

## **Fantasy Sports and Gaming Association Position Paper: Protecting Collegiate Athletes in the Age of Legal Wagering**

### **Sports Betting Overview**

In 2018, the United States Supreme Court struck down the Professional and Amateur Sports Protection Act (PASPA), thereby allowing states to pass laws authorizing and regulating sports wagering. At the time only Nevada had full-scale sports wagering. Today, sports wagering has been authorized in 39 states plus Washington, DC and Puerto Rico. 31 of these states allow online sports wagering.<sup>i</sup>

Objectively, legal sports wagering has been a successful policy choice, leading to significant economic development and tax revenue for states that have authorized it. Further, the availability of legal sports wagering options has helped mitigate the pervasive reach and network of offshore sports wagering websites and illegal bookies, drawing millions of U.S. consumers to a safer, more transparent legal market that provides robust integrity protections. Additionally, legal sports wagering has bolstered interest and viewership in collegiate sports, creating billions of dollars of economic value for the NCAA, collegiate athletic conferences, and individual universities.

Sports wagering operators, state regulators, and collegiate athletic programs and conferences have all worked together to develop information sharing and monitoring protocols to protect the integrity of athletic competitions. While always a work in progress, the integrity protections inherent in the legal, regulated, sports wagering marketplace have proven effective, creating a level of transparency that is entirely absent in the illegal and unregulated betting world.

Over the last two years, NCAA President Charlie Baker has prioritized student-athlete mental health, and focused on potential impacts from the rise of sports wagering.<sup>ii</sup> In March, 2024, Mr. Baker raised concerns that collegiate athletic wagering, especially those wagers involving the performance of a single athlete, have given rise to an unforeseen amount of athlete harassment from peers on campus and in the stands, as well as fans and bettors on social media platforms. Citing this uptick, he has called upon state regulators and lawmakers to ban the availability of prop bets on college athletics, leading to several states' decision to disallow this form of wagering.

Prop bets typically involve an individual athlete or team's statistical output that is not directly tied to the final outcome of the competition. For example, a popular form of football prop betting entails whether or not a particular athlete will achieve a given amount of rushing or receiving yards in a single game, across multiple games, or an entire season of competition. College football and men's college basketball comprise almost the entire market for college prop wagers, although women's college basketball has seen a tremendous resurgence in popularity and corresponding gambling interest in the last two years. Prop wagers on other NCAA team and individual-driven sports are not widely available in the legal market.

As this paper will detail, the NCAA proposal to ban college prop betting is well-intentioned, but will likely undermine the safety of the collegiate athletes and the integrity of collegiate events that the NCAA seeks to protect. States that choose not to offer a full slate of popular sports

wagering options, including collegiate wagering, risk losing revenue and empowering the offshore and illegal markets that will continue to offer these types of wagers.

Rather, the NCAA should direct their focus on player safety by addressing the underlying issue of athlete harassment directly, as outlined below.

### **Illegal and Offshore Sports Betting Still Poses a Threat**

Any discussion of sports betting must acknowledge that there remains a significant illegal market for sports wagering, in the form of offshore websites and local bookies of varying sophistication – ranging from individuals taking sports bets to large criminal networks that engage in other illegal activities including, most notably, money laundering, blackmail and criminal coercion of athletes.

The existence of the illegal market is relevant to the discussion of integrity and athlete protection because it operates without the regulatory safeguards and transparency inherent in the legal market. Sunlight may be the best disinfectant, but the illegal market is akin to a windowless basement. The NCAA is better served by a legal, regulated market, and should have a vested interest the effort to put an end to illegal gambling once and for all.

While the legal sports wagering market has successfully converted millions of consumers from illegal options, the offshore sports wagering market is still thriving, existing comfortably beyond the reach of state-level regulators and law enforcement. The American Gaming Association estimates that illegal sports wagering operators still handle some \$63.8 billion of US customers' dollars each year.<sup>iii</sup>

In several states, including California and Texas, the legalization of sports wagering has proven an insurmountable political and situational challenge, leaving illegal options as the only outlet for this popular activity for the time being. Additionally, in the 9 states that restrict sports wagering to physical locations, many consumers still seek the convenience of offshore websites, despite their tenuous legal standing.

Finally, the illegal sports wagering market can be appealing because of the promotions and bonuses they offer, as well as the ability to bet on credit. Legal sports wagering operators are forbidden from offering bets on credit in every US jurisdiction, and the relatively high regulatory costs and tax burdens shouldered by legal operators limit their ability to offer the same extent of promotions as those offshore operators who pay no tax and scoff at the concept of regulatory compliance. The illegal sports wagering market is also an outlet to consumers for nefarious reasons such as avoiding income tax liability, money laundering or to conceal corrupt activity including match fixing or trading on insider information.

### **The Legal Market's Regulatory Protections are Essential to Athlete Safety and Game Integrity**

The widespread proliferation of legal sports betting has shone new light on the integrity concerns inherent in all athletic competition, including collegiate, amateur, and professional sports. This has given rise to robust efforts across the spectrum of athletic organizations, conferences, member universities and professional leagues to institute sports integrity monitoring and information sharing protocols.

Additionally, collegiate athletic conferences and member schools have widely instituted comprehensive athlete compliance and safety training to ensure that referees, team personnel and other related individuals are aware of risks and compliant with codes of conduct concerning gambling activity.

States with legal sports wagering have implemented rules, regulations and laws requiring these pillars of integrity protection, reflecting the mutual understanding that regulators, sportsbook operators and athletic organizations share in developing a safe yet stringent environment to protect athletes and ensure that the integrity of competition remains paramount.

The American Gaming Association's Responsible Marketing Code prohibits sports wagering operators from entering into agreements with colleges to promote sports wagering, and prohibits NIL deals between sportsbooks and college athletes.<sup>iv</sup>

The NCAA threatens permanent eligibility revocation for any student-athlete who unduly influences an outcome, provides inside information to another for gambling purposes, or places a bet on their own game or any other sport at their own school.<sup>v</sup> There are lesser penalties imposed for betting on their own sport at other schools, as well as for betting on professional sports. These penalties send the unequivocal message that gambling involvement by student-athletes will not be tolerated. Ongoing education, combined with penalties for athletes who willfully violate NCAA rules, remain the most effective deterrent.

Sportsbooks, working with regulators in several states, attempt to prohibit athletes and persons identified by the NCAA and other sports governing bodies from opening accounts and placing bets. These protocols are improving, but are not yet a guaranteed firewall. Still, legal sports betting operators routinely monitor bets in real time, which allows them to flag suspicious betting instances or patterns, notify the proper authorities and sports leagues, and launch investigations immediately.

In just the last two years, there have been several high-profile instances of sports betting corruption that, while isolated, have proven that the integrity and safety measures instituted by sports organizations and regulators are working as intended. Without the safeguards instituted in the regulated sports betting market, it is likely these incidents would not have been identified and rectified.

On April 28, 2023, then-Alabama baseball coach Brad Bohannon sent text messages to a personal acquaintance urging him to place a bet on the upcoming Alabama-LSU baseball game based on a pitching change that had not been publicly announced. The acquaintance immediately tried to place an unusually large bet at a retail sportsbook in Ohio. Based on the bettor's behavior and attempted bet size, the sportsbook limited his bet to a fraction of the initial amount and filed a suspicious activity report, which was widely disseminated to multiple parties including an independent integrity monitoring service, which further issued the alert to state regulators across the country. From there, law enforcement, the NCAA and University of Alabama also sprang into action. Within a week, Bohannon was fired from his position as coach, and further sanctions included being suspended from coaching at an NCAA institution for 15 years, effectively ending his coaching future. The University of Alabama was also fined, placed on probation, and required to provide gambling education programs to its players, coaches and administrators. Meanwhile, the

bettor in question has pleaded guilty to federal charges and faces a sentence of up to 10 years and a fine of up to \$250,000. He has also been banned from further gambling in Ohio, Indiana, and potentially other states that share gambling exclusion lists.

### **Removing Legal Wagering Options Leads to Illegal Activity**

It is difficult to determine the extent to which collegiate prop betting is occurring, since not every jurisdiction collects such data. However, anecdotally, operators have indicated that college prop betting, on average, comprises slightly less than one percent to as much as three percent of the total amount wagered. While this may appear relatively small in the context of overall wagering amounts, it is still a tremendous amount of money. Since 2018, US bettors have wagered approximately \$360 billion<sup>vi</sup> in the legal market; if we estimate that college prop bets are 2% of the total amount bet, that amounts \$7.2 billion. It is also anticipated that in states with prominent college athletic programs, local fandom and betting interest will result in an increased amount of college prop betting, which puts these states at risk of losing a larger share of potential tax revenue should college prop bets not be allowed in the legal market.

Removal of college prop bets from the legal market will not stop this activity from occurring - history and evidence show that the lack of a legal market does not ultimately deter a wagering activity. Bettors will still seek out opportunities to place these bets, and illegal and offshore sportsbooks will still offer these bets, and indeed, capitalize on the public appetite for such wagers. Once they have a customer on the hook, it is much easier to entice them to place additional bets, including bets that they would otherwise place through legal sports betting options. From a tax revenue standpoint, states will not only lose college prop wagering revenues, but additional gaming revenue from consumers placing other bets once engaged with an illegal sportsbook.

Regulators and lawmakers should also be cognizant that a decision to remove any wager type from the legal market has precedential value, and could lead to additional, more aggressive appeals to restrict wagering. Ultimately, a legal market that is hamstrung in its ability to innovate and offer new wagering types will lose customer interest and market share.

### **Confronting Athlete Harassment Issues Head-On is the Most Effective Solution**

Banning collegiate prop wagers may minimally alleviate the scrutiny that collegiate athletes feel, but the negative effects of pushing this activity into the illegal market, including the loss of tax revenue to states and the increased threat to sports integrity, make it a poor trade-off from a policy perspective.

To be clear, it is not exclusively, nor even significantly, the availability of prop wagers that leads individuals to act inappropriately towards college athletes. Passionate fans and good old fashioned school rivalries have led to unsavory behavior since well before the establishment of the NCAA in 1906, although there can be no question that college athletes today face elevated scrutiny in the increasingly commercialized world of Division 1 college sports. To add fuel to the fire, social media provides an easily accessible platform for fans, viewers, and yes, bettors all over the world, to interact with athletes and indulge their worst impulses with minimal consequence. Prop bets are

but one minimal part of the equation, and banning the legal market for them will not erase them from existence, much less curtail the prevalence of athlete harassment.

A more practical approach to addressing athlete harassment is to penalize the act of harassment itself. Indeed, the NCAA is already embarking on this course of action by engaging in social media surveillance to uncover incidents of college athlete harassment.<sup>vii</sup> The findings from NCAA's preliminary analysis are instructive, and while data shows a correlation between harassment and high-volume sports wagering events (and high-profile events, generally), individual performance vis-à-vis prop wagers is not a quantified factor.<sup>viii</sup>

The next logical step, which the NCAA is supportive of, is to work with regulators and the legal sports betting market to take meaningful steps to eliminate the ability of betting-related harassment offenders to partake in sports wagering of any kind. The FSGA applauds these efforts, and would actively support the formalization of a collegiate anti-harassment policy across states with regulated sports wagering. Such a policy should include:

- An efficient mechanism for athletes, coaches and administrators to report incidents of harassment, both written and oral, to state gaming regulators.
- The formalization of regulator policy to adjudicate instances of punishable behavior (ie. threats, repeated harassment, or overt attempts to influence an athlete's performance, as opposed to non-betting-related negative comments or generally tolerated "smack talk").
- A range of actions available to a regulator, ranging from issuing a warning to an offender to placing them on the gaming exclusion list for an appropriate period of time.
- An administrative appeals process available to offenders adjudicated against.
- The mandatory compliance of all regulated sportsbooks to restrict individuals from placing bets on their platform.
- The enhancement of interstate information sharing protocols to allow regulators to enforce exclusion decisions universally.
- Threats amounting to criminal conduct should be reported to law enforcement as well as regulators.

The FSGA and its member companies support efforts to engage in meaningful athlete harassment deterrence efforts, and applaud the NCAA in their ongoing efforts to protect student-athletes. However, efforts to broadly restrict betting types will stifle the legal market and ultimately be counterproductive to the policy objectives of eliminating illegal wagering and protecting the integrity of athletic competitions, collegiate and otherwise. The FSGA will continue to be a resource on behalf of regulators, sports leagues, sports wagering operators and fantasy sports operators, with the ultimate goal of creating and sustaining successful, safe, and well-regulated legal markets for sports wagering and fantasy sports.

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<sup>i</sup> Including Missouri, which authorized sports betting by ballot in November, 2024 and is expected to offer legal sports betting in 2025.

<sup>ii</sup> <https://www.ncaa.org/news/2023/5/16/media-center-as-sports-wagering-grows-ncaa-continues-providing-education-integrity-services-and-research.aspx>

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<sup>iii</sup> <https://www.americangaming.org/resources/sizing-the-illegal-and-unregulated-gaming-markets-in-the-u-s/>

<sup>iv</sup> <https://www.americangaming.org/responsible-marketing-code-for-sports-wagering/>

<sup>v</sup> <https://www.ncaa.org/news/2023/6/28/media-center-di-approves-changes-to-reinstatement-guidelines-for-sports-wagering-violations.aspx>

<sup>vi</sup> <https://www.legalsportsreport.com/sports-betting/revenue/>

<sup>vii</sup> <https://apnews.com/article/ncaa-president-sports-betting-prop-bets-2cdbfa59ec602317cbd370248fbfb62d>

<sup>viii</sup> <https://www.ncaa.org/news/2024/5/17/media-center-sports-betting-culture-negatively-impacts-mental-health-ncaa-works-to-support-student-athletes.aspx#:~:text=The%20NCAA%20is%20also%20urging,being%20able%20to%20place%20bets.>