack thereof, has come from.

IV. Donors Transforming NIL and College Recruitment

Donor collectives are transforming the recruiting process within college basketball and football. A school's ability to raise funding can directly translate to their on-the-court or field success. Through the amount of money they give to schools, donors have a direct impact on athletic directors' ability to recruit transfer and high school athletes. With the rise of the transfer

²⁸Staples, A. (2022, April 27). *Texas A&M donors giving millions (for facilities and 'The Fund') with goal of dancing on Kyle Field for years to come*. The Athletic. Retrieved on May 6, 2024, from <https://theathletic.com/3273847/2022/04/27/texas-am-aggies-collective-donors-centennial-campaign-fundraising-kyle-field/>

²⁹ *Ibid.*

portal within both college basketball and football, college sports have opened their own version of free agency.

A legal free agency model within college sports is upon us. With the increasing use of NIL to recruit athletes, colleges must accept that this is the new model for how players are now going to make their college athletic decisions. The illegal practices of recruiting players with the possibility for money or fancy cars are now legal. Over thirty-five years ago, SMU conducted illegal recruiting practices, which would later be described as the “death penalty”.³⁰ In today’s industry, the benefits that were improper for SMU to convey to their players (cash, cars and housing) are now legal benefits players can receive for their play.³¹ Today, boosters are privately or publicly using name, image and likeness deals to bankroll their teams.³² For schools to have continued success, they must adjust to the new recruiting model of collegiate athletics if they want to be able to compete at a higher level.

A primary consideration for potential transfers and players coming into college is now on how much money and resources donors are pouring into the school’s athletic funding, and how much of this money is available to each individual athlete. A New York Times article stated that, “The rapid rise of big-dollar payments to student-athletes from so-called donor collectives has emerged as one of the biggest issues in college sports, transforming how players are recruited

³⁰ Dellenger, R. (2022, May 2). *Big Money Donors Have Stepped Out of the Shadows to Create ‘Chaotic’ NIL Market*, Sports Illustrated. Retrieved April 1, 2024, from <https://www.si.com/college/2022/05/02/nil-nameimage-likeness-experts-divided-over-boosters-laws-recruiting>. SMU coach Ron Meyer committed grave recruiting violations that destroyed the SMU program for two years.

³¹ *Ibid.* LSU’s Kayshon Boutte, one of the nation’s top receivers, nearly entered the transfer portal until a booster was able to offer him an NIL deal that kept him in Baton Rouge.

³² *Ibid.* College football’s biggest donors have orchestrated business ventures that are distributing five-, six- and seven-figures payments to athletes under the guise of endorsement and appearances. Also pooling millions in high-priced clubs to retain current players or high school prospects.

and encouraging a form of free agency for those looking to transfer.”³³ Within college football and basketball, athletes are making their decisions on which school to attend or transfer to solely based on how much money they can get from their next school.

Within college football, players in the Big Ten are making their recruitment decisions based on how much money they could get. A Michigan State player now makes 750,000 a year and some players at Ohio State get a free car lease.³⁴ Along with Ohio State and Michigan State in the Big Ten, the most success has been with Michigan and their recent Football National Championship. With the new recruiting model, the Big Ten has been able to take advantage and bring a lot of long-term success to their conference.

A specific example within the Big Ten was Cade McNamara, a quarterback who played at Michigan during their 2021 College Football Playoff, run but had entered the transfer portal after losing the starting job.³⁵ Iowa wanted Cade McNamara to be their next quarterback. Cade stated that money was an explicit part of his search for a new school, and he made his decision based on a deal he was offered from a collective from the University of Iowa.³⁶ From Cade McNamara to other high profile athletes within the Big Ten, it is evident that money is at the forefront of athletes’ minds when making their decision of where they are going to transfer to. Without donor backed collectives, schools like Iowa, Michigan State, Michigan, and Ohio State may not have been able to compete with SEC schools to recruit high profile transfers.

³³ Fahrenthold, D. & Witz, W. (2023, October 21). *How Rich Donors and Loose Rules Are Transforming College Sports*. The New York Times. <https://www.nytimes.com/2023/10/21/us/college-athletes-donor-collectives.html#:~:text=The%20rapid%20rise%20of%20big,for%20those%20looking%20to%20transfer>

³⁴ *Ibid.*

³⁵ *Ibid.* Cade McNamara stated, “Once it was put into writing, that’s when I knew what I would be getting if I went to Iowa.”

³⁶ *Ibid.* The Iowa Collective, “The Swarm”, hired Cade McNamara for a job delivering meals to seniors and visiting children in hospitals for \$600 per hour. The group also pays him even more from their for-profit arm to make ads for the collective’s corporate supporters.

The issue with large donations, specifically in the Big Ten, is making sure the donor back collectives are following the correct institutional guidelines. From the Big Ten institutional governance standards, successful coaches, major donors, and other persons of influence can seek to circumvent normal lines of authority and to exercise undue and improper influence over the actual responsible or accountable decision-makers.³⁷ Fans or boosters, in pursuit of personal agendas or through a misplaced desire to “help” their favorite programs, are drawn to interest with coaches and student-athletes in ways that may circumvent ordinary procedures or violate governing athletics.³⁸ Schools and conferences are becoming more aware of the increasing influence major donors can have over the decisions made within their athletic programs. Donors are pushing their personal agendas and hopes for their own athletic programs, and it is putting pressure on athletic departments to make tough decisions on whether to listen to donors or seemingly fail.

Football players are clearly making their transfer decision solely based on the donor base schools have. The question then remains as to how this has affected the other collegiate sports, with the major one being college basketball. The transfer portal has been more active than ever within college basketball. The top schools are not getting their best players from high school or recruiting like in the past, but from smaller Division I schools. Around this time last year, more than 1,800 players, about one-third of the Division I basketball population, put their names in the transfer portal.³⁹ In 2024, following the early rounds of the NCAA tournament, more than 900

³⁷ Standards for Safeguarding Institutional Governance of Intercollegiate Athletics. The Big Ten Conference. https://universityethics.psu.edu/assets/uploads/documents/Big10_InstitutionalGovernanceStandards.pdf. The guidelines outline the risks associated with failing to implement good governance policies within the Big Ten.

³⁸ *Ibid.*

³⁹ Neiburg, J. (2024, March 26). *NCAA men's basketball transfer portal already loaded and impacting big 5 schools*. The Philadelphia Inquirer. Retrieved April 1, 2024, from <https://www.inquirer.com/college-sports/ncaa-basketball-transfer-portal-villanova-la-salle-temple-penn-20240326.html>

men's basketball players were in the NCAA's transfer portal and there is more to come within the next couple of weeks.⁴⁰

The increase of activity within the transfer portal is due to the changes within the NCAA transfer eligibility rules and *Ohio v NCAA*. In *Ohio v NCAA*, the court ruled that the NCAA is enjoined from enforcing the Transfer Eligibility Rule, NCAA Bylaw 14.5.5.1, insofar as it requires a transferor to sit out for an academic year of residence.⁴¹ *Ohio v NCAA* arose when seven plaintiff states filed suit against the NCAA, alleging that the NCAA's transfer eligibility rule is an illegal restraint on college athletes' ability to market their labor and control their education.⁴² The states assert that Division I college athletes subject to the Transfer Eligibility Rule will suffer immediate and irreparable harm by continuing to be barred from competing this season in their sport and by facing transfer decisions burdened by the risks of eligibility that the rule imposes on second time transfer students.⁴³

The transfer portal playing requirements within the NCAA are constantly evolving. The NCAA has begun a new transfer rule that will allow undergraduate athletes to transfer and play immediately if they meet specific academic requirements.⁴⁴ The rule will provide immediate eligibility to any athletes who transferred during the 2023-2024 season.⁴⁵ The proposed legislation will not limit the number of times an athlete can transfer, but they cannot transfer

⁴⁰ *Ibid.*

⁴¹ *State of Ohio, et al. v. NCAA*, 2023 WL 9103711, at *42 (N.D.W. Va. Dec. 13, 2023).

⁴² *Id.* at 7.

⁴³ *Id.*

⁴⁴ Dinich, H. (2024, April 17). *NCAA approves new transfer rule allowing immediate eligibility*. ESPN. Retrieved April 19, 2024, from https://www.espn.com/college-football/story/_/id/39963389/ncaa-approves-new-transfer-rule-allowing-immediate-eligibility

⁴⁵ *Ibid.* When asked about the transfer portal, Oregon Coach Dan Lanning stated, "I think it is going to make it harder and harder if guys become multiyear transfer guys for them to actually have a college degree."

midyear and play for a different team within the same season.⁴⁶ The impact the transfer portal and NIL are having on college basketball and football is only in the beginning stages.

Players are entering the college basketball transfer portal at an exponential rate. Donors can influence the transfer portal through NIL collectives. Jason Belzer, the co-founder and CEO of Student Athlete NIL stated, “It’s pretty clear – I would say that every single school that we work with has had at least one student-athlete enter the portal and do so unexpectedly, meaning that essentially the school thought that they were coming back, everything looked good and now they’re in the portal, and it’s pretty clear that somebody’s getting into their ear.”⁴⁷ The best players who enter the portal are hoping to sign agreements worth \$250,000 to 400,000 per year.⁴⁸ The hope for players entering the transfer portal has changed from where can they have the most success, to where can they get the most money through NIL. The more money that donors can pour into NIL collectives, then the more success their school is likely to have in landing the high-profile transfers.

It is already becoming clear that collectives are impacting college athletics at a time when the ability to regulate when and how players can be compensated is undergoing significant change.⁴⁹ According to data the *New York Times* received from Opendorse, a platform for NIL deals, the average starting player at one of the universities in Power Five conferences now earns \$103,000

⁴⁶ *Ibid.* Previously, the NCAA’s one-time transfer rule allowed athletes to play immediately at the first school they transferred to but had to then sit out a year if they transferred again or apply to the NCAA for a waiver.

⁴⁷ Wittry A. (2023, April 14). *Inside NIL collectives’ strategies to men’s basketball’s transfer portal*. ON3NIL. Retrieved on April 2, 2024, from <https://www.on3.com/nil/news/college-basketball-transfer-portal-nil-collectives-deals-name-image-likeness/>

⁴⁸ *Ibid.* A mid major men’s basketball program might have an annual budget of \$25000 for the sport, while the collective for a Power Five school may have \$250,000 for one individual player.

⁴⁹ Lederman, D. (2023, October 23). *Report Documents Rise of ‘Donor Collectives’ in College Sports*. Inside Higher Ed. Retrieved on April 1, 2024, from <https://www.insidehighered.com/news/students/athletics/2023/10/23/report-documents-rise-donor-collectives-college-sports>

a year, with about \$80 million of the total of \$100 million coming from the donor collectives.⁵⁰

With the large amount of money being given to athletes going to a Power Five school, there is no hiding the fact that the motivating factor for transfers leaving smaller schools to a Power Five school is the potential to make a lot of money. Mid-majors' colleges are impacted by the transfer portal the most because they are continually losing their best players because they cannot compete with the amount of money these athletes will make at Power Five schools.⁵¹

The transfer portal in college athletics has altered the competitive balance between Power Five schools and small to Mid-major schools whose top players are transferring to schools with a higher donor collective.⁵² The Missouri Valley Conference is a prime example of Mid-major schools losing their top players to Power Five colleges. Following the 2023-2024 college basketball season, the transfer portal included 75 players overall from the Missouri Valley Conference and 12 of the 16 players voted to the Missouri Valley Conferences' three all-conference teams.⁵³ We are going to continue to see more and more players enter the transform portal, especially those players from the small to Mid-major schools.

With NIL funding, it is important to examine the legality of donor collectives, as well as athletes' status as amateurs. The NCAA has been clear that athletes are not employees. Although

⁵⁰ *Ibid.* A report conducted by the New York Times found that these were the statistics among the 120 collectives that have been formed thus far.

⁵¹ Rhoden, W. (2024, April 8). *Welcome to the Final Four in the Age of the Transfer Portal*. Andscape. Retrieved on April 20, 2024, from <https://andscape.com/features/welcome-to-the-final-four-in-the-age-of-the-transfer-portal/>. Programs have become birds of prey, with Power Five programs feasting on mid-majors and mid-majors plucking ripe players from historically Black colleges and universities.

⁵² *Ibid.* Wisconsin Badgers basketball coach Bo Ryan stated, "The high majors can just pick and choose which kids they think fit their program best or that they think can play and compete at that level, so you're always going to be up against it." Ryan also said he is seeing fellow mid-major coaches lose their top players every year.

⁵³ Eminian, D. (2024, April 9). *Which Missouri Valley basketball players are in the NCAA transfer portal? Here's the List*. Peoria Journal Star. Retrieved on April 20, 2024, from <https://www.pjstar.com/story/sports/college/basketball/bradley-hoops/2024/03/20/ncaa-transfer-portal-missouri-valley-conference-mvc-players-transferring-for-2024-25/73024764007/>

the *Alston* case allowed for third parties to pay athletes, the idea that they are employees has not been accepted by the NCAA.⁵⁴

In *Berger v NCAA*, a case from the 7th circuit, the appellants were former students at Penn who participated on Penn's woman's track and field team.⁵⁵ The athletes sued Penn, the NCAA, and more than 120 other NCAA Division I member schools, alleging that student athletes are "employees" within the meaning of the FLSA.⁵⁶ In *Berger*, the 7th circuit ruled that the appellants had not and could not allege that the activities they pursued as student athletes qualified as work sufficient to trigger the minimum wage requirements of the Fair Labor Standards Act.⁵⁷ The court concluded, as a matter of law, that student athletes are not employees under the FLSA.⁵⁸

Another case within the Ninth circuit also shut down a challenge from an athlete that they were considered an employee under the Fair Labor Standards Act. In *Dawson v National Collegiate Athletic Association*, Dawson played football for the University of Southern California ("USC"), and he was claiming that the NCAA and Pac-12 were his employers under federal and state law.⁵⁹ Dawson alleged that the NCAA and the Pac-12 acted as an employer of the class members by "prescribing the terms and conditions under which student-athletes perform services. Dawson claims that the NCAA and Pac-12 failed to pay wages to the athletes."⁶⁰ The court ruled that Dawson was not an employee of the NCAA and the Pac-12 conference in the meaning of the FLSA because the NCAA and Pac-12 were regulatory bodies,

⁵⁴ See *NCAA v Alston*, 141 S. Ct. 2141, 2168 (2021) (holding that the NCAA violated the Sherman Act by limiting the education-related benefits schools could offer student-athletes, such as rules limiting scholarships for graduate or vocational school, payments for academic tutoring, or paid post eligibility internships).

⁵⁵ *Berger v. Nat'l Collegiate Athletic Ass'n*, 843 F.3d 285, 289 (7th Cir. 2016).

⁵⁶ *Id.*

⁵⁷ *Id.* at 294.

⁵⁸ *Id.*

⁵⁹ *Dawson v. Nat'l Collegiate Athletic Ass'n*, 932 F.3d 905, 907 (9th Cir. 2019).

⁶⁰ *Id.*

not employers, of student-athletes under the FLSA.⁶¹ As long as the NCAA continues to consider athletes amateurs, the way donors are able to compensate athletes will not change.

The NCAA has taken a deeper dive into the legality of donor contributions within NIL collectives. As we have seen in the past few months, there are movements among the attorney's general in Tennessee and Virginia that the NCAA has no right to stop boosters of college sports from paying players.⁶² These cases begun in January of 2024 when the attorneys general of Tennessee and Virginia filed suit against the NCAA, saying the body that regulates college athletics has no right to block the practice of wealthy boosters paying to attract top recruits.⁶³ The NCAA had started to investigate the University of Tennessee's football program for recruiting violations involving a donor group that arranges to pay athletes.⁶⁴

The NCAA was investigating the University of Tennessee to examine the donor group's role in flying a high-profile recruit to campus on a private jet while the football team was recruiting him.⁶⁵ If the booster group was to pay for the trip to recruit the quarterback, Nico Iamaleava, this would be a violation of NCAA rules.⁶⁶ If this case is any indication, it is only the beginning of possible recruiting infractions done by college teams. Since the introduction of NIL, top tier sports programs in college football and basketball have been filled with coaches openly

⁶¹ *Id* at 913.

⁶² Fahrenthold, D. & Wiltz, B. & Schmidt, M. (2024, January 31). *Suit Seeks to Block NCAA Limits on Athletic Donors*. The New York Times. Retrieved April 1, 2024, from <https://www.nytimes.com/2024/01/31/us/politics/lawsuit-ncaa-athletic-donors.html>

⁶³ *Ibid*.

⁶⁴ *Ibid*. It could set up a broad legal battle that is still ongoing over the nature of college athletics, which is in a crazy fast transition from a complete amateur system to an unfettered kind of professional market.

⁶⁵ Schmidt, M., & Fahrenthold, D., & Witz, B. (2024, January 30). *NCAA Inquiry Takes On Growing Role of Booster Groups*. The New York Times. Retrieved April 1, 2024, from <https://www.nytimes.com/2024/01/30/us/ncaa-tennessee-booster-group-violation.html>

⁶⁶ *Ibid*. During the investigation, the *New York Times* had counted at least 140 collectives operating at schools with big-time football and basketball programs, and collectives now account for about 80 percent of all NIL payments to athletes.

exhorting alumni and other backers to keep them competitive.⁶⁷ Overall, donor backed collectives are promising, and eventually paying, salaries to athletes to come play for their school.⁶⁸

The court agreed with Tennessee and Virginia, holding that they were likely to succeed in the lawsuit and that the recruiting ban would suppress price competition by limiting student-athletes negotiation power.⁶⁹ The investigation led the court to rule that although member schools are still prohibited from engaging in NIL talks with prospective or transfer students, third party boosters are still allowed to engage in these talks due to the injunction.⁷⁰ Overall, boosters are still allowed to talk to recruits or potential transfer student-athletes until the court reaches a full decision on the case.⁷¹

The landscape of schools being able to directly compensate athletes has already taken force. A new Virginia law is set to be passed allowing schools to pay athletes for NIL.⁷² The new law, which will take effect July 1, 2024, is the first to make it illegal for the NCAA to punish a school for compensating athletes for their NIL rights.⁷³ When the law comes into effect this could give a distinct advantage to Virginia schools within recruitment.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ Walker, D. (2024, March 12). *Tennessee Federal Court Issues Preliminary Injunction Blocking NCAA's NIL Restrictions*. Ogletree Deakings. <https://ogletree.com/insights-resources/blog-posts/tennessee-federal-court-issues-preliminary-injunction-blocking-ncaas-nil-restrictions/#:~:text=The%20State%20of%20Tennessee%20and,law%20and%20harmed%20student%20athletes>

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² Murphy, D. (2024, April 18). *Virginia law allows schools to pay athletes for NIL*. ABC News. Retrieved on April 24, 2024, from <https://abcnews.go.com/Sports/virginia-law-allows-schools-pay-athletes-nil/story?id=109385845#:~:text=The%20new%20law%2C%20which%20is,deals%20with%20their%20own%20players>

⁷³ *Ibid.* Schools within Virginia will now be able to pay athletes directly for the NIL deals they sign.

Overall, it is evident that the NCAA is trying to crack down on NIL collective donations and ensuring that players are not getting paid directly. Over the last couple of months, the NCAA has investigated other Power Five schools as well, and imposed sanctions for their proposed recruiting violation. The NCAA imposed penalties against Florida State, after a football coach there drove a potential transfer student to a meeting with a collective representative.⁷⁴ At the meeting, the booster offered the player a per month salary to come play for Florida State.⁷⁵

Donors must be continually aware of their actions to ensure they are not offending or breaking any NCAA regulations. For donors to continue their large sum of donations to help recruit athletes, they need to make sure to not offend the athlete's status as amateurs and to continue to follow the NCAA regulations. While the idea of athletes getting paid is so new, it is important that athletic directors are focusing on what the donor collectives are doing, and making sure they are not violating any rules that could result in sanctions against their sports teams.

V. Donors Impact on Coaching Decisions

Over the past couple of decades, donors have become increasingly involved in the coaching decision process. Whether it is hiring or firing coaches, figuring out how to fund a coaching buyout, or conference alignments, it has been evident that donors have control over whether schools have been able to replace their coach. When a coach is having prolonged failures within an organization, there is a lot of uproar among outside donors and alumni to get rid of the coach

⁷⁴ Walker, D. (2024, March 12). *Tennessee Federal Court Issues Preliminary Injunction Blocking NCAA's NIL Restrictions*. Ogletree Deakings. <https://ogletree.com/insights-resources/blog-posts/tennessee-federal-court-issues-preliminary-injunction-blocking-ncaas-nil-restrictions/#:~:text=The%20State%20of%20Tennessee%20and,law%20and%20harmed%20student%20athletes>

⁷⁵ Gluckman, N. (2024, January 31). *NIL Donor Collectives Are Drawing Scrutiny. How Do They Work?* The Chronicle of Higher Education. Retrieved on April 20, 2024, from <https://www.chronicle.com/article/nil-donor-collectives-are-drawing-scrutiny-how-do-they-work>. At the meeting the booster offered a contract “worth approximately \$15,000 per month during his first year at the school.” The player declined the offer.

and hire someone new. When there is the decision to hire someone new, athletic departments look to donors to help them fund the coaching change.

The college coaching hiring decision has a vast effect on the perceptions and opinions of donors. A specific example of the effect an unpopular coaching hire has had on donors is Robert G. Burton. In 2011, Robert G. Burton demanded his donation back from the University of Connecticut after their new head coaching hire.⁷⁶ Burton demanded that the university return \$3 million and remove his name from a building because it did not consult with him before hiring its new head coach.⁷⁷ Burton expressed anger that UConn athletic director, Jeff Hathaway, did not include him in the process of searching for a new coach and in the hiring of the former Syracuse coach.⁷⁸ Although the story is from over a decade ago, it shows the disdain donors have if they are not included in the coaching decision, and the potential effect these decisions can have on athletic departments ability to raise substantial money in the future. If donors threaten to pull their donations based on a decision the athletic director is planning on making, this limits the athletic director's decision-making power.

Throughout the coaching decision process over the last few years, it has become more evident that if a coach is not having success, donors will do what they can to get rid of their respective coach. Wealthy donors exercise sway over their beloved teams by using their money to affect critical decisions, particularly the hiring and firing of coaches.⁷⁹ M. Dianne Murphy,

⁷⁶Zinser, L. (2011, January 25). *After UConn Picks Coach, Donor Asks for His Money Back*. The New York Times. <https://www.nytimes.com/2011/01/26/sports/ncaaf/football/26donor.html>. Robert G. Burton, the chief executive of Burton Capital Management, had donated 47 million to the program, including \$2.5 million to have his name on the football complex.

⁷⁷ *Ibid.* The UConn athletic director noted that beyond allowing donors to suggest what their gifts benefit, universities do not let donors dictate the terms of their donation.

⁷⁸ *Ibid.*

⁷⁹ Diamond, J., & Bachman, R. (2023, December 17). *Donors Pushing Around School Presidents? Higher Education Has Become College Football*. The Wall Street Journal. <https://www.wsj.com/sports/football/college-donors-school-presidents-athletics-f2eb3c91>

who served as the athletic director at Columbia from 2004 to 2015 stated, “You do listen to your big donors sometimes, they’re more powerful than you know.”⁸⁰ The influence of donors is directly hitting athletic directors and their decision-making process. It seems like an impossible task for athletic directors to make the hiring decision of coaches without considering who the donors want to hire.

Power, control, and the need for constant success fuels donors to give large amounts of money for their new coach. Boosters feel a sense of ownership over their school’s teams and they expect athletic directors and school president’s to listen to their opinions.⁸¹ M. Dianne Murphy again stated that, “when he or she is faced with the kind of pressure from the rich booster, from the donors, that puts a lot of pressure on the president or the chancellor, what are they going to do?”⁸² What they are going to do is listen to what the donors have to say because their money gives them the best chance for future success.

Along with the hiring and firing of coaches, schools must obtain funds to handle these multimillion-dollar coaching buyouts. To properly explain the coaching buyout process, it is important to look at the University of Nebraska coach Scott Frost as an example. Frost was fired three games into the Cornhuskers’ 2022 season, ending with a 16-31 record in his less than five-year tenure.⁸³ He had four years remaining on his contract, meaning Nebraska owed him a \$15 million buyout.⁸⁴ The money for the buyout came from the boosters. Because the donors give the

⁸⁰ *Ibid.*

⁸¹ *Ibid.* A prominent Washington booster, lawyer Ed Hansen, pledged to donate \$200,000 to fund two law school scholarships if the university fired its football coach and athletic director. (Coach remained, but the athletic director had announced he would resign by the time the pledge was public.)

⁸² *Ibid.* Susan Herbst, UConn’s incoming president stated, “The job of a president is to listen to everyone, navigate competing interests and try to make sense of it in light of what’s best for your university.”

⁸³ Lloyd, J. (2022, September 28). *The Importance of the Buyout for College Football Coaches*. Sportico. <https://www.sportico.com/leagues/college-sports/2022/college-football-coaches-buyout-1234689739/>

⁸⁴ *Ibid.* If Nebraska had waited until October 1 to fire Frost, the school would have saved \$7.5 million in buyout money, but instead they fired him on September 10 because of a disappointing loss.

school the ability to buy out a coach's contract, they have a lot of control over when a school will exercise their buyout rights.

The introduction of NIL into the college sports space has also had an impact on coaching. With NIL, boosters are pooling their millions to entice the biggest stars with lucrative endorsement deals.⁸⁵ Andy Schwarz, an antitrust economist who has consulted on cases challenging NCAA rules on the topic of boosters said, "They are essentially low-budget major-league team owners, it's, 'I can't afford to buy an NBA team, but I can afford to be one of 10 guys running the A&M program.'"⁸⁶ The college football coaching decision for Texas A&M has been an interesting one to study over the past couple of years. Texas A&M fired their coach Jimbo Fisher despite owing him nearly \$77 million. Jimbo Fisher held a record of 45-25 over the course of six seasons with Texas A&M but never made a College Football Playoff.⁸⁷ That is the distinct reality of college sports nowadays, you can have a successful regular season, but if you do not have the postseason success, donors will pay millions of dollars for you not to be their head coach.

When looking at Scott Frost's and Jimbo Fisher's much larger buyout, athletic directors' hands are tied when there is outside pressure to remove a coach. The effect of the buyout is not being able to use the money on other things within the university. When a coach gets fired, he receives the buyout, but when the coach gets hired to go to a different university, the university

⁸⁵ Diamond, J., & Bachman, R. (2023, December 17). *Donors Pushing Around School Presidents? Higher Education Has Become College Football*. The Wall Street Journal. <https://www.wsj.com/sports/football/college-donors-school-presidents-athletics-f2eb3c91>

⁸⁶ *Ibid.* Schwarz was referring to Texas A&M because of their firing of coach Jimbo Fisher.

⁸⁷ *Ibid.* Texas A&M athletic director Ross Bjork said the 12th Man Foundation would cover the first lump-sum payment to make Fisher go away.

receives the buyout.⁸⁸ This may sound beneficial for the school, which it can be, but having to pay large buyouts hampers the university further by not allowing them to use their fundraised money to upgrade facilities or to spend on its academic programs.⁸⁹ When donors are giving the buyout money so they can hire a new coach, it is unlikely they care about or are thinking about how this could affect the university outside of athletics.

On the other hand, buyouts can be beneficial for coaches because it provides the coach with job and financial security.⁹⁰ Whether buyouts prove to be beneficial for all schools or only the Power Five universities, the one thing that they are is inevitable and the continued norm within coaching contracts.⁹¹ If the trend of college buyout clauses continues and the model for how the revenue is redirected does not change, that could lead to substantial losses for athletic departments.⁹² Substantial losses for athletic departments could lead to needing more donations. Whether donors can handle these large buyout amounts and continue to donate to NIL funding, facilities, and other athletic funding has yet to be seen.⁹³

Donors have also had their hand in the conference realignment decision making process. The effect of conference realignment is a massive change for the players on the field, and only the

⁸⁸ *Ibid.* Buyouts are a major aspect of coaching contracts in today's college football landscape, and they determine how much a coach should receive when fired without cause and protect the university from losing the coach to a different university.

⁸⁹ *Ibid.*

⁹⁰ Havekost, K. & Nielsen, J. (2023, November 17). *College Coaching Contracts and the Future of "Buyouts"*. Bricker Graydon. Retrieved on April 3, 2024, from <https://www.brickergraydon.com/insights/publications/College-Coaching-Contracts-and-the-Future-of-Buyouts#:~:text=Buyouts%20are%20common%20in%20coaches,if%20they%20are%20terminated%20early>

⁹¹ Associated Press. (2023, November 15). *Big Buyouts for College Coaches Are the Norm. if Athletes Start Getting Revenue, That Could Change*. US News & World Report. <https://www.usnews.com/news/sports/articles/2023-11-15/big-buyouts-for-college-coaches-are-the-norm-if-athletes-start-getting-revenue-that-could-change>

⁹² *Ibid.* Sports economist Andrew Zimbalist says the big contract buyouts paid to fired coaches will continue to grow until the college sports business model changes.

⁹³ Havekost, K. & Nielsen, J. (2023, November 17). *College Coaching Contracts and the Future of "Buyouts"*. Bricker Graydon. Retrieved on April 3, 2024, from <https://www.brickergraydon.com/insights/publications/College-Coaching-Contracts-and-the-Future-of-Buyouts#:~:text=Buyouts%20are%20common%20in%20coaches,if%20they%20are%20terminated%20early>

schools that had enough revenue were able to make the conference switch.⁹⁴ Among the Power Five conferences, the SEC is first in revenue, the Big Ten is second, the Pac-12 is Third, the ACC is fourth, and the Big 12 is fifth.⁹⁵ The schools that are planning to join the SEC and Big Ten in the 2024-2025 season acquired their revenue partly from donor contributions.⁹⁶ Without the large percentage of donations, a schools ability to move into the top conferences such as the SEC or Big Ten would have been limited.

Aside from college football, college basketball coaching has been greatly affected by the transfer portal and use of NIL. With college coaches, they must start recruiting immediately after the end of their season and be active within the transfer portal to maintain their success. Sustaining long-term success through recruiting in the portal is also difficult. Jerome Tang and his Kansas State coaches used the transfer portal with great success in Year 1 with an Elite Eight trip, but then found less success the following season by missing the tournament.⁹⁷ To put it simply, the game of college basketball has changed, and the era of building a team with young talent no longer works.⁹⁸

When there is an unsuccessful coaching decision, it is the athletic directors and head coaches who must handle the backlash, not the donors. Donor's control over college coaching decisions

⁹⁴ Sinhasan, M. (2023, October 17). *The Finances Behind Conference Realignment*. Blaze Radio Online. <https://www.blazeradioonline.com/article/2023/10/the-finances-behind-conference-realignment>

⁹⁵ *Ibid.* The SEC has revenue of \$2,168,587,358, the Big Ten has revenue of \$2,041,265,014, the Pac-12 has revenue of \$1,144,504,032, the ACC has revenue of \$1,071,884,526, and the Big 12 has revenue of \$1,066,493,140.

⁹⁶ *Ibid.* UCLA has a revenue of \$103.06 million, 19% from donor contributions, Washington has a revenue of \$145.18 million, 26% of which comes from donor contributions, Oregon has a revenue of \$153.51 million, 26% of which is donor contributions, Texas has revenue of \$239.29 million with 33% coming from donor contributions, and Oklahoma has revenue of \$177.32 million, 24% of which comes from donor contributions.

⁹⁷ Trotter, I. (2024, April 1). *Predicting the offseason decisions for Duke basketball's top returners ahead of Cooper Flagg's arrival*. 247SPORTS. <https://247sports.com/longformarticle/predicting-the-offseason-transfer-portal-decisions-for-duke-basketballs-top-returners-ahead-of-cooper-flaggs-arrival-229731108/>

⁹⁸ Neumann, S. (2024, March 22). Jay Wright: Building with young talent no longer works in college hoops. Awful Announcing. <https://awfulannouncing.com/college-basketball/jay-wright-building-young-talent-era-over.html>

is making it difficult for the coaching department and coaching search. Pair that with NIL, and it seems almost impossible for these coaches to sustain the long-term success we have seen in the past with Nick Saban, Jay Wright, Mike Krzyzewski, and others.

Donors controlling coaching decisions and coaching buyouts has become the norm within college sports, and coaches must adjust to keep their jobs and have long-term success. Along with coaches, athletic directors must accept that their job is directly controlled in part by donors, and they must work with them or watch their school's athletics fail. Unfortunately, it is the athletic directors that must continue to make the tough decisions and take the blame for the school's failure.

VI. Donor Impact on the Future of College Athletics

After examining the impact of donors throughout the major collegiate athletic decisions, we must determine if the NCAA can uphold an organizational structure that is directly controlled by donors' money. If this model continues, it is likely that college athletics will turn into the same model as a professional sports organization, but on a smaller scale. College football and basketball will turn into leagues where four or five schools continually dominate the transfer portal and NIL funding, and there is a revolving door of coaches being bought out because schools are trying to catch up. Outside of donors, college sports are also dealing with congress, multiple legal decisions, and billion-dollar television contracts as well.⁹⁹

The current model puts a ton of pressure on coaches to keep their jobs and learn how to recruit with NIL and the transfer portal, which is crucial for long-term success and retaining top-

⁹⁹ Thamel, P. (2024, January 26). *As college sports faces more change, is private equity money coming in?* ESPN. https://www.espn.com/college-football/story/_/id/39394344/future-ncaa-college-athletics-money-private-equity

tier athletes.¹⁰⁰ It is up to athletic directors and coaches to find ways to work with donors to succeed. Although, as we have seen, creating the largest NIL collective base, or getting the most transfers does not guarantee the most success, it allows teams to remain competitive.

On the other side of large donor contributions, there is also donor fatigue. Donor fatigue is a complaint from fans who have already donated a lot of money for tickets and are now asked for more money to pay for better players.¹⁰¹ It is the view of some fans and collective directors that the current donor collective and NIL model is not sustainable.¹⁰² There is some understanding among fans and donors that they may have been already asked for too much from their respective school.

Donor fatigue is also felt and recognized within the athletic departments of major universities. Athletic directors at Power Five schools are worried about the sustainability of NIL contributions.¹⁰³ The worry that NIL collectives may be dwindling in their donation amounts has made athletic directors reexamine on if they NIL contributions should be controlled by the schools themselves.¹⁰⁴ It will be interesting to see if donor backed collectives can continue to succeed in the future if the amount of money needed to keep them going continues to increase.

¹⁰⁰ Bolton, J. (2023, December 13). *The Future of College Sports: How Wealthy Alumni and NIL Collectives Will Shape the Game*. Fan Arch. <https://fanarch.com/blogs/fan-arch/the-future-of-college-sports-how-wealthy-alumni-and-nil-collectives-will-shape-the-game>

¹⁰¹ Emerson, S. (2024, March 7). *Donor fatigue: Some college football fans wonder why they have to pay for players*. The Athletic. <https://theathletic.com/5321481/2024/03/07/college-football-donors-nil-fans/>

¹⁰² *Ibid.* Walker Jones, executive director of The Grove Collective, which supports Ole Miss athletes stated, “I think there’s an understanding that donor-led and fan-led model is not equitable and sustainable.”

¹⁰³ Postins, M. (2024, March 3). *TCU Athletic Director Talks NIL Donor Fatigue*. NILFN. <https://www.si.com/fannation/name-image-likeness/news/tcu-athletic-director-talks-nil-donor-fatigue-matt9#:~:text=Donor%20fatigue.,to%20run%20out%20of%20gas>. TCU athletic director Jeremiah Donati stated that he thinks a lot of NIL collectives around the country are running out of gas.

¹⁰⁴ *Ibid.* Jeremiah Donati would prefer if the NIL collective was controlled by the university.

With NIL collectives dominating the transfer portal and recruitment, there is an added layer among athletic departments to build up the largest alumni donation base they can, to recruit the most high-volume talent. The NCAA is only going to try to get more and more strict on NIL regulation as time goes on, and it may be up to the state or school to fight the various laws. In the future years, there is going to be a constant battle between schools and the NCAA for recruiting violations with NIL collectives.

Donors will continue to have control over the decisions made within athletic departments. Whether it is made public by the University or not, the amount of money donors give will have a direct impact on universities' ability to recruit and hire the coach they want. As college sports become more and more professionalized, there are more avenues for donors to get involved in the decision-making process.¹⁰⁵ As coaches must change their perspectives of recruitment, and athletic directors change their perspectives of coaching hiring decisions, donors must change their perspectives to be more vigilant of the changing environment of college athletics.

Overall, donor control over college athletic decisions is at an all-time high. The best method for a college football or basketball team to have success is to accept donor influence and legally work with the donors. With the rise of NIL, donor-backed collectives, and the increasing use of the transfer portal, colleges are going to have to continue to raise funds through donors. Whether working with donors turns out to be successful or not, they have influence over the most important decisions within the athletic department and that is only going to increase.

VII. Conclusion

¹⁰⁵ Yaeger, D. (2024, January 3). *Just As College Sports Change, So Must We All or Risk Irrelevance*. Forbes. <https://www.forbes.com/sites/donyaeger/2024/01/03/just-as-college-sports-change-so-must-we-all-or-risk-irrelevance/?sh=2ba15da9689d>

Donors have a strong hold on athletic directors' decision-making process. Whether it is deciding which coach to hire, which player to recruit, or which conference to join, donors give athletic departments the ability to make all these decisions. For the future of college athletics, it is evident that donors will continue to be involved as the college sports landscape continues to change and athletes are allowed to get compensated. As the transfer portal becomes more and more active and the laws holding back transfer and NIL payments becomes less and less strict, the movement of players and amount of outside money coming into college sports will only continue to increase.