

# A Parlay of Problematic Sports Betting Policies

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## I. INTRODUCTION

The Iowa Division of Criminal Investigation’s probe into college athletes from the University of Iowa and Iowa State University betting on college sports highlights the need to revise sports betting policies in the post-*Murphy v. NCAA (Murphy)* era.<sup>1</sup> The National

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1. See, e.g., Richard Johnson, *Iowa Sports Betting Investigation: Seven Athletes Charged in Probe*, SPORTS ILLUSTRATED (Aug. 2, 2023), <https://www.si.com/college/2023/08/02/iowa-sports-betting-investigation-iowa-state-what-we-know> [<https://perma.cc/A5UT-BV4V>] (“Iowa’s special enforcement bureau has alleged criminal activity by those current or former Iowa and Iowa State athletes.”); Dean Straka, *Iowa State Starting RB Jirehl*

Collegiate Athletic Association's (NCAA) policy on student athletes' ability to wager on sporting events is overbearing to the point that it prevents athletes from using wagering platforms for any sport—collegiate and professional.<sup>2</sup> The State of Iowa failed to take the necessary steps to prevent college athletes in Iowa from betting on their own events when Iowa legalized sports betting post-*Murphy*.<sup>3</sup> This poses a danger that student-athletes can bet on the outcomes of games they—or their student-athlete peers—participate in, creating ample opportunity for a deliberate undermining of the integrity of college athletics. This danger is very real; in the past, players wagering on their own competitions has directly led to permanent damage to athletic programs,<sup>4</sup> banishment from sports leagues/associations,<sup>5</sup> criminal charges,<sup>6</sup> and a general deterioration of the credibility of the competition's outcome.<sup>7</sup> The NCAA's antiquated policies clash directly with the surge of gambling marketing within the NCAA itself, its media partners, and its member institutions.<sup>8</sup> This is compounded by the fact that many of these member institutions, including the public universities in the State of Iowa, receive runoff benefits of this explosion in the gaming industry, all while the Iowa Government remains quiet on the issue of athletic betting.<sup>9</sup>

This Note addresses how the NCAA should update its policies on athletes betting and how the Iowa state legislature can ensure that these relaxed policies from the NCAA won't corrupt in-state college athletics. Part II provides an overview of sports betting policies

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*Brock Among Latest College Football Players Charged in Gambling Probe*, CBS SPORTS (Aug. 14, 2023), <https://www.cbssports.com/college-football/news/iowa-state-starting-rb-jirehl-brock-among-latest-college-football-players-charged-in-gambling-probe> [https://perma.cc/2TL5-3YZQ] (detailing Iowa State University football player Jirehl Brock's tampering of records charges that resulted from "the Iowa Division of Criminal Investigation's probe into sports wagering at in-state universities").

2. See NCAA, DIVISION I 2023-24 MANUAL 23 (2023) (declaring that student-athletes shall not knowingly participate in "sports wagering activities concerning intercollegiate, amateur or professional athletics competition").

3. See discussion *infra* Part III.C (showing Iowa's approach to regulation was insufficient to curb potentially exploitative behavior post-*Murphy*).

4. For example, the City College of New York (CCNY) gambling scandal of 1950 resulted in CCNY never returning to Division I competition. Haley M. Robb, Note, *Hedge Your Bets: How the Legalization of Sports Betting Could Be the Downfall of Intercollegiate Sports*, 122 W. VA. L. REV. 351, 373 (2019).

5. The CCNY gambling scandal, where 32 players from seven universities manipulated games for gambling purposes, led to the University of Kentucky receiving a one-year ban from the NCAA, and players Ralph Beard and Alex Groza faced bans from the National Basketball Association for their involvement. *Id.* at 373–74.

6. Boston College basketball player Rick Kuhn served four years in prison on racketeering charges related to the Boston College Point-Shaving Scandal of 1978–79. *Id.* at 374.

7. See *id.* at 373 ("The NCAA took a major hit from [the CCNY] scandal . . ."); *id.* at 376 (detailing that when basketball players from Northwestern University were charged in connection to a gambling scandal in 1995, the federal judge "believed incarceration was necessary to try and deter others 'from tainting the integrity of collegiate sports.'").

8. See discussion *infra* Part III.B (discussing the ways in which the NCAA, along with its media partners and member institutions, has embraced the substantial expansion of the gambling industry post-*Murphy* through advertising collaborations and the relaxation of policies concerning events hosted in gambling-centric cities).

9. At the time of this writing, the Iowa legislature has no legislative plans to address the gambling scandal. However, outside statements by Iowa State and Iowa appear to be the only statements on the scandal. See, e.g., Barkley Truax, *Jamie Pollard Releases Statement on Iowa State's Involvement in Sports Gambling Investigation*, ON3 (Aug. 2, 2023), <https://www.on3.com/college/iowa-state-cyclones/news/jamie-pollard-releases-statement-on-iowa-states-involvement-in-sports-gambling-investigation> [https://perma.cc/WXB5-FR7V]; Press Release, University of Iowa, Statement on Sports Wagering Investigation (May 8, 2023) (available at <https://osc.uiowa.edu/news/2023/05/sports-wagering-investigation>).

within the NCAA and the State of Iowa before the *Murphy* decision that opened the door for states to legalize sports wagering. Part II also discusses the *Murphy* decision and how the NCAA and Iowa responded to the Supreme Court’s ruling. Part III dives into *why Murphy* was decided how it was, *why* the NCAA and Iowa responded to the decision the way they did, and the negative effects of the policies created by the NCAA and Iowa legislature. Part III additionally addresses state legislatures that have responded to the proliferation of sports betting in a manner that protects student-athletes and the integrity of college athletics. Part IV recommends that the NCAA relax some of its betting prohibitions to better go after wagering behaviors in which impropriety may take place. Finally, Part IV calls on the State of Iowa to adopt the policies of states more protective of their in-state athletes and prohibit the ability to bet on athletic events involving Iowa universities *or* invest in a database that will force sportsbooks in Iowa to ensure every person wagering on athletic events is not an athlete at an Iowa university.

## II. BACKGROUND

### A. Live Event Wagering in the State of Iowa pre-Murphy

Iowa’s first foray into legal wagers on live competitions began in July 1983, when Governor Terry Branstad signed the *Pari-Mutuel Wagering Act* (PMWA) which allowed organizations to file licenses to hold dog and horse races.<sup>10</sup> While Iowa’s history of gambling regulation predates this act, including a constitutional prohibition on all gambling from the State’s original 1857 constitution,<sup>11</sup> the PMWA was the state’s first-ever regulation on any wagering similar to sports betting—a prediction on the outcome of live competition.<sup>12</sup>

Besides allowing the first sports bets in Iowa, the PMWA created the Iowa Racing and Gaming Commission (IRGC), with the mission to “administer the laws and rules for gambling and wagering in Iowa in order to . . . maintain public confidence in regulated gambling and wagering activities in Iowa.”<sup>13</sup> The IRGC is made up of five commissioners appointed by the Governor to three-year terms and are granted “full jurisdiction over . . . all race meetings, internet fantasy sports contests and gambling operations,” via Iowa Code Chapters 99D-F.<sup>14</sup>

Iowa Code § 99F.3 establishes which “gambling games” are authorized in the State of Iowa.<sup>15</sup> Before a rewrite in 2019 (after *Murphy*), authorized games were limited to those

10. *Commission History*, IOWA RACING & GAMING COMM’N, <https://irgc.iowa.gov/commission-history> [<https://perma.cc/8V4F-72E9>]. *Pari-mutuel* is a gambling system used primarily at horse and dog racetracks to pool money and pay out to individuals who correctly predict the winner of a race. *Pari-mutuel*, BRITANNICA, <https://www.britannica.com/topic/pari-mutuel> [<https://perma.cc/DL92-AU2L>].

11. Todd Dorman, *Iowa’s Gambling Flood Gates Opened 50 Years Ago*, THE GAZETTE (Sept. 24, 2021), <https://www.thegazette.com/opinion/iowas-gambling-flood-gates-opened-50-years-ago> [<https://perma.cc/RXU8-MRVD>].

12. *How to Bet*, DRAFTKINGS SPORTSBOOK, <https://help.draftkings.com/hc/en-us/articles/26268411257875-How-do-I-place-a-bet-on-DraftKings-Sportsbook-US> [<https://perma.cc/C5XN-3TJS>].

13. IOWA RACING & GAMING COMM’N, *supra* note 10; *Mission Statement*, IOWA RACING & GAMING COMM’N, <https://irgc.iowa.gov/mission-statement> [<https://perma.cc/U7VC-PSSG>].

14. *About Us*, IOWA RACING & GAMING COMM’N, <https://irgc.iowa.gov/about-us> [<https://perma.cc/KAV5-J9CH>].

15. IOWA CODE § 99F.3 (2007).

“conducted on an excursion gambling boat, gambling structure, or racetrack enclosure.”<sup>16</sup> Until the *Murphy* decision in 2018, § 99F.3 prohibited gambling outside physical venues licensed by the IRGC<sup>17</sup> and explicitly prohibited the allowance of sports gambling when defining the term “Gambling Game”.<sup>18</sup> Therefore, before the Supreme Court decision permitting sports gambling in *Murphy*, the only live events Iowans could gamble on were those at the state’s racetracks, and that all gambling had to take place on-site at a state-licensed venue.<sup>19</sup>

### B. Gambling Policies of the NCAA pre-Murphy

The National Collegiate Athletic Association is a self-described “voluntary, self-governing organization of four-year colleges, universities, and conferences committed to the well-being and development of student-athletes, to sound academic standards and the academic success of student-athletes, and to diversity, equity, and inclusion.”<sup>20</sup> The organization consists of over 1,100 academic institutions, split across three divisions.<sup>21</sup> These divisions—titled Division (D) I, II, and III—are based on several factors including school investment, student population, and athletic facilities.<sup>22</sup> As very few platforms exist to engage in sports wagering on DII and III contests,<sup>23</sup> the NCAA rules on sports betting will mostly impact DI institutions and athletes.

DI is the division with the most television coverage and contains the schools with the most name recognition; these schools are bound by a set of rules written by the NCAA Board of Governors. This board is mainly made up of university presidents across the NCAA’s three divisions.<sup>24</sup> These rules are published yearly in the “Division I Manual” (the Manual) and encompass the provisions that each institution must “hold [themselves] accountable to support and comply with.”<sup>25</sup> Further, DI universities must “ensure that its staff, student-athletes, and other individuals and groups representing the institution’s athletics interests comply with applicable rules (institutional, conference, divisional and [NCAA]-wide) in the conduct of the institution’s intercollegiate athletics programs.”<sup>26</sup>

16. *Id.*

17. *Id.*

18. *Id.* § 99F.1 (“‘Gambling game’ does not include sports wagering.”).

19. *Id.*; IOWA CODE § 99F.3 (2007).

20. NCAA, *supra* note 2, at 1 (emphasis added).

21. Overview, NCAA, <https://www.ncaa.org/sports/2021/2/16/overview.aspx> [<https://perma.cc/D5NM-UTNR>].

22. See generally Logan Bright, *NCAA Division I, II, and III: What’s the Difference?*, SCH. FINDER (May 13, 2022), <https://www.schoolfinder.com/Discover/Article/23/5914/NCAA-Division-I-II-and-III-Whats-the-Difference> [<https://perma.cc/593L-B9HN>] (“The divisions roughly correspond to the level of investment and interest a school puts into its athletics department.”).

23. See generally *Division II Schools Huge Underdogs*, ODDS SHARK (Jan. 10, 2023), <https://www.odds shark.com/ncaaf/division-ii-schools-huge-underdogs> [<https://perma.cc/VGZ9-VZVA>] (describing that Division II football fans can only bet at one sportsbook, indicating a lack of coverage on the majority of wagering platforms).

24. NCAA, *supra* note 2, at 3.

25. *Id.* at 9.

26. *Id.*

These rules bind all member institutions, staff, and student-athletes to their compliance.<sup>27</sup> Violations of these rules can result in penalties that range from fines and bans from post-season play for institutions to suspensions for staff and students.<sup>28</sup> In the Manual for the 2018–19 academic year, the last academic year before the *Murphy* decision, the NCAA and Board of Governors had a clear message on sports wagering.<sup>29</sup> Rule 10.3 states that student-athletes, staff members of an institution’s athletic department, and university staff with responsibility within or over an athletic department “shall not knowingly participate in sports wagering activities or provide information to individuals involved in or associated with any type of sports wagering activities concerning intercollegiate, amateur or professional athletics competition.”<sup>30</sup> This rule had been adopted since 2007 and was subject to the same penalties as any other rule violation.<sup>31</sup> In addition, the NCAA shares information relating to violations of rule 10.3 to the FBI, adding the threat of federal prosecution to the lengthy penalties a violator could face.<sup>32</sup> While betting on college sports was limited in *where* it could take place before *Murphy*, the NCAA stayed committed to preserving the spirit of amateurism in college athletics by prohibiting athletes from making money off the wagers of *any* sports.<sup>33</sup>

### C. *Murphy v. NCAA and the Professional and Amateur Sports Protection Act*

In 1992, Congress passed the *Professional and Amateur Sports Protection Act* (PASPA) to prevent moral erosion and interstate harms that stem from sports gambling.<sup>34</sup> PASPA made it unlawful for a state to sponsor, license, or authorize a “betting, gambling, or wagering scheme based, directly or indirectly . . . on one or more competitive games in which amateur or professional athletes participate . . . .”<sup>35</sup> The Act, however, created exceptions for states already licensing sports gambling, for lands described in the Indian Gaming Regulatory Act, and for animal racing, giving the State of Iowa an exception for horse and dog racing gambling.<sup>36</sup>

Voters in New Jersey attempted to challenge PASPA when, in 2012, they amended the state constitution to legalize gambling on professional and amateur sports.<sup>37</sup> Voters

27. *Id.*

28. *See id.* at 353–55 (detailing penalties for the three levels of rule violations that can take place).

29. NCAA, 2018–19 NCAA DIVISION I MANUAL 46 (2018).

30. *Id.* (emphasis added).

31. *Id.*

32. Caitlin D. Buckstaff, *Covering the Spread: An Assessment of Amateurism and Vulnerability of Student-Athletes in an Emerging Culture of Sports Wagering*, 16 VAND. J. ENT. & TECH. L. 133, 147–48 (2013).

33. *See id.* at 148 (“The NCAA stands firmly on this prohibition in spite of critics and current and former student athletes calling for a change to the status quo.”).

34. The Senate Judiciary Committee believed that sports gambling creates harm because it “impair[s] the values sports represent to [the nation’s] young people,” and that gambling legalization would “inevitably promote suspicion about controversial plays and lead fans to think ‘the fix was in’ whenever their team failed to beat the point-spread.” S. REP. NO. 102-248, at 5 (1991), *as reprinted in* 1992 U.S.C.C.A.N. 3553, 3556. The Judiciary Committee was of the opinion that the aforementioned moral harms would intensify if individual states could autonomously legalize gambling, expressing concern that “[o]nce a State legalizes sports gambling, it will be extremely difficult for other States to resist the lure.” *Id.*

35. 28 U.S.C. § 3702 (1993).

36. 28 U.S.C. § 3704 (1993).

37. Matt Farnum, *Moving the Line: Leveraging the Legalization of Sports Gambling to Protect Student-Athletes and Preserve Amateurism*, 29 CORNELL J.L. & PUB. POL’Y 491, 503 (2019).

hoped this move would bolster a struggling economy by increasing demand for gambling hub Atlantic City.<sup>38</sup> However, the NCAA and several other professional sports organizations jointly sued the State of New Jersey to enjoin the law as a violation of PASPA. This action was ultimately successful in the Third Circuit Court of Appeals.<sup>39</sup> The Supreme Court denied review.<sup>40</sup>

New Jersey then developed Senate Bill 2460 (SB 2460), which repealed a law that prohibited licensed gambling outlets from taking sports wagers, instead of authorizing new entities to do so.<sup>41</sup> New Jersey believed that this act would be a workaround—as PASPA only prohibited states from the affirmative act of authorizing sports wagers, while SB 2460 overturned a prohibition on sports wagers.<sup>42</sup> The NCAA and other sports leagues saw right through this and took New Jersey to court again; the District Court and Third Circuit agreed with the leagues and held that SB 2460 violated PASPA in the same way as New Jersey’s 2012 constitutional amendment.<sup>43</sup> However, this time the Supreme Court agreed to hear New Jersey’s request for review.<sup>44</sup>

The Court struck down PASPA as unconstitutional.<sup>45</sup> The opinion, penned by Justice Alito, first found that New Jersey’s attempt to get around PASPA with SB 2460 still violated PASPA.<sup>46</sup> The Court went on to address PASPA itself and how the act violated the Constitution’s anticommandeering doctrine.<sup>47</sup> The Court reasoned that the principle of state sovereignty forbids Congress from directly ordering the states or state officers to act.<sup>48</sup> While the sports leagues and the United States argued that prohibiting states from passing laws is not the same as commanding them to act, the Court disagreed.<sup>49</sup> The Court held that a “command” does not need to be an affirmative action by the federal government.<sup>50</sup> In arriving at this determination, the Court proceeded to establish that none of the components of PASPA can withstand the ruling that the ban on states authorizing sports gambling is unconstitutional.<sup>51</sup>

38. *Id.*

39. *See generally* NCAA v. Governor of N.J., 730 F.3d 208, 240 (3d Cir. 2013) (upholding a district court order enjoining and rejecting New Jersey’s argument that PASPA was an unconstitutional instance of “commandeering,” a concept I will discuss later in this section).

40. *Murphy v. NCAA*, 584 U.S. 453, 464 (2018).

41. *Id.*; *see* S.B. 2460, 2014 Leg., 216th Sess. (N.J. 2014).

42. *See* Farnum, *supra* note 37, at 505 (“Instead of passing a law that affirmatively authorized sports gambling—an option precluded by [the Third Circuit decision]—New Jersey legislators repealed state law prohibitions on sports gambling.”).

43. *Murphy*, 584 U.S. at 463.

44. *Id.* at 464.

45. *See id.* at 474 (finding that the PASPA prohibition on states authorizing sports betting is unconstitutional since it “violates the anticommandeering rule”).

46. *See id.* at 467 (stating that the repeal of state gambling bans effectively “authorize[s]” gambling, an action prohibited by PASPA).

47. *Id.* at 480.

48. *Murphy*, 584 U.S. at 470.

49. *See id.* at 465–66 (“Neither [the leagues] nor the United States contends that Congress can compel a State to enact legislation, but they say that prohibiting a State from enacting new laws is another matter. . . . This distinction is empty.”).

50. *See id.* at 475 (“It was a matter of happenstance that the laws challenged in *New York* and *Printz* commanded ‘affirmative’ action as opposed to imposing a prohibition.”).

51. *See id.* at 481–86 (discussing other provisions of PASPA and finding each of them incapable of being severed from the prohibition on states to authorize sports gambling, making the entirety of PASPA struck down).

Once PASPA was dead, killed by *Murphy*,<sup>52</sup> there was no longer a federal ban on sports wagering.<sup>53</sup> The states ran with it.

#### D. How Iowa Responded to Murphy

Less than a year after the *Murphy* decision, the Iowa Legislature believed it was time to bring sports betting to the Hawkeye State.<sup>54</sup> After extensive fact-finding and lobbying from different gaming interest groups, the Iowa Senate determined that casinos, rather than the Iowa Lottery or the horse racing industry, should regulate the gaming industry in Iowa while abiding by the rules set by the IRGC.<sup>55</sup> The bill was justified by Iowa legislator Roby Smith as a means to “bring[] people out of the shadows and give[] them a regulated environment,” and that this legislation “gives people the freedom to choose to do sports wagering, legally.”<sup>56</sup>

The bill, Senate File 617 (SF 617), passed in the Iowa Senate on a bipartisan vote of 31 to 18 and passed in the Iowa House by a bipartisan vote of 61 to 31.<sup>57</sup> About a month later, in May 2019, Iowa Governor Kim Reynolds signed the bill into law.<sup>58</sup> A spokesperson for the governor stated Reynolds signed this law as she believes “that legalizing sports betting will bring this practice out of an unregulated black market,” and that the law will “regulate, tax, and police sports betting in a safe and responsible way.”<sup>59</sup>

SF 617 made significant changes to Iowa Code Chapter 99F, the chapter on “Gambling Games And Sports Wagering Regulation”.<sup>60</sup> Under previous law, gambling excluded sports wagering, and any permitted gambling games were limited to physical venues in licensed casinos and horse tracks.<sup>61</sup> First, SF 617 amended § 99F.3, which establishes what sorts of gambling are authorized by Iowa law.<sup>62</sup> The change struck most of § 99F.3’s original language, and included a mention of sports wagering, fully stating that “wagering on a gambling game *and sports wagering* as provided by [Chapter 99F] is legal, when

52. *Id.* at 486 (“[The Supreme Court’s] job is to interpret the law Congress has enacted and decide whether it is consistent with the Constitution. PASPA is not.”).

53. *Murphy*, 584 U.S. at 484–86 (declaring that, unless Congress chooses to act directly, each state is free to regulate gambling as they so choose).

54. See Stephen Gruber-Miller, *Iowa Lawmakers are Writing a Whole New Bill on Sports Betting After Debates this Week*, DES MOINES REG. (Feb. 7, 2019), <https://www.desmoinesregister.com/story/news/politics/2019/02/07/sports-betting-iowa-legalize-gambling-proposals-debate-ia-lottery-capitol-new-bill-follow-bets-off/2800287002> [<https://perma.cc/Q68D-V4VY>] (detailing how four bills to legalize sports betting were being debated by the Iowa Legislature).

55. See Robin Opsahl, *Iowa Lawmakers Approve Sports Betting and Fantasy Sports Sites; Bill Heads to Reynolds*, DES MOINES REG. (Apr. 22, 2019), <https://www.desmoinesregister.com/story/news/politics/2019/04/22/sports-betting-iowa-legislature-gambling-professional-league-college-statehouse-casino-reynolds-team/3539191002> [<https://perma.cc/37JW-Y5XJ>] (calling the bill a “win for Iowa casinos, which would regulate the industry after winning out over competing proposals on such authority”).

56. *Id.*

57. S.R. 617, 88th Gen. Assemb. (Iowa 2022).

58. *Id.*

59. Gruber-Miller, *supra* note 54.

60. Compare IOWA CODE § 99F.1 (2007), and § 99F.3 (2007), with § 99F.1 (2019), and § 99F.3 (2019).

61. See IOWA CODE § 99F.1 (2007) (explicitly declaring sports wagers as *not* a “gambling game”); § 99F.3 (2007) (limiting gambling only to “gambling boat[s], gambling structure[s], or racetrack enclosure[s]”).

62. Compare IOWA CODE § 99F.3 (2007), with § 99F.3 (2019) (concerning the change in language surrounding sports gambling).

conducted by a licensee as provided in this chapter.”<sup>63</sup> This new language relaxes the previous regulation restricting wagering squarely to physical locations. Chapter 99 now allows gambling at any venue that obtains a proper license from the IRGC, even purely online gambling venues like DraftKings and FanDuel.<sup>64</sup>

As the Iowa Code permitted sports wagering, the Iowa Legislature carefully defined “sports wagering” in § 99F.1.<sup>65</sup> SF 617 added clarification that “Sports Wagering” does not include “placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is a participant.”<sup>66</sup> This was a crucial distinction by the Iowa Legislature as it prohibits Iowans from the ability to bet on “player props” involving athletes at universities within the state. “Player props” are bets based on a particular player’s performance,<sup>67</sup> and are a side wager that has nothing to do with the final outcome of the game.<sup>68</sup> Player props are typically bets on whether a player meets a certain statistical threshold, such as passes completed in football or three-point shots made in basketball.<sup>69</sup> The language in § 99F.1 explicitly prohibits these types of bets for college athletes at schools in the state of Iowa, indicating that the legislature had *some* knowledge of the dangers that may come for college athletes once a state starts to permit gambling.<sup>70</sup> This sentiment is shared by the NCAA, with current President Charlie Baker calling on all states to ban the ability to wager on individual athletes’ performance.<sup>71</sup>

With these changes, and some others, in place, Iowans have now been able to bet on college and professional sports, in casino sportsbooks and on their phones, for over four years.

#### E. How the NCAA Responded to Murphy

*Murphy* was a direct loss for the NCAA and a sign that they need to adapt to the times, especially when more than 30 states and Washington D.C. have legalized sports betting in the wake of the *Murphy* decision.<sup>72</sup> In the immediate wake of the *Murphy* decision, the NCAA reaffirmed to the public their commitment to prohibiting “student-athletes and university administrators from wagering on sports or providing information to others who are

63. IOWA CODE § 99F.3 (2019) (emphasis added).

64. In 2019, § 99F.3 no longer included any language limiting authorized gambling games and sports wagers to physical locations. Compare IOWA CODE § 99F.3 (2007), with § 99F.3 (2019).

65. See IOWA CODE § 99F.1 (2019) (defining certain types of wagers as *not* legal sports wagers in Iowa).

66. *Id.*

67. Devon Platana, *What is a Prop Bet?*, FORBES (Mar. 8, 2023), <https://www.forbes.com/betting/guide/prop-bet> [<https://perma.cc/4CC6-ESA3>].

68. *Id.*

69. *Id.*

70. For a demonstration of issues relating to athletes in states where sports betting is legal, see discussion *infra* Part III.C.

71. NCAA President Charlie Baker Calls for Ban on College Prop Bets, ESPN (Mar. 27, 2024), [https://www.espn.com/college-sports/story/\\_/id/39820326/ncaa-president-charlie-baker-calls-ban-college-prop-bets](https://www.espn.com/college-sports/story/_/id/39820326/ncaa-president-charlie-baker-calls-ban-college-prop-bets) [<https://perma.cc/QDE5-VC64>].

72. U.S. Sports Betting: Here's Where All 50 States Currently Stand on Legalizing Sports Wagering Sites, PUB. GAMING (July 23, 2023), <https://publicgaming.com/news-categories/politics/11431-u-s-sports-betting-here-s-where-all-50-states-currently-stand-on-legalizing-sports-wagering-sites> [<https://perma.cc/7NWC-MPRG>].



associated with sports wagering.”<sup>73</sup> While *Murphy* made it to the high court, the NCAA created an “Ad Hoc Committee on Sports Wagering” which was tasked with examining “the sports wagering landscape and its potential impact on current NCAA rules, educational efforts, player availability reporting, and any associated risks as more states legalize sports wagering.”<sup>74</sup>

However, with the Ad Hoc Committee at work, the NCAA Manual for the 2023–24 academic year is not very different on sports wagering when compared to the Manual from the year before the *Murphy* decision.<sup>75</sup> NCAA Rule 10.3, which prohibited student-athletes and athletic staff members from participating in sports wagering activities for intercollegiate, amateur, and professional athletics competitions remained *unchanged* after the *Murphy* decision.<sup>76</sup> The only addition to the NCAA’s rules on wagering is that athletes suspended by other athletic bodies for wagering offenses are suspended from NCAA activities until the end of their outside suspension.<sup>77</sup>

While the black letter law remains unchanged since *Murphy*, the NCAA updated its policies relating to punishments for sports gambling. In 2023, the NCAA amended their disciplinary policy for athletes violating Rule 10.3. Chair of the NCAA DI Legislative Committee Alex Ricker-Gilbert claimed that this update was going to “modernize penalties for college athletes at a time when sports wagering has been legalized in dozens of states and is easily accessible nationwide . . . .”<sup>78</sup> The NCAA’s old rules stipulated, in most cases, that *any* instance of athletes wagering on sports at any level would result in the athlete losing one entire season of collegiate sports eligibility.<sup>79</sup> However, the new rules that debuted for the 2023–24 academic year create three classes of punishments.<sup>80</sup> Athletes who bet on their own games or “knowingly provide information to individuals involved in sports betting activities,” will potentially face a “lifetime ban” from NCAA activities.<sup>81</sup> The next class will be for athletes caught wagering on their sport at another school, who will face education on the NCAA’s sports wagering rules and a loss of only half of one season of

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73. Board Of Governors Reaffirms Sports Wagering Rules, Discusses Player Availability Reporting, NCAA (Aug. 7, 2019), <https://www.ncaa.org/news/2019/8/7/board-of-governors-reaffirms-sports-wagering-rules-discusses-player-availability-reporting.aspx> [<https://perma.cc/M4DX-ZRKN>].

74. New Committee to Examine Sports Wagering, NCAA (Oct. 25, 2018), <https://www.ncaa.org/news/2018/10/25/new-committee-to-examine-sports-wagering.aspx> [<https://perma.cc/HTB8-7QXV>].

75. There is only one new subsection added to address gambling suspensions from outside athletic associations. Compare NCAA *supra* note 2, at 23, with NCAA *supra* note 29, at 46.

76. The language under “10.3 Sports Wagering Activities” has not changed since at least the last Manual pre-*Murphy*. Compare NCAA *supra* note 2, at 23, with NCAA *supra* note 29, at 46.

77. The language under “10.3.2 Suspension by a Non-NCAA National or International Sports Governing Body.” was not present in the 2018-19 Manual and was adopted in January 2020. Compare NCAA *supra* note 2, at 24, with NCAA *supra* note 29, at 46.

78. Cory Woodroof, *The NCAA’s New Gambling Policy Punishments, Explained*, USA TODAY: BETFTW! (June 28, 2023), <https://ftw.usatoday.com/lists/ncaa-gambling-policy-punishment-update-explained> [<https://perma.cc/WF4K-VA34>].

79. Meghan Durham Wright, *DI Approves Changes to Reinstatement Guidelines for Sports Wagering Violations*, NCAA (June 28, 2023), <https://www.ncaa.org/news/2023/6/28/media-center-di-approves-changes-to-reinstatement-guidelines-for-sports-wagering-violations.aspx> [<https://perma.cc/NJA5-MB6R>].

80. Woodroof, *supra* note 78.

81. *Id.*

eligibility, less than before.<sup>82</sup> For athletes caught for all other wagering violations, which the NCAA provides as an example: “wagering on professional sports”, the NCAA’s punishment structure will be based on the dollar value being wagered.<sup>83</sup>

Finally, in light of the public outcry after the Iowa and Iowa State athletes received year-long suspensions for wagering activity,<sup>84</sup> the NCAA, in October 2023, began to re-think their wagering policies again.<sup>85</sup> In October 2023, the NCAA Committee on Student-Athlete Reinstatement released a draft for potential rule changes relating to wagering punishment.<sup>86</sup> These new rules included much laxer rules for athletes who placed bets on wagers not involving their team.<sup>87</sup> These rules could even be applied retroactively to athletes currently serving suspensions for sports betting violations.<sup>88</sup> In addition, the Committee on Student-Athlete Reinstatement and the NCAA made recommendations to state legislatures to craft better protections for athletes targeted with harassment relating to betting results or game outcomes.<sup>89</sup>

The October 2023 proposed policies were quickly approved by the NCAA’s DI Council Coordination Committee on November 8, 2023.<sup>90</sup> The NCAA announced that athletes caught betting on sporting events involving their own university but not their own sport would face a full season suspension as well as a loss of one season of eligibility.<sup>91</sup> This relaxes the NCAA’s previous punishment that permanently banned athletes who bet on their own school’s sports teams.<sup>92</sup> Jon Steinbrecher, chair of the Council Coordination

82. Wright, *supra* note 79.

83. *Id.* That new dollar-based punishment structure is the following: *\$200 or less gambled*: sports wagering rules and prevention education. *\$201-\$500*: loss of 10% of a season of eligibility, plus rules and prevention education. *\$501-\$800*: loss of 20% of a season of eligibility, plus rules and prevention education. *Greater than \$800*: loss of 30% of a season of eligibility, plus rules and prevention education. For wagering activities that greatly exceed \$800, the NCAA has the ability to consider additional or even permanent loss of eligibility, when appropriate. *Id.*

84. For a discussion on the public outcry following the Iowa and Iowa State suspensions, see *infra* Part III.C.

85. See Chris Vannini, *NCAA Considering Lessening Sports Gambling Penalties for Athletes*, THE ATHLETIC (Oct. 4, 2023), <https://theathletic.com/4930362/2023/10/04/ncaa-division-i-council-sports-wagering> (on file with the *Journal of Corporation Law*) (“After several high-profile cases, notably involving student-athletes at Iowa and Iowa State, the NCAA will look at implementing lesser penalties.”).

86. *Id.*

87. *Id.* These new punishments would be: On a first offense, no penalty of suspension, regardless of the dollar value or bets placed on other sports at a student-athlete’s school but would require education on sports wagering rules and prevention. On a second offense, potential suspension, depending on dollar value and the bets. On a third or subsequent offense, losing a full season of eligibility. *Id.*

88. *Id.*

89. See Vannini, *supra* note 85 (“The NCAA said it will push for changes to existing sports betting laws, including rules to ‘protect student-athletes from harassment and coercion.’”); Wright, *supra* note 79 (“[T]he NCAA is advocating for mandatory reporting hotlines for gambling authorities to report such behavior to law enforcement, increased penalties for bettors who harass student-athletes and mandatory education for operators to help identify harassment.”).

90. Meghan Durham Wright, *DI Approves Modifications to Wagering-Related Reinstatement Guidelines*, NCAA (Nov. 8, 2023), <https://www.ncaa.org/news/2023/11/8/governance-di-approves-modifications-to-wagering-related-reinstatement-guidelines.aspx> [<https://perma.cc/ER8G-U6BT>].

91. This effectively cuts an athlete’s ability to participate in NCAA athletics from four years to two by *shorting* their eligibility to three years and *suspending* that athlete for the entirety of one of those three years. *Id.* (emphasis added).

92. *Id.*

Committee, justified this move by claiming these new policies will preserve the integrity of competition and provide “opportunities for preventative education” for athletes caught betting.<sup>93</sup>

With policies changing almost weekly, this is evidence that the sports gambling space is truly the Wild West for college athletics, and thus far, it has had a rocky start.

### III. ANALYSIS

#### A. Motivations Behind Sports Betting Legalization

In the *Murphy* decision, the Court emphasized how important it is that states *independently* navigate sports gambling in light of the Court’s decision to strike down PASPA.<sup>94</sup> Iowa legislators reflected this principle when discussions of legal gambling in the State of Iowa began in late 2018.<sup>95</sup> Senator Liz Mathis, a Democrat, believed that the State Legislature needed to “get ahead of [sports gambling]” and ensure that the state could control “the provisions of [gambling] and where the money is going to go and how the state of Iowa can benefit from it.”<sup>96</sup>

Other Iowa politicians supported legalized gambling not because it was simply growing post-*Murphy*, but because it expanded freedoms for Iowans. State Senator Roby Smith endorsed the legislation because it gave people “the freedom to choose to do sports wagering, legally.”<sup>97</sup>

Republican State Rep. Bobby Kaufmann looked at the state of gambling in Iowa and identified that the industry already existed,<sup>98</sup> and it was natural for the state to regulate and police a modern version of sports betting.<sup>99</sup> Kaufmann’s insight on expanding sports gambling and taxing it has been validated by Iowa’s positive economic outcomes since the 2019 expansion of legal gambling facilities. In 2022, the State of Iowa brought in a record-breaking \$8 million for the state’s public universities from taxes levied on sportsbooks.<sup>100</sup> Tax revenue of this nature proves invaluable given the state’s reliance on agriculture, enabling Iowa to diversify its income.<sup>101</sup> With one in five Americans gambling on sports in

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93. *Id.*

94. *See* *Murphy v. NCAA*, 584 U.S. 453, 486 (2018) (“Congress can regulate sports gambling directly, but if it elects not to do so, each State is free to act on its own.”).

95. *See infra* notes 97–99 and accompanying text (explaining the legality of gambling).

96. Danny Lawhon, *Sports Betting: What Iowans Need to Know After Supreme Court Ruling*, DES MOINES REG. (Jan. 17, 2019), <https://www.desmoinesregister.com/story/news/2018/05/14/how-bet-sports-iowa-sports-betting-supreme-court-ruling/607467002> [<https://perma.cc/59EN-BCE2>].

97. *Id.*

98. In the form of horse racing gambling and legal betting pools for activities like the NCAA’s March Madness. *See* Opsahl, *supra* note 55.

99. *See id.* (Kaufmann stating “[Sports betting] is an industry that is here. This bill regulates it, taxes it and polices it”).

100. Louis Leonardi, *The Economic Ramifications of Online Sports Gambling in the U.S.*, MICH. J. ECON. (Dec. 4, 2022), <https://sites.lsa.umich.edu/mje/2022/12/04/why-online-sports-betting-should-be-allowed-in-every-u-s-state> [<https://perma.cc/5XYJ-GZEC>].

101. *Id.*

2022,<sup>102</sup> Iowa realized that gambling was happening whether individual representatives liked it or not and that the state could economically benefit from it.

Across the country, the legalization of sports gambling has paid off in other ways, including job creation and increased tourism.<sup>103</sup> With the nationwide expansion of sportsbooks, industry experts anticipate the gambling sector could generate over 200,000 jobs, including sportsbook staff and indirectly related roles like food service workers at new sportsbooks.<sup>104</sup> Job creation is even seen in the sports journalism world, with the “Worldwide Leader in Sports” ESPN hiring new staff to expand their sports betting content.<sup>105</sup>

Tourism is another important factor for sports gambling, especially for residents of states that have yet to legalize the activity. With more states embracing the ability to wager on sports, tourism has been boosted, which causes increased visits to in-state casinos.<sup>106</sup> This increase in visitors is driven by two main factors: access and the ability to gamble while watching your favorite teams play.<sup>107</sup> Research indicates that sports bettors are more likely to travel to have the ability to bet, and their destination decision is based on where legalization has taken place.<sup>108</sup> Access to sportsbooks brings people into the state, such as Minnesotans coming to Iowa to place bets because the activity is still illegal in Minnesota.<sup>109</sup> The ability to enjoy sports betting while watching live sports has also driven tourism, with increased visits to sports venues that offer gambling opportunities.<sup>110</sup>

Within Iowa and the more than 30 states that have legalized sports betting, there has been plenty of evidence of its success. There is evidence of a demand, and states have stepped up to meet it. Between the revitalization of tourism in New Jersey,<sup>111</sup> and

102. See John Gramlich, *As More States Legalize the Practice, 19% of U.S. Adults Say they Have Bet Money on Sports in the Past Year*, PEW RSCH. CTR. (Sept. 14, 2022), <https://www.pewresearch.org/short-reads/2022/09/14/as-more-states-legalize-the-practice-19-of-u-s-adults-say-they-have-bet-money-on-sports-in-the-past-year> [<https://perma.cc/VTJ2-2Z62>] (finding that 19% of U.S. Adults have gambled on sports in some fashion in the last year).

103. OXFORD ECONOMICS, *ECONOMIC IMPACT OF LEGALIZED SPORTS BETTING* 24 (2017).

104. Based on data from the American Gaming Association, Oxford Economics finds that “direct employment impact, representing employment in sports betting operations, is expected to total 86,819 jobs” and that there would be an additional “129,852 indirect and induced jobs . . . expected to be supported” by the expansion of betting. *See id.* at 4–5.

105. See John R. Manzo, *ESPN Expands Sports Betting Content Portfolio*, ESPN PRESS ROOM (Sept. 8, 2022), <https://espnpressroom.com/us/press-releases/2022/09/espn-expands-sports-betting-content-portfolio> [<https://perma.cc/GD7F-TE9V>] (detailing the new content and hosts coming to the sports network to discuss sports wagering topics).

106. See Matt Traub, *How Sports Betting is Changing the Game for Destinations and Venues*, SPORTS TRAVEL (Apr. 13, 2021), <https://www.sportstravelmagazine.com/how-sports-betting-is-changing-the-game-for-destinations-and-venues> [<https://perma.cc/VNW2-PQFX>] (describing increased tourism revenue in New Jersey since the state was able to legalize sports gambling in Atlantic City).

107. *New Research on Sports Betting Reveals Opportunities for Media, Casino, and Travel Industries*, HOROWITZ RSCH. (June 18, 2020), <https://www.horowitzresearch.com/press-releases/new-research-on-sports-betting-reveals-opportunities-for-media-casino-travel-industries> [<https://perma.cc/73Y7-UREQ>].

108. *Id.* (“Seven in ten (71%) sports bettors say they are more likely to travel to a destination where sports betting has been legalized in recent years.”).

109. Placing a bet is a misdemeanor in the State of Minnesota. *See* MINN. STAT. § 609.755 (2022).

110. *See id.* (a representative of Monumental Sports (owner of the NBA’s Washington Wizards) stating that the installation of sportsbooks at their venues being an “an incredible fan engagement opportunity”).

111. *Id.* (quoting the Atlantic City Sports Commission director Dan Gallagher describing sports betting as “nothing short of a dynamic game changer for Atlantic City”).

newfound tax revenues in Iowa and Illinois,<sup>112</sup> sports betting is firmly in place, giving most—but not all—people the “freedom” to gamble that legislators like Sen. Smith believe citizens are entitled to.

*B. The NCAA and its Member Institutions: Embracing the Proliferation*

Despite the NCAA’s sluggishness in changing its policies relating to sports betting,<sup>113</sup> the organization and its media partners are more than happy to collaborate with the gambling industry to utilize the consumer demand seen since *Murphy*.

After the *Murphy* decision, the NCAA began to embrace the gambling industry and lifted its ban on hosting events in states with legalized sports betting.<sup>114</sup> Previously, any NCAA postseason events were prohibited from being hosted in states like Nevada, however, states were eager to legalize gambling after *Murphy*, the NCAA realized the opportunity they would miss out on if they maintained the ban.<sup>115</sup>

The NCAA remained firm in their stance that gambling and college sports should not mix.<sup>116</sup> More than a year after the *Murphy* decision, the organization still called for new federal legislation regulating gambling.<sup>117</sup> Naima Stevenson-Starks, NCAA Vice President for Law, Policy, and Governance, noted that the existing state-by-state legislative framework was increasingly challenging for the NCAA.<sup>118</sup> The NCAA continued its stance of maintaining a rulebook that separates the NCAA from gambling when it affirmed it would not implement the use of gameday injury reports for college football.<sup>119</sup> Injury reports provide helpful information to sports bettors before they decide what to wager, but the NCAA felt it was necessary to maintain their prohibition on these reports to “safeguard student and patient privacy.”<sup>120</sup>

The hypocrisy of the NCAA becomes evident quickly with the decisions they have allowed to take place by their media partners and member institutions. The NCAA has various systems of penalties<sup>121</sup> and acts as a gatekeeper for athletic resources.<sup>122</sup> It can

112. Leonardi, *supra* note 100 (detailing Iowa’s record-breaking \$8 million in tax revenue from gambling and Illinois’s \$142 million raised from gambling taxes in 2022).

113. See discussion *supra* Part II.E.

114. Mark Anderson, *NCAA Ends Ban, Paves Way for Las Vegas to Host Title Events*, LAS VEGAS REV.-J. (May 3, 2019), <https://www.reviewjournal.com/sports/betting/ncaa-ends-ban-paves-way-for-las-vegas-to-host-title-events-1655310> [<https://perma.cc/T6TW-KLCP>].

115. See *id.* (citing the expansion of sports infrastructure in Las Vegas being ideal for NCAA postseason basketball).

116. See, e.g., *NCAA Official Warns Against Allowing Bets on Individual Player’s Results*, ESPN (Nov. 12, 2020), [https://www.espn.com/chalk/story/\\_id/30303908/ncaa-official-warns-allowing-bets-individual-player-results](https://www.espn.com/chalk/story/_id/30303908/ncaa-official-warns-allowing-bets-individual-player-results) [<https://perma.cc/3GTL-HZUC>]; Dan Murphy, *NCAA Declines to Implement Football Injury Reports*, ESPN (Aug. 7, 2019), [https://www.espn.com/college-football/story/\\_id/27342925/ncaa-declines-implement-football-injury-reports](https://www.espn.com/college-football/story/_id/27342925/ncaa-declines-implement-football-injury-reports) [<https://perma.cc/PR38-MPAN>].

117. *NCAA Official Warns Against Allowing Bets on Individual Player’s Results*, *supra* note 116.

118. *Id.*

119. See Murphy, *supra* note 116.

120. *Id.*

121. For an overview of the NCAA’s extensive infractions process, see NCAA, *supra* note 2, at 327–56.

122. In the NCAA’s Constitution, the NCAA is empowered to “[c]onduct all NCAA championships,” “oversee broadcasting, communications and media rights for all NCAA-conducted national championships,” and “[e]stablish the rules for sports competitions and participation”. *Id.* at 3 (under Article 2, Section A, Subsection

prohibit media partners, such as ESPN, Fox Sports, and CBS, and the NCAA's athletic conferences from hosting events, entering media agreements, or conducting operations if any connection with sports gambling is detected.<sup>123</sup> The NCAA could declare that any association with the gambling industry is against the NCAA's principles and then follow through on that in the NCAA's championship broadcast agreements and communications. However, the NCAA has not stepped up. In August 2023, the Big Ten Conference began requiring all 14 member institutions to release injury reports before football competitions, contradicting the stance the NCAA had less than four years prior.<sup>124</sup>

The evidence of the NCAA attempting to play both sides continues when looking at its media partners. The biggest players in college sports media have extensive ties to sports betting, with TV networks like ESPN<sup>125</sup> and Fox<sup>126</sup> starting their own betting platforms, and networks such as NBC<sup>127</sup> and CBS<sup>128</sup> buddying up with the biggest sportsbooks. The networks that broadcast NCAA sports are more than happy to accept money and advertise odds from the gambling industry alongside their NCAA broadcasts.<sup>129</sup> This makes it difficult to understand why the NCAA hasn't changed its betting policies for student-athletes and staff.

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2(a)). This empowers the NCAA to serve as a gatekeeper to what sports competitions are conducted, who can participate in those competitions (and what rules those participants are bound by), and how those competitions can be broadcasted.

123. This mechanism would be most reflected in the NCAA's powers over broadcast rights and over athletic conferences. The NCAA owns the broadcast rights for the championship games/tournaments of the sports the NCAA sponsors, and thus is in a place to negotiate their broadcast contracts in a way that reflects the NCAA's opinions on who can advertise next to the NCAA's championships. *See id.; id.* at 429 (“The [NCAA] owns all rights to each and all of its championships . . . These rights include . . . rights to television (live and delayed), radio broadcasting, filming and commercial photography.”). For the athletic conferences that make up the NCAA (and oversee individual member institutions), they must comply with the NCAA constitution and any rules established by the NCAA Division the conference is a part of. *See NCAA, supra* note 2, at 6. NCAA Divisions must operate itself “consistent with the principles of the [NCAA]” and oversee that the division's athletic conferences (and subsequently the conference's member institutions) comply with the NCAA's rules and principles. NCAA, *supra* note 2, at 5.

124. Julia Stumbaugh, *Big Ten to Release Game Day Injury Availability Reports for All Schools*, BLEACHER REP. (Aug. 25, 2023), <https://bleacherreport.com/articles/10087303-big-ten-to-release-game-day-injury-availability-reports-for-all-schools> [<https://perma.cc/9DUX-6XWY>].

125. Simrin Singh, *ESPN to Launch New Sports Betting Platform*, CBS NEWS (Aug. 8, 2023), <https://www.cbsnews.com/news/espn-to-launch-sports-betting-platform-penn-entertainment/> [<https://perma.cc/Q4XH-JGJA>].

126. *See* Will Feuer & Katherine Sayre, *Fox to Wind Down Sports-Betting Site Fox Bet*, WALL ST. J. (July 31, 2023), <https://www.wsj.com/articles/fox-to-wind-down-sports-betting-site-fox-bet-f9fda8d2> (on file with the *Journal of Corporation Law*) (discussing the FOX Bet Sportsbook, a sportsbook Fox Sports established in 2019 but shut down in 2023).

127. Sara Fischer, *Exclusive: NBCU and PointsBet Extend Betting Deal by Two Years*, AXIOS (Jan. 30, 2023), <https://www.axios.com/2023/01/30/nbcu-pointsbet-betting-deal-extension> [<https://perma.cc/PXD3-RLJU>].

128. *CBS Sports, William Hill Sports Book Announce Official Partnership*, CBS SPORTS (Feb. 10, 2020), <https://www.cbssports.com/general/news/cbs-sports-william-hill-sports-book-announce-official-partnership/> [<https://perma.cc/LQ96-5MFU>].

129. *See, e.g.*, ESPN Sports Betting Staff, *Week 5 College Football Betting Odds: CFP, Heisman, More*, ESPN (Sep. 26, 2023), [https://www.espn.com/chalk/story/\\_/id/38493794/week-5-college-football-betting-odds-cfp-heisman-more](https://www.espn.com/chalk/story/_/id/38493794/week-5-college-football-betting-odds-cfp-heisman-more) [<https://perma.cc/7UCX-L4MV>] (an instance of ESPN's weekly publishing of individual college football games betting odds and national championship betting odds).

The insincerity of the NCAA's betting stance continues when member universities, the entities that make up and represent the NCAA, receive indirect benefits from the NCAA's media partners' embrace of sports betting. Advertising is huge for sportsbooks, with total ad spending from the sector totaling \$1.8 billion in 2022.<sup>130</sup> Advertising revenue plays a huge part in TV networks' budgets,<sup>131</sup> and securing viewers to watch those advertisements is a huge motivator in who TV networks partner for their on-air content.<sup>132</sup> Networks pay college athletic conferences to become the exclusive broadcaster for that conference's sports.<sup>133</sup> College media rights deals have begun reaching record heights, with the Big Ten Conference penning a deal with NBC, Fox, and CBS that pays out the conference an average of \$1 billion a year for the lifetime of the deal.<sup>134</sup> This \$1 billion is shared across the conference's member universities, so as TV networks' revenues increase from their advertising efforts and endeavors into the sports betting sector, the networks' ability to afford these massive TV rights deals grows. Besides the funds NCAA member institutions receive from the record network deals, universities such as LSU, Michigan State, and Colorado have attempted to advertise sportsbooks directly.<sup>135</sup> To add to the ambiguity of these deals, some of these universities have signed these agreements through third-party entities that sell sports sponsorships on behalf of the universities.<sup>136</sup> This means the agreements are "shielded from public view; [since] open records laws don't apply to privately

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130. Brad Adgate, *Sports Betting is Revving Up Ad Spending for Fourth Quarter*, FORBES (Sept. 15, 2022), <https://www.forbes.com/sites/bradadgate/2022/09/15/sports-betting-is-revving-up-ad-spending-for-fourth-quarter> (on file with the *Journal of Corporation Law*).

131. Advertising for primetime slots (that would have the most viewers) earned top networks between \$8 and \$10 billion in 2022. Dina Zipin, *How the TV Advertising Industry Works*, INVESTOPEDIA (Mar. 12, 2022), <https://www.investopedia.com/articles/investing/100615/how-tv-advertising-industry-works.asp> [<https://perma.cc/KM67-R29D>].

132. This phenomenon can be seen in what networks and streaming services choose to broadcast, and what they choose to cancel. Compare Peter Kafka, *Netflix Inks a 3-Year Deal with the NFL to Show Football Games*, BUS. INSIDER (May 15, 2024), <https://www.businessinsider.com/netflix-nfl-football-streaming-deal-explained-peter-kafka-2024-5#> [<https://perma.cc/5ULK-AURB>] (discussing how Netflix is willing to pay \$75 million-per-game that the platform will broadcast), with Emily St. James, *Did Your Favorite TV Show Get Canceled? Here are 7 Reasons it Might Have*, VOX (May 16, 2017), <https://www.vox.com/culture/2017/5/16/15633120/why-tv-shows-get-canceled-ratings-arent-everything> [<https://perma.cc/SA3E-7A8U>] (saying that shows are canceled often due to a combination of poor viewership to the point where it is too big of an economic loss for TV networks to keep broadcasting).

133. For an example of these deals that conferences make with broadcasters, see Alex Scarborough, *SEC, ESPN Strike 10-Year Deal for College Football, Basketball Starting in 2024*, ESPN (Dec. 10, 2020), [https://www.espn.com/college-football/story/\\_/id/30492065/sec-espn-strike-10-year-deal-college-football-basketball-starting-2024](https://www.espn.com/college-football/story/_/id/30492065/sec-espn-strike-10-year-deal-college-football-basketball-starting-2024) [<https://perma.cc/W5KP-PE98>] (discussing how the SEC has agreed to a contract that makes ESPN "the exclusive rights holder of SEC football and men's basketball" (emphasis added)).

134. Alan Blinder & Kevin Draper, *Topping \$1 Billion a Year, Big Ten Signs Record TV Deal for College Conference*, N.Y. TIMES (Aug. 18, 2022), <https://www.nytimes.com/2022/08/18/sports/ncaaf-football/big-ten-deal-tv.html> (on file with the *Journal of Corporation Law*).

135. As these deals pertain to LSU and Michigan State, see Shane Connuck & Blake Townsend, *On College Campuses, Sports Betting Agreements are Shielded*, ASSOCIATED PRESS (Feb. 28, 2023), <https://apnews.com/article/college-sports-betting-agreements-with-universities-b4d1abce973e04fc6b59dd0f8db39b17> [<https://perma.cc/L7M9-8SBR>]. Colorado went a step-further than LSU and Michigan State, agreeing to a direct partnership with sportsbook PointsBet for in-stadium advertising. *Colorado Signs Sponsorship Deal with Denver-Based PointsBet*, ESPN (Sept. 8, 2020), [https://www.espn.com/sports-betting/story/\\_/id/29839899/colorado-signs-sponsorship-deal-denver-based-pointsbet](https://www.espn.com/sports-betting/story/_/id/29839899/colorado-signs-sponsorship-deal-denver-based-pointsbet) [<https://perma.cc/Q3FN-A958>].

136. Connuck & Townsend, *supra* note 135.

held companies.”<sup>137</sup> However, amid the mounting pressure of impending regulation, many of these universities have pulled out of these deals with sportsbook companies.<sup>138</sup> While universities may now understand the effects of direct sportsbook partnerships on their image, their past ability to engage in such partnerships, coupled with the NCAA’s media partners accepting sportsbook money to subsidize their massive media deals, indicates an inconsistency in the NCAA’s gambling industry monitoring post-*Murphy*. The NCAA has allowed too much mixing of gambling and athletics without a major update in its policies, which has created new issues with its athletes.

### C. Where Iowa and the NCAA Have Come Up Short

Shortcomings in the NCAA’s treatment of sports betting and how the State of Iowa legalized sports wagering have revealed themselves and have led to public outrage. The proliferation of sports books has led to an increase in sports betting.<sup>139</sup> This should be no surprise to the NCAA whose data reveals that over half of college-aged people have engaged in some sort of betting.<sup>140</sup> The behavior is normalized for college students; over 60% of whom can recall seeing a sports gambling advertisement on their campus.<sup>141</sup>

These problematic policies have manifested themselves at the athletic staff level in the Alabama Baseball scandal. In the Spring 2023, a scandal came to light when head baseball coach Brad Bohannon attempted to wager against his team in a matchup with the eventual national champion LSU.<sup>142</sup> Bohannon recruited his friend Bert Neff, Jr., to place a \$100,000 bet on LSU at a sportsbook in Cincinnati, Ohio.<sup>143</sup> However, due to the minor interest college baseball gets at sportsbooks and the high bet amount, the sportsbook prevented the bet.<sup>144</sup> Bohannon’s efforts to secure a win for LSU and ensure the success of

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137. *Id.*

138. Sam McQuillian, *Caesars Ends LSU, Michigan State College Sports Betting Deals*, LEGAL SPORTS REP. (June 2, 2023), <https://www.legalsportsreport.com/118798/caesars-ends-lsu-michigan-state-college-sports-betting-deals> [<https://perma.cc/F43M-CPN7>]. Colorado also ended their direct partnership early, amid calls from the American Gaming Association to prohibit college/sportsbook partnerships. Brian Howell, *Colorado Athletics, PointsBet End Partnership*, DENVER POST (Mar. 29, 2023), <https://www.denverpost.com/2023/03/29/colorado-athletics-pointsbet-end-partnership> [<https://perma.cc/8WKF-AKDJ>].

139. *See Letter Shows NCAA has Found 175 Sports-Betting Violations Since 2018*, ESPN (July 12, 2023), [https://www.espn.com/college-sports/story/\\_/id/38002295/letter-shows-ncaa-found-175-sports-betting-violations-2018](https://www.espn.com/college-sports/story/_/id/38002295/letter-shows-ncaa-found-175-sports-betting-violations-2018) [<https://perma.cc/5H39-EJZJ>] (revealing how the NCAA has found 175 violations ranging from “from \$5 wagers to ‘providing inside information’” since PASPA was struck down in 2018).

140. This is from a 2023 survey of 18 to 22-year-olds conducted by the NCAA, revealing that “58% [of the survey group] having engaged in at least one sports betting activity,” with that number increasing to 67% for students living on a college campus. Saquandra Heath, *NCAA Releases Sports Wagering Survey Data*, NCAA (May 24, 2023), <https://www.ncaa.org/news/2023/5/24/media-center-ncaa-releases-sports-wagering-survey-data.aspx> [<https://perma.cc/8YMN-DP99>].

141. *Id.*

142. Victoria Hernandez, *New Details Emerge in Alabama Baseball Betting Scandal, Including Attempted \$100k Bet, Per Report*, USA TODAY (July 13, 2023), <https://www.usatoday.com/story/sports/college/baseball/2023/07/10/alabama-baseball-betting-scandal-new-details/70400118007/> [<https://perma.cc/L7V3-B6U2>].

143. *Id.*

144. *Id.*



his bet were evident as he made a major roster change right before the match.<sup>145</sup> These actions prompted an NCAA investigation, which resulted in Bohannon being fired by Alabama.<sup>146</sup> The scandal has resulted in other colleagues of Neff Jr., including athletic staff at Cincinnati facing NCAA investigations.<sup>147</sup> This scandal shows that widely available sports betting has reached—and began to impact—college events and that the NCAA’s efforts to maintain the status quo are insufficient. The NCAA needs to realize scandals such as these will continue to repeat until they adopt better policies to prevent them. This scandal set the stage for the discourse that would follow in the Iowa betting scandal.

The Iowa betting scandal surfaced in May 2023, when the State of Iowa’s Special Enforcement Operations Bureau (SEOB) unveiled a probe into more than 100 individuals from Iowa and Iowa State, including over 25 athletes, alleging unlawful participation in sports betting.<sup>148</sup> At Iowa, the athletes implicated are part of the school’s football, baseball, men’s basketball, men’s track and field, and men’s wrestling teams.<sup>149</sup> These activities were under investigation by the SEOB as part of a probe to find out if athletes were violating Iowa’s gambling rules on underage gambling and the use of someone else’s identity to gamble.<sup>150</sup> The SEOB probe resulted in six current and former athletes at Iowa, four football players from Iowa State, and two athletic student managers charged with “tampering with records,” an aggravated misdemeanor, for trying to conceal their age and identity on state-regulated gambling platforms.<sup>151</sup>

However, impropriety in the SEOB’s investigation has resulted in charges being dropped against many of the implicated athletes.<sup>152</sup> The SEOB’s potentially unconstitutional conduct came to light as part of a lawsuit filed in federal district court in the Southern District of Iowa, where 25 athletes from Iowa and Iowa State claimed that the SEOB

145. See David Purdam, *Alabama Baseball Coach Brad Bohannon Fired After Link to Suspicious Bets, Sources Say*, ESPN (May 4, 2023), [https://www.espn.com/college-baseball/story/\\_id/37409279/alabama-fires-baseball-coach-brad-bohannon-amid-betting-probe](https://www.espn.com/college-baseball/story/_id/37409279/alabama-fires-baseball-coach-brad-bohannon-amid-betting-probe) [https://perma.cc/3BLF-CJG4] (reporting that Bohannon benched the Alabama’s scheduled starting pitcher Luke Holman before the game against LSU and that Bohannon replaced Holman with a sophomore who hadn’t started in almost two months).

146. Hernandez, *supra* note 142.

147. *Id.* Staff at Cincinnati have been implicated in this investigation because of Neff Jr.’s connection to the university through his son, who plays baseball for the school. *Id.*

148. Johnson, *supra* note 1. The SEOB is the gambling investigative unit within the Iowa Division of Criminal Investigation, a division overseen by the Iowa Department of Public Safety. *Id.*

149. Cooper Worth, *All in on Iowa: A Look into the Student-Athlete Gambling Investigation*, DAILY IOWAN (Sept. 6, 2023), <https://dailyiowan.com/2023/09/06/all-in-on-iowa-a-look-into-the-student-athlete-gambling-investigation> [https://perma.cc/AC8T-AXP9].

150. Straka, *supra* note 1; see also Richard Johnson, *Inside the Latest Collegiate Betting Scandal: What We Know and What Comes Next*, SPORTS ILLUSTRATED (May 9, 2023), <https://www.si.com/college/2023/05/09/iowa-iowa-state-betting-scandal-what-we-know-so-far> [https://perma.cc/2A38-KD34].

151. See Worth, *supra* note 149 (stating which athletes from each university were charged); Adam Rittenberg, *More Iowa State, Iowa Players Charged in Sports Betting Investigation*, ESPN (Aug. 10, 2023), [https://www.espn.com/college-football/story/\\_id/38169161/more-iowa-state-iowa-players-charged-sports-betting-investigation](https://www.espn.com/college-football/story/_id/38169161/more-iowa-state-iowa-players-charged-sports-betting-investigation) [https://perma.cc/NX2C-M7KV] (explaining the “tampering with records” charges, with the “records” being the students’ real identity being concealed by the athletes’ evasive efforts).

152. Dan Hendrickson, *All Charges Dropped Against Cyclone Athletes in Sports Gambling Investigation*, WHO13 (Mar. 1, 2024), <https://who13.com/news/all-charges-dropped-against-cyclone-athletes-in-sports-gambling-investigation/> [https://perma.cc/R568-G876]; *State Dismisses All Sports Betting Charges*, DAILY IOWAN (Mar. 1, 2024), <https://dailyiowan.com/2024/03/01/state-dismisses-all-sports-betting-charges> [https://perma.cc/UAY9-Q5JA].

violated their constitutional rights when investigating their betting activities.<sup>153</sup> The suit claims that the SEOB improperly and unconstitutionally used gambling geo-location technology GeoComply to track athletes to begin an investigation into athlete betting habits.<sup>154</sup> GeoComply is a software used by many sportsbooks to verify the current location of a sportsbook is in a jurisdiction where gambling is legal.<sup>155</sup> GeoComply grants use of their technology to law enforcement agencies to ensure gambling laws are being followed.<sup>156</sup> However, according to the athletes' suit, the SEOB used their access to GeoComply without any suspicions of athlete betting activity or a warrant.<sup>157</sup> The use of GeoComply was alleged to see the betting activity happening on specific map locations, those within and around athletic facilities at Iowa and Iowa State.<sup>158</sup> The athletes claim that this use by the SEOB opened the investigation against the athletes,<sup>159</sup> and that this use of GeoComply's map technology without a warrant was an unconstitutional search of these athletes via tracking technology.<sup>160</sup> This suit has already resulted in GeoComply stripping the Iowa Division of Criminal Investigation of access to GeoComply technology,<sup>161</sup> and many athletes getting their charges dropped in light of this new evidence against the SEOB.<sup>162</sup>

Two of the most notable names involved in this suit are Iowa State starting quarterback Hunter Dekkers,<sup>163</sup> who was charged for using his mom's identity to gamble under the age of 21, and Iowa defensive tackle Noah Shannon,<sup>164</sup> who was not charged since he wagered while over the age of 21.<sup>165</sup> Dekkers bet on events involving the Iowa State

153. Complaint & Demand for Jury Trial at 30, *Uwazurike et al. v. State of Iowa et al.*, No. 24-cv-00146, 2024 WL 1836065 (S.D. Iowa Apr. 26, 2024).

154. *Id.* at 7–11, 30; *see also* Hendrickson, *supra* note 152 (“The attorneys’ investigation of the DCI investigation uncovered the warrantless use of a geofence technology by DCI Special Agent Brian Sanger to *first* identify use of gambling apps generally at the schools’ athletic facilities.” (emphasis added)).

155. *See* Katherine Sayre, *This Couple Built an Obscure Corner of Sports Betting Into a Billion-Dollar Business*, WALL ST. J. (Apr. 21, 2023), <https://www.wsj.com/articles/sports-betting-geolocation-geocomply-2b6bf288> (on file with the *Journal of Corporation Law*) (“GeoComply scrutinizes nearly every online bet on sports to determine whether the wager is happening in a state where it’s legal.”).

156. *Law Enforcement Request Policy*, GEOCOMPLY (Mar. 22, 2023), <https://www.geocomply.com/law-enforcement> [<https://perma.cc/KW5R-CAAG>].

157. *See* Complaint & Demand for Jury Trial, *supra* note 153 at 11 (“At no point did [SEOB investigators] have any information on illegal sports wagering occurring at [college athletic] facilities.”).

158. *See id.* (“[Investigators] utilized GeoComply’s technology to draw a boundary around the ISU and UI athletic facilities to specifically identify Plaintiffs engaging in sports betting activity while inside ISU and Iowa facilities.”).

159. *See id.* (“Using this technology, [investigators] and DCI *then* subpoenaed various sports betting companies’ records which revealed account holders engaging in sports wagering at the facilities.” (emphasis added)).

160. *Id.* at 30.

161. Tyler Jett, *DCI Stripped of Gambling Probe Software in Wake of Iowa College Betting Cases*, *Lawyers Say*, DES MOINES REG. (Feb. 27, 2024), <https://www.desmoinesregister.com/story/news/local/2024/02/27/iowa-dci-stripped-of-gambling-probe-software-athletes-lawyers-say/72762533007> [<https://perma.cc/3AZQ-BGT9>].

162. *See* sources cited *supra* note 152.

163. *See* Johnson, *supra* note 1 (“The complaint alleged [Dekkers] bet approximately \$2,799,366 times under an account registered to his mother, Jami. He allegedly placed 297 while he was underage . . .”).

164. *See* Worth, *supra* note 149 (“The NCAA also suspended Iowa football defensive tackle Noah Shannon for the season after admitting to gambling in August. Shannon has not been criminally charged and was at least 21 years old, Iowa’s legal gambling age, when he bet.”).

165. Shannon, like the other suit plaintiffs who were *not* charged as a result of the SEOB probe, alleged that the probe nonetheless resulted in “[h]umiliation, degradation, public ridicule, loss of personal reputation, and

football team,<sup>166</sup> while Shannon only bet on non-football Iowa contests.<sup>167</sup> Despite no wagering involvement on his own games, the NCAA suspended Shannon for the entire 2023–24 season, Shannon’s final year of athletic eligibility.<sup>168</sup> This suspension confused and angered many in the public, including Iowa head football coach Kirk Ferentz.<sup>169</sup>

The fact that Shannon’s suspension was for wagers on teams he wasn’t involved in seemed to push public sentiment to the point of impacting the NCAA.<sup>170</sup> As discussed in Part II.E, the NCAA is actively rolling back some of their gambling policies and even reconsidering the suspensions of athletes involved in wagers not involving the athlete’s team.<sup>171</sup> The NCAA seems to be waking up to the shortcomings in its policies; it just took two national-attention-grabbing scandals to kick the organization into gear. But, even under the NCAA’s new plan, punishments could still be levied against athletes regardless of whether they bet on college sports,<sup>172</sup> keeping remnants of the overly burdensome policies in place.

#### D. Successful Models of Betting Legalization in Other States

Finally, the State of Iowa can act to prevent a scandal like the one from May 2023 from happening again, and some states have a framework that Iowa can follow.

New Jersey, the state that ushered in this new era of sports betting,<sup>173</sup> was cognizant of the influence wagering can have on athletics.<sup>174</sup> Because of this, when New Jersey updated their gambling laws, the state legislature created a class of sporting events that could not have wagers placed on them.<sup>175</sup> This class, entitled “prohibited sports event[s]” defines these events as “any collegiate sport or athletic event that takes place in New Jersey or a sport or athletic event in which any New Jersey college team participates regardless of

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emotional distress” in connection with the fact he was “forced to miss the entirety of his senior season which included potential professional football opportunities.” See Complaint & Demand for Jury Trial, *supra* note 153 at 15, 31.

166. See Johnson, *supra* note 1 (stating that Dekkers did bet on the Iowa State 2021 football game against Oklahoma State, a game his team played in that he did not play in).

167. See Blake Baumgartner, *Noah Shannon’s Appeal to NCAA Denied, Ending Iowa Career*, ESPN (Sept. 12, 2023), [https://www.espn.com/college-football/story/\\_/id/38387768/noah-shannon-appeal-ncaa-denied-ending-iowa-career](https://www.espn.com/college-football/story/_/id/38387768/noah-shannon-appeal-ncaa-denied-ending-iowa-career) [<https://perma.cc/2B2E-ZL5H>] (stating that Shannon “admitted to wagering on an event involving a Hawkeye team in another sport”).

168. *Id.*

169. See, e.g., Straka, *supra* note 1 (quoting from Ferentz that he is “hopeful this is an opportunity for the NCAA to reconsider two things: What punishments might be that are fair and relevant to the world we’re living in right now, and probably the bigger thing, there’s an opportunity right now for a lot better education process”); Eric Olson, *Iowa Will Appeal Suspension of Noah Shannon, Who Admits Involvement but Not Charged in Gambling Case*, ASSOCIATED PRESS (Aug. 23, 2023), <https://apnews.com/article/iowa-hawkeyes-noah-shannon-gambling-64ae3996ee157f0e520c8289c0238c44> [<https://perma.cc/2ZDX-MCCY>] (quoting from Ferentz that Shannon “has not committed a crime at all. Nothing criminal,” adding that he feels that the NCAA’s punishment is “a little bit harsh” and that he hopes the NCAA will “reconsider [Shannon’s] case”).

170. See Vannini, *supra* note 85.

171. *Id.* (“Notably, the [new NCAA betting] guidelines potentially could be applied retroactively.”).

172. *Id.*

173. New Jersey’s attempt to legalize sports gambling led to the gambling-legalizing Supreme Court case *Murphy v. NCAA*. See generally *Murphy v. NCAA*, 138 U.S. 453 (2018).

174. See N.J. STAT. ANN. § 5:12A-10 (West 2024) (subheading “Prohibited sports event”).

175. *Id.*

where the event takes place.”<sup>176</sup> This change to the definitions of New Jersey’s gambling laws is clear legislative intent to prohibit the intermingling of in-state college sports and gambling. The New Jersey legislature realizes that its citizens and tourists still want to gamble on college athletics, so this solution maintains as much freedom to gamble as possible but prevents gambling-based influence over in-state competitions.

Rhode Island<sup>177</sup> and Delaware<sup>178</sup> have similar laws preventing in-state sportsbooks from hosting in-state collegiate wagers. States have been able to have their cake and eat it too, allowing citizens to wager how they would like, with a reasonable prohibition on in-state college sports.

The Iowa legislature has already shown that the state can limit college-athletics wagers when it prohibited “prop bets” on individual student-athlete performances.<sup>179</sup> Research indicates that these “middle ground” approaches that allow *some* college wagering will enable states to enjoy the economic impacts of gambling, prevent illegal sports gambling markets by creating a legal alternative, and prevent interference from in-state bettors who could endanger in-state athletes.<sup>180</sup>

With examples to pull from, indicators that a change won’t hurt the state’s revenue streams,<sup>181</sup> and a scandal that needs to be rectified, the State of Iowa has effective frameworks that the legislature can follow to maintain integrity in Iowa’s beloved in-state college sports.

#### IV. RECOMMENDATION

##### A. *New NCAA Policies*

The NCAA understands that its policies of flat-out rejecting any betting is out-of-date in a post-*Murphy* environment.<sup>182</sup> The NCAA, its media partners, and its member institutions have embraced the nationwide proliferation of sports betting but have frozen its

176. *Id.*

177. See 42 R.I. GEN. L. § 42-61.2-1 (West 2024) (defining wagering eligible “Collegiate sports or athletic event” as “a sporting event offered or sponsored by or played in connection with, a public or private institution that offers educational services beyond the secondary level” but states that the definition “shall not include a collegiate sports contest or collegiate athletic event that takes place in Rhode Island or a sports contest or athletic event in which any Rhode Island college team participates regardless of where the event takes place”).

178. See 10 DEL. ADMIN. CODE § 204-2.0 (2023) (defining “sports lottery” as a “lottery in which the winners are determined based on the outcome of any professional or collegiate sport or sporting event” but *excludes* “collegiate sporting events that involve a Delaware college or university and amateur or professional sporting events that involve a Delaware team”).

179. See IOWA CODE § 99F.1 (2019) (defining that “Sports Wagering” does not include “placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is a participant”).

180. See Matthew Dziok, *Sports Law—Sports Gambling in a Post-Murphy World: Ensuring Emerging Sports Gambling Laws Adequately Protect the Integrity of College Sports*, 44 W. NEW ENG. L. REV. 149, 165 (2022) (discussing the benefits that states reap when they choose to take a “middle-ground” approach and do not allow betting on *all* elements of college sports).

181. See discussion *supra* Part III.C (discussing how gambling in general can drive tourism from neighboring states that prohibit gambling, like Minnesota to Iowa).

182. See discussion *supra* Part II.E (discussing how, in the Summer of 2023, the NCAA’s legislative committee drafted new rules on addressing betting activities of athletes, including new, relaxed, punishments).

athletes out.<sup>183</sup> Research shows college students enjoy sports betting.<sup>184</sup> Research shows that athletes participate in the activity regardless of the NCAA's prohibitions.<sup>185</sup> Legislators recognize that allowing the public to legally sports bet brings the activity out of the underground, almost akin to repealing the prohibition of alcohol in the 1930s.<sup>186</sup> Finally, the NCAA and Supreme Court recognize that the NCAA is in a position where the NCAA and its universities are a "monopsony power in the market for student-athlete services"—the only place student-athletes can "sell their labor".<sup>187</sup>

College athletes are part of a demographic that *wants* to bet on sports<sup>188</sup> and are already doing so.<sup>189</sup> However, these athletes face prohibition and punishment from the sole authority through which these athletes can monetize and focus their athletic efforts.<sup>190</sup> This prohibitive stance is in direct contradiction with the NCAA's enthusiasm and willingness to associate with the gambling industry.<sup>191</sup> Following the *Murphy* decision, the NCAA appears to be either welcoming (or at least not actively preventing its media partners from engaging with) the gambling industry. Given this stance, it stands to reason that certain types of sports betting might be permissible for college athletes if the NCAA is open to some level of association with sports betting. If the NCAA is going to associate with gambling except but not allow its athletes, that sort of inconsistency is gross ignorance at its best and deceptively hypocritical at its worst. That is why the NCAA needs to not just relax some of their betting policies but remove some outright.

First, the NCAA needs to remove the professional athletics betting prohibition from NCAA Rule 10.3. Under Rule 10.3, NCAA athletes are prohibited from "any type of wagering activities concerning intercollegiate, amateur or *professional* athletics competition," for any sport "in which the [NCAA] conducts championship competition."<sup>192</sup> At the very least, professional sports should be struck from this bylaw for being overly broad and unnecessarily prohibitive. It does not make sense that a tennis player at Colorado should be barred from betting on Premier League Soccer in the United Kingdom simply because soccer is a sport for which the NCAA sponsors a championship.<sup>193</sup> The likelihood of insider information being shared in situations like this is extremely low, and student-athletes, who intrinsically have a passion for sports, should be permitted to participate in activities related to the professional sports they care about so much.

183. See discussion *supra* Part III.B (on the NCAA's embrace of sports betting); see also discussion *supra* Part III.C (on how the NCAA has "frozen" athletes out).

184. See Heath, *supra* note 140 (revealing "58% [of surveyed 18–22-year-olds] having engaged in at least one sports betting activity" in the last year).

185. See *Letter Shows NCAA has Found 175 Sports-Betting Violations Since 2018*, *supra* note 139 (detailing that the NCAA has found over 175 violations of its betting policies since the *Murphy* decision in 2018).

186. See Opsahl, *supra* note 55 ("[Iowa's sports betting bill] just brings people out of the shadows and gives them a regulated environment," said [Iowa State Senator] Roby Smith, R-Davenport. "It gives people the freedom to choose to do sports wagering, legally.").

187. *NCAA v. Alston*, 594 U.S. 69, 90 (2021).

188. See Heath, *supra* note 140 (revealing the large amount of 18–22-year-olds already wagering on sports).

189. See *Letter Shows NCAA has Found 175 Sports-betting Violations Since 2018*, *supra* note 139 (detailing the instances of student-athletes gambling the NCAA has been aware about since the *Murphy* decision).

190. *Alston*, 594 U.S. at 90.

191. See discussion *supra* Part III.C.

192. NCAA, *supra* note 2, at 23 (emphasis added).

193. *Division I Championships*, NCAA, <https://www.ncaa.org/sports/2021/5/11/division-i-championships.aspx> [<https://perma.cc/3ARC-98UA>].

Next, there needs to be a relaxation of what college sports student-athletes can wager on. Student-athletes should be allowed to bet on sports not sponsored by the athletic conference their institution is a member of. While the NCAA prohibits athletes from betting on all sports sponsored by the NCAA, there are simply some instances in which a student-athlete has no connection to the contest and thus has no means of compromising the integrity of the competition. For example, there is no reasonable way that a baseball player at Pepperdine, a DI school without a football team<sup>194</sup> and a member of a conference that does not sponsor football,<sup>195</sup> could impact the college football national championship game between the Georgia and TCU by placing a bet on that competition. That baseball player does not have any inside knowledge of the two teams. That baseball player has no connection with the SEC—home to Georgia,<sup>196</sup> or the Big 12—home to TCU.<sup>197</sup> Thus, under this new rule, athletes like the Pepperdine baseball player would be allowed to bet on college sports, as long as their home conference doesn't sponsor the sport.

To uphold fair competition, there must still be a divide between college athletes and betting on college games. That's why this policy recommendation varies by conference rather than by individual sport or school. This addresses edge case institutions that do not sponsor a sport that the rest of their conference does, such as Iowa not sponsoring men's ice hockey<sup>198</sup> or Iowa State, who does not sponsor baseball.<sup>199</sup>

This emphasis on the athletic conference a student-athlete competes in is based on the likelihood that a wagering athlete can exert influence or utilize insider information on the goings-on of other athletic programs in their conference. Due to the way NCAA conferences work, universities in a conference are required to play against their conference counterparts every season.<sup>200</sup> Inter-conference competitions result in student-athletes having more experience playing their conference opponents than against other universities in the country.<sup>201</sup> Student-athletes' frequent competition against in-conference opponents

194. Jerry Jiang, *Location, Money and Conference Play — Why Pepperdine Doesn't Have a Football Team*, PEPPERDINE UNIV. GRAPHIC (Oct. 13, 2022), <https://pepperdine-graphic.com/location-money-and-conference-play-why-pepperdine-doesnt-have-a-football-team> [<https://perma.cc/ZG2V-2W3Q>].

195. Pepperdine is a member of the West Coast Conference, which does not sponsor football. *West Coast Conference History*, W. COAST CONF., <https://wccsports.com/sports/2018/6/26/ot-history-html.aspx> [<https://perma.cc/7DK2-UGBM>].

196. *SEC History*, SOUTHEASTERN CONF. (Oct. 24, 2022), <https://web.archive.org/web/20221024054346/https://www.secsports.com/article/12628010>.

197. *Big 12 Football Teams*, FOX SPORTS, <https://www.foxsports.com/college-football/big-12/teams> [<https://perma.cc/EXA5-DCKF>].

198. Jeff Johnson, *Hawkeyes Hockey? Yes, Iowa Does Have a Hockey Team*, THE GAZETTE (Oct. 1, 2018), <https://www.thegazette.com/iowa-hawkeyes/hawkeyes-hockey-yes-iowa-does-have-a-hockey-team> [<https://perma.cc/VU9V-WDW4>] (stating that the University of Iowa does not have NCAA-level ice hockey but rather, a club-level team); *Men's College Hockey Teams*, NCSA (2024), <https://www.ncsasports.org/mens-hockey/colleges> [<https://perma.cc/Z4E2-SQS8>] (pointing out that DII ice hockey has not been sponsored outside of the northeast for several decades).

199. C.R. Cooper, *Iowa State Eliminates Baseball, Men's Swimming Programs*, QUAD-CITY TIMES (Apr. 3, 2001), [https://qctimes.com/sports/college/isu-cyclones/iowa-state-eliminates-baseball-mens-swimming-programs/article\\_d3489177-20e7-5921-8e70-7312669f2de2.html](https://qctimes.com/sports/college/isu-cyclones/iowa-state-eliminates-baseball-mens-swimming-programs/article_d3489177-20e7-5921-8e70-7312669f2de2.html) [<https://perma.cc/NT72-W5V5>].

200. *NCAA Conferences 101 | What are NCAA Conferences?*, SPORTEGE (Aug. 10, 2020), <https://www.thesportedge.com/blog/what-are-the-ncaa-conferences> [<https://perma.cc/K4MD-7H2U>].

201. For instance, the Big 10 mandates that universities have a handful of football matchups that are guaranteed to happen *every year*, with the remaining slots on a school's football schedule filled by a rotation of the

provides valuable insights into team dynamics and strategies. These insights are bolstered by athletic programs' access to extensive film footage, allowing teams to analyze opponents' past performances both against their own university and other in-conference teams that an athlete already has insights into.<sup>202</sup> The complete edge an athlete can have against every university in their conference means that student-athletes are going to have more knowledge about the schools in their conference rather than schools out of their conference. With a higher level of information known to student-athletes about their conference opponents, gambling can become problematic as they can use their inside knowledge—or the inside knowledge of an athlete of a different sport at their university—to bet on a conference matchup in a way that no one in the public would be able to since they lack that insider knowledge.

Athletes are going to bet; that has been shown.<sup>203</sup> They might as well be allowed to bet on all the sports they lack inside knowledge or connection to as they have a minimal risk of influencing the competitions' outcomes and are just like the many Americans who have embraced sports betting post-*Murphy* decision, likely sharing a desire for an enhanced sports viewing experience. This updated system would continue to bar athletes from wagering on sports within their respective conferences. Thus, the ban also applies to bets on all schools in an athlete's conference, including the athlete's own sport and sports at their institution, as they are all sponsored by the same conference.

Finally, in continuing the work the NCAA is making in relaxing punishments, I believe the NCAA's new punishments for violations of sports betting bylaws need to be modified based on the context of the bets that athletes are caught making. Under newly proposed and adopted legislation, the NCAA's punishment structure for sports bettors would be based on the dollar amount wagered by the athlete and how many times an athlete has been caught.<sup>204</sup> This structure does not acknowledge that some bets do not compromise the integrity of athletics like others do.<sup>205</sup> Additionally, the suspension length for second, third,

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remaining universities in the conference. See Scott Dochterman, *In Preserving History, Big Ten Scheduling Model Gets it Right. Others Should Follow*, THE ATHLETIC (Oct. 5, 2023), <https://theathletic.com/4934835/2023/10/05/big-ten-football-scheduling-rivalries> (on file with the *Journal of Corporation Law*).

202. Julia Sparco, *How Does Watching Film Improve Athletes' Game?*, ELM (Nov. 19, 2020), <https://blog.washcoll.edu/wordpress/theelm/2020/11/how-does-watching-film-improve-athletes-gameplay> [<https://perma.cc/C6MX-6KML>].

203. See *Letter Shows NCAA Has Found 175 Sports-betting Violations Since 2018*, *supra* note 139 (describing how in the time since the *Murphy* decision, there have been at least 175 instances of athletes violating NCAA wagering policy, despite such strict prohibitions being in place).

204. Vannini, *supra* note 85 (describing the penalty structure for student athletes found betting).

205. A bet is more likely to compromise the integrity of a sporting event based on how likely the bettor can influence such an event. See Robb, *supra* note 4, at 372–76 (detailing the various ways student-athletes have influenced sporting events depending on the position the player has in relation to the competition). If a bettor knows someone competing, has some insider knowledge into the event due to their position as a student-athlete, or is competing themselves, that bettor is in a position that can enact influence over the outcome of the athletic event, compromising the event from how it should naturally work out. On the opposite end of this spectrum of “influence,” a student-athlete who lacks these channels of influence over a sporting event has a much lower likelihood of compromising that sporting event. The sliding-scale recommendation that follows here acknowledges the different channels of influence, which I will call the “connections” an athlete has to the competition they bet on, to show that the closer of a “connection” an athlete has to a competition, the more likely that athlete can use their channels of influence to change the outcome of a game, requiring a harsher punishment.

and subsequent offenses—the offenses the new bylaws seek to suspend athletes for<sup>206</sup>—should be based on a sliding scale based on the sport and team or teams the athlete was caught betting on. The closer the athlete has a connection to the sport they bet on, and thus the more likely that student-athletes can exert some influence over the competition's outcome, the harsher the punishment they should face. The following five scenarios demonstrate the sliding scale in action.<sup>207</sup>

*Severity Level One:* a women's beach volleyball player at Cal Poly bets on a men's March Madness basketball match between Purdue and Alabama. The only connection between the athlete and the competition being bet on is that the volleyball player's conference sponsors the sport being bet on.<sup>208</sup> With a minimal connection to the sport, and therefore a minimal likelihood of interference or transmission of insider knowledge, a *minimal* suspension—a handful of games at most—should be levied here.

*Severity Level Two:* a golfer at Wyoming bets on a baseball game between Nevada and Minnesota. Here, the connections that exist are that a team involved in the wager is from the same conference as the student-athlete: Wyoming and Nevada are in the Mountain West.<sup>209</sup> Additionally the golfer's home conference sponsors the sport being bet on.<sup>210</sup> Therefore, a medium-length suspension—approximately half a season—should be levied since there is some likelihood that the golfer could receive unfair insight into this matchup from a fellow athlete at their university.

*Severity Level Three:* a softball player at Syracuse bets on a softball game between UNC and Florida State. Like the previous scenario, the connections this softball player has to the competition include the fact that both teams are from the athlete's home conference: the ACC,<sup>211</sup> but with the additional connection that the competition is in the same sport the athlete plays. Since this softball player is more likely to have insider knowledge of this matchup, a heightened suspension—three-quarters of a season—should be levied.

*Severity Level Four:* a basketball player at Iowa State bets on a football matchup between Iowa State and Kansas. The connections here include: a wager on the school the student-athlete attends, a wager on a matchup within the athlete's conference—both universities are a part of the Big 12,<sup>212</sup> and a wager on a sport the athlete's conference sponsors.<sup>213</sup> Here, the possibility of direct influence over the game is much greater since the basketball player is likely to have personal associations with members of the Iowa State

206. See Vannini, *supra* note 85 (discussing how the new NCAA rules propose that the first offense for illegal sports betting results in no suspension, how the second offense *may* result in suspension based on dollar amount bet, and how the third and subsequent offenses of the betting bylaws would result in year-long suspension).

207. For these scenarios, keep in mind these are *only* for athletes that have been caught betting more than two times. Athletes caught on their first offense would face no suspension but rather education on healthy gaming habits (unless the athlete was betting on their own school, in which I believe the NCAA should look to my recommended suspensions under scenarios four and five).

208. Cal Poly is a member of the Big West, which does sponsor men's basketball. *About the Big West*, THE BIG W. CONF., [https://bigwest.org/sports/2016/12/22/GEN\\_1222161145.aspx](https://bigwest.org/sports/2016/12/22/GEN_1222161145.aspx) [<https://perma.cc/W66R-TH3H>].

209. *Mountain West Demographics*, MOUNTAIN W. CONF., <https://themw.com/demographics> [<https://perma.cc/URV4-ETVD>].

210. *Baseball Championship*, MOUNTAIN W. CONF., <https://themw.com/baseballchamp> [<https://perma.cc/3UQZ-P45Q>].

211. *2024 Softball Standings*, ATL. COAST CONF., <https://theacc.com/standings.aspx?path=softball> [<https://perma.cc/FN5M-REHR>].

212. *Big 12 Football Teams*, *supra* note 197.

213. *Id.*



football team. Thus, a harsh punishment—somewhere in the range of three-quarters of a season to a whole year, should be levied. Note, under newly adopted legislation, the NCAA would no longer permanently ban players guilty of a bet like this, but rather suspend the athlete for a year *and* take away a year of their eligibility.<sup>214</sup> This punishment is too severe in light of the proliferation of sports betting across the country and the embrace of the gambling industry by those with much more power in college athletics than a singular athlete.<sup>215</sup>

*Severity Level Five:* a football player at Arkansas bets on a football game between Arkansas and Vanderbilt: This athlete has the closest connection to a wagered matchup out of these five scenarios, by betting directly on a game they are a participant in. Thus, this athlete should have the most severe punishment levied against them a full season suspension with a possibility of banishment from the NCAA pending an investigation into the effect the athlete's bet had on the outcome of the game.

By adopting new punishment rules and supplementing them with the sliding scale, the NCAA's approach to punishing athletes betting on NCAA matchups becomes more realistic and better proportioned. Additionally, removing prohibitions on bets on professional athletic competitions and college sports not sponsored by an athlete's home conference adds more freedom to college athletes while maintaining integrity.

### B. Iowa to Adopt New Jersey's Approach to Betting Legislation

The State of Iowa's current allowance of sports wagers has left itself open to the possibility that in-state athletes can wager on in-state competitions.<sup>216</sup> This possibility creates the real danger that student-athletes in Iowa can fix games to align with their financial gambling interests. Student-athletes, when they can exploit legal gaming channels, find themselves in the unique position of betting on themselves. This raises the risk that history may repeat itself and we could have modern scandals like the CCNY Point-Shaving scandal of 1950,<sup>217</sup> and the Northwestern betting scandals,<sup>218</sup> especially considering the widespread accessibility of online gambling.

These dangers regarding Iowa's betting legislation were exposed by the Iowa Betting Scandal of 2023, which showed that Iowa's SEOB can catch athletes who gamble on their own school's matchups but is incapable of preventing these wagers from happening in the

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214. Wright, *supra* note 79.

215. While in this scenario, that Iowa State basketball player could have influence or associations with members of the Iowa State football team, so could a non-athlete who lives in a dormitory room next to football players or a writer for the Iowa State newspaper. Because the bettor in question here doesn't have direct influence over the outcome of the game, just like a sportswriter or next-door-neighbor, a punishment should be lighter than stripping two years of eligibility.

216. This is seen in the scandal discussed *supra* Part III.B.

217. The mafia-run CCNY scandal led to a number of player and school banishments by various athletic bodies, to the demotion of CCNY from DI to DIII, and to the suspension of Long Island University's basketball program for seven years following the scandal. Robb, *supra* note 4, at 373–74.

218. The Northwestern Basketball Scandal of 1995 resulted in two basketball players being charged with "point-shaving," the act of deliberately changing the final score of a game, and the Assistant US Attorney expressing that "[planning to throw games] could be done so easily and quickly." *Id.* at 375–76. One player implicated in the Northwestern Football Scandal of 1995 was found to have actively attempted to throw a game against the University of Iowa. Prosecutors presented game footage as evidence, demonstrating that the player deliberately lost control of the football. *Id.* at 376.

first place.<sup>219</sup> Thus, with Iowa at the center of attention on student-athlete gambling, dubbed the “chosen one” for criticisms of sports betting policies,<sup>220</sup> the state should adopt new legislation on what is allowed to be wagered on at sportsbooks licensed by the IRGC.

As mentioned previously, Chapter 99F of the Iowa Code specifically regulates “Gambling Games and Sports Wagering.”<sup>221</sup> This section was heavily updated in May 2019 when Governor Reynolds signed several amendments to the chapter into law, including the legalization of sports gambling in the State of Iowa.<sup>222</sup> One of those amendments was a set of modifications to § 99F.1, which defined what sports wagers were allowed in the state.<sup>223</sup> This section excluded wagers on the performance of any individual athlete participating in an athletic event in which an in-state college participates.<sup>224</sup> This section prohibits sportsbooks from holding what is known as “prop bets,” or bets on the performance of individual athletes in a team competition.<sup>225</sup> This shows legislative intent that the Iowa Legislature wanted to avoid the fallout and pressure that athletes may face when Iowans put a financial stake on a student-athlete’s performance. The legislature likely knew there could be dangers of athletes throwing games if they could bet on their performances. This demonstrates the legislature understood Iowa needed limitations on wagers in the state to protect college athletics.

Thus, the state should expand its protection of in-state schools by adopting New Jersey’s approach to sports gambling. When New Jersey legalized sports gambling after their successful efforts to overturn PASPA, the state legislature created a distinct class of sporting events New Jerseyans were flat-out prohibited from betting on—in-state colleges.<sup>226</sup> Under the title of “Prohibited sport event[s]” in New Jersey’s § 5:12A-10, the state prohibits wagering on “any collegiate sport or athletic event that takes place in New Jersey or a sport or athletic event in which any New Jersey college team participates regardless of where the event takes place.”<sup>227</sup> This is a clear message from the New Jersey legislature that they believe New Jerseyans deserve the right to gamble their money if they so choose, but that there needs to be some assurance that the integrity of athletic competition within the state’s colleges remains.

The State of Iowa should follow New Jersey and prohibit sportsbooks from carrying wagers involving competitions of colleges within Iowa. This would involve a simple

219. Albeit the SEOB’s ability to do this constitutionally is currently a debate in federal court. *See generally* Complaint & Demand for Jury Trial, *supra* note 153.

220. *See* John Steppe, *Why Iowa Seems to Be ‘Chosen Ones’ in NCAA’s Enforcement of Sports Wagering Rules*, THE GAZETTE (Aug. 24, 2023), <https://www.thegazette.com/iowa-football/why-iowa-seems-to-be-chosen-ones-in-ncaas-enforcement-of-sports-wagering-rules> [<https://perma.cc/WHZ8-AED2>] (quoting from Iowa football head coach Kirk Ferentz that Iowa has become the “chosen ones” for investigations into gambling matters).

221. *See generally* IOWA CODE § 99F (2019).

222. *See* Stephen Gruber-Miller & Robin Opsahl, *Kim Reynolds Signs Sports Betting and Fantasy Sports Bill into Law in Iowa*, DES MOINES REG. (May 14, 2019), <https://www.desmoinesregister.com/story/news/politics/2019/05/13/iowa-sports-legal-betting-fantasy-sports-gov-kim-reynolds-casino-gambling-draftkings-fan-duel-college/1192438001> [<https://perma.cc/X2XN-YVBV>].

223. *See* IOWA CODE § 99F.1 (2019) (under the heading “29. ‘Sports wagering’”).

224. *Id.*

225. Platana, *supra* note 67.

226. *See* N.J. STAT. ANN. § 5:12A-10 (West 2024) (subheading “Prohibited sports event”).

227. *Id.*

change to the definitions under Chapter 99F. Under § 99F.1(29), the State of Iowa should modify the definition of “Sports wagering” to include the following language:

“Sports wagering” does not include placing a wager on any collegiate sport or athletic event that takes place in Iowa or a sport or athletic event in which any Iowa college team participates regardless of where the event takes place, or placing a wager on the performance of athletes in an individual international sporting event governed by the international Olympic committee in which any participant in the international sporting event is under eighteen years of age.

This modification to § 99F.1(29) uses the same language from New Jersey’s § 5:12A-10,<sup>228</sup> and replaces the previous language prohibiting “prop bets” on Iowa college athletes. This modification also maintains Iowa’s prohibitions on prop bets on Olympic performances and prop bets on minors competing in international competitions.<sup>229</sup>

This change to Iowa law is easy to implement since it only requires the change of one clause in the law. Swift implementation of this policy is feasible for sportsbooks using their geolocation technology. This technology checks whether an app user is within a legal gambling jurisdiction,<sup>230</sup> and, under this proposal, can allow sportsbooks to simply toggle wagers on Iowa athletic events as unavailable if the geolocation data indicates the sportsbook user is located in the State of Iowa.

While this change in the law may deter some from gambling in the state and lead others to seek sports gambling in nearby states or underground, it’s necessary to prevent a national-attention-grabbing scandal like what happened in 2023 from occurring again. Such a move, despite potentially reducing revenue for both sportsbooks and Iowa’s tax revenue, is crucial for maintaining integrity and public trust. A move like this is essential to ensure Iowa’s college sports, a very closely held institution for a state with a long history of love for its college sports<sup>231</sup> and a lack of major professional sports,<sup>232</sup> remain intact.

### C. Iowa to Establish a College Athlete Database to Balance Wagering Interests

Alternatively, the Iowa Legislature has many valid reasons to keep Iowa colleges on in-state sportsbooks. For the same reasons why wagering at large was legalized,

228. *Id.*

229. See IOWA CODE § 99F.1 (2019) (under the heading “29. ‘Sports wagering’”).

230. John Mehaffey, *Sports Betting Geolocation Explained: How the Tech Works*, BETTINGUSA (Jan. 27, 2023), <https://www.bettingusa.com/geolocation/> [<https://perma.cc/BS73-78RZ>]; see also Sayre, *supra* note 155 (discussing GeoComply’s role in controlling sportsbook use via geolocation).

231. Attendance at University of Iowa and Iowa State University athletic events are some of the highest in the nation, with multiple sports achieving full-season sellouts for home game tickets. See, e.g., *CHA Sold Out; Iowa WBB Sells Out 2023-24 Season*, HAWKEYE SPORTS (Aug. 14, 2023), <https://hawkeyesports.com/news/2023/08/14/cha-sold-out-iowa-wbb-sells-out-2023-24-season> [<https://perma.cc/EHN9-HJSG>]; Michael Howell, *Iowa Sells out all Home Football Games for Second Straight Year*, IOWA NEWS NOW (Sept. 7, 2023), <https://cbs2iowa.com/sports/i-on-the-hawks/iowa-sells-out-all-home-football-games-for-second-straight-year> [<https://perma.cc/G2QB-UEGK>]; *ISU Ranks 15th Nationally In MBB Attendance*, IOWA STATE ATHLETICS (July 25, 2019), <https://cyclones.com/news/2019/7/25/mens-basketball-isu-ranks-15th-nationally-in-mbb-attendance.aspx> [<https://perma.cc/C4ZP-V6LE>].

232. See *Sports Teams in Iowa*, SPORTS LEAGUE MAPS, <https://sportleaguemaps.com/sports-teams-in-iowa> [<https://perma.cc/J2US-2VZ7>] (depicting only minor league teams existing in Iowa).

maintaining a legal path to gambling on Iowa sports makes sense to prevent underground seedy gambling while maximizing the state's tax revenue.<sup>233</sup> As such, I believe there is a way to keep allowing Iowans to bet on Iowa sports games but prevent in-state athletes from gambling on games involving Iowa teams.

If the State of Iowa wants to maintain Iowans' ability to wager on in-state sports, I believe the Iowa State Legislature should authorize the creation of what I will call the "Iowa College Athlete Database" (ICAD) and put the IRGC and licensed sportsbooks in charge of its implementation and monitoring. The ICAD would allow sportsbooks to keep a record of college athletes, as well as athletic staff, in Iowa to prevent them from wagering on Iowa athletic events or report when such wagering has occurred. While not illegal under Iowa law for athletes to bet on their own sports, the creation of the ICAD by the Iowa Legislature should come alongside an amendment to § 99F that prohibits student-athletes and college athletic staff from wagering on their own games, to provide a legal justification for implementing this monitoring system. The ICAD would be a database of all athletes and athletic staff at Iowa's four Division I institutions,<sup>234</sup> and the following steps are how I believe this database could be established.

First, the Iowa State Legislature creates the ICAD via statute, empowers the IRGC to monitor the ICAD, and conditions licensure, or continued licensure, for sportsbooks on implementing ICAD. This conditioning ensures that sportsbooks in the state use ICAD or else lose their ability to operate in the state. As part of Iowa's creation of the ICAD, the legislature should install language conveying the following: "Every athlete attending a NCAA DI institution in the State of Iowa and every athletic staff member in association with a NCAA DI institution in the State of Iowa shall contribute their name to ICAD or face fines or ineligibility for school enrollment for failure to disclose." This language forces athletes and athletic staff to participate in the database and provides a mechanism to ensure compliance.

Next, the IRGC establishes a method in which athletes and athletic staff comply with state law and disclose their relationship with an NCAA DI institution in the State of Iowa. This is likely accomplished with a simple affidavit presented to athletes when they first enroll in an Iowa university or when an athletic staff member is hired. This signed affidavit informs the state of only a few critical pieces of information on the athlete. That information is limited to the athlete's name, the institution they attend, the sport they play, and associated family members residing in Iowa.<sup>235</sup> Those pieces of information would also be asked for from athletic staff, but instead of asking which sport they play, they will be asked what sport they are associated with.

After the IRGC collects the prerequisite information from Iowa's four Division I institutions, the Commission shall program an easy-to-navigate database for compliance officers at Iowa's sportsbooks to monitor. Licensed sportsbooks in the State of Iowa are then

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233. See discussion *supra* Part III.A.

234. These universities being the three public schools of Iowa, Iowa State, and UNI, as well as the private university, Drake. See *Sports Teams in Iowa*, *supra* note 232.

235. This piece of information is crucial to prevent family members in Iowa from betting on their athlete's behalf and to prevent athletes from using their parents' identity to create sports betting accounts themselves (such as what happened to Iowa State University athletes charged in the SEOB probe). See Johnson, *supra* note 1 (establishing that the criminal complaint against Iowa State quarterback Hunter Dekkers was the result of Dekkers betting 366 times "under an account registered to his mother, Jami").

tasked to use the database to prevent user accounts from wagering on athletic events involving Iowa schools. To best use this technology and avoid investigators exploiting this technology to “fish” for potential lawbreakers without a warrant, I believe the best use of this database would be *by* sportsbooks during the account creation process. This way, when a betting account is created, sportsbooks can cross-check that user’s information with the ICAD and if their information is flagged as being in the ICAD, that sportsbook should prohibit that account from wagering on Iowa athletic events in the first place akin to how they prohibit all accounts in the Iowa from betting on college athlete “prop bets”.

The deployment of the ICAD may come with significant expenses and encounter resistance from multiple fronts. Student-athletes may raise privacy concerns, especially in light of the SEOB’s alleged mishandling of user data,<sup>236</sup> while sportsbooks may object to having their licenses contingent on ICAD implementation and oversight. However, this resistance can be pushed back upon when considering why the ICAD would be created in the first place.

When pairing the creation of the ICAD with the relaxed NCAA policies discussed in Section A of this Part, Iowa’s student-athletes get to have expanded freedom to bet as they so choose. They can do so with the assurance that their teammates (or opponents) aren’t trying to gain financially from the results of their competitions. Sportsbooks get the added assurance they won’t play a role in the dirtying up of Iowa’s precious college athletics and can tout how much they care about betters’ safety by monitoring betting activity.

Establishing the ICAD offers an ideal means to balance Iowa’s objectives, preserving Iowans’ access to local bets and fortifying the integrity of college athletics in the state. This solution is better than the New Jersey approach as it ensures that a rather popular revenue stream for sportsbooks and the Iowa budget, namely, revenue from wagers on in-state college competitions, is not prohibited. This solution also keeps Iowans in Iowa to conduct legal gambling endeavors, instead of turning to neighboring states or illegal channels. Finally, this solution keeps an eye on athletes to ensure they do not endanger themselves with their gambling habits and that the sanctity of college athletics in Iowa is well-maintained.

## V. CONCLUSION

After the Supreme Court overturned PASPA with their decision in *Murphy* in 2018,<sup>237</sup> two distinct groups had to adapt to the new post-*Murphy* world of sports gambling: state legislatures and the NCAA. State legislatures had to face the decision of whether to legalize sports gambling in their states and if so, what sort of leash to impose on this activity. The State of Iowa decided that Iowans deserved the right to gamble and thus passed a law in the Spring of 2019 with the only limitation being that no sports book could carry prop bets on the individual performances of athletes at any university within the state.<sup>238</sup> The Iowa

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236. Such as the privacy and constitutional concerns brought about from the SEOB probe. See William Morris, *Iowa Investigators in Student Sports Betting Probe Defend Investigation Tactics*, DES MOINES REG. (Jan. 31, 2024), <https://www.desmoinesregister.com/story/news/crime-and-courts/2024/01/31/iowa-dps-investigators-in-student-sports-betting-probe-defend-tactics-isu/72422607007/> [https://perma.cc/M9D3-AD2R]; see generally Complaint & Demand for Jury Trial, *supra* note 153.

237. See generally *Murphy v. NCAA*, 584 U.S. 453 (2018).

238. See IOWA CODE ANN. § 99F.1 (West 2019) (prohibiting prop bets on the individual performances of student athletes at Iowa universities from being available at licensed sportsbooks).

legislature empowered the IRGC to monitor this influx of gambling activity, and tasked a special investigative arm, the SEOB, to investigate any wrongdoing from gambling activity in the state.<sup>239</sup>

The NCAA, however, made few changes to their bylaws prohibiting athletes and athletic staff from wagering on any sport the organization sponsors, regardless of whether the attempted wagering was on a collegiate or professional athletic event.<sup>240</sup> The NCAA continues to assert its firm position against college athletes participating in the growing sports gambling trend, citing a commitment to preserving the integrity of sports.<sup>241</sup> However, this stance appears contradictory given the organization's decision to lift its ban on allowing events in Las Vegas,<sup>242</sup> media partners' financial ties with major sportsbooks,<sup>243</sup> and member institutions indirectly reaping the rewards of sportsbooks' advertising dollars with massive media rights deals.<sup>244</sup>

Consequently, the NCAA is the *only* organization to which individuals aspiring to engage in competitive college sports are compelled to offer their services,<sup>245</sup> and this organization is capitalizing on the expanding sports betting industry for its own financial gain.<sup>246</sup> Paradoxically, this organization is excluding athletes from participating in this process—despite research showing this group wants to bet<sup>247</sup> and has already begun to do so.<sup>248</sup>

Issues with both the NCAA's policies and Iowa law rose to the surface when student-athletes at Iowa and Iowa State were caught in a criminal probe for gambling on a number of athletic events—including events involving the Iowa and Iowa State.<sup>249</sup> This investigation from the State of Iowa resulted in athletes being charged with tampering with records and the NCAA leveling year-long suspensions for athletes, even those who did not bet directly on events they played in.<sup>250</sup> Only when public outrage over some of these suspensions grew louder did the NCAA begin to publicly discuss rolling back their prohibitions on athletic betting.<sup>251</sup> However, it's not enough.

The NCAA and the State of Iowa have policy gaps that demand attention. The NCAA's shortcomings need addressing to enhance athletes' freedoms, especially considering the organization's lenient stance on the gambling industry in various other aspects.<sup>252</sup>

239. Opsahl, *supra* note 55.

240. *See supra* notes 75–77 and accompanying text.

241. *See Board of Governors Reaffirms Sports Wagering Rules, Discusses Player Availability Reporting*, *supra* note 73 (“The NCAA Board of Governors has reaffirmed its support of current NCAA rules prohibiting student-athletes and university administrators from wagering on sports.”).

242. Anderson, *supra* note 114.

243. *See supra* notes 125–28 and accompanying text (detailing ESPN's, Fox's, CBS's, and NBC's endeavors in the gambling industry).

244. *See supra* notes 128–30 and accompanying text.

245. *NCAA v. Alston*, 594 U.S. 69, 90 (2021) (“[T]he district court found (and the NCAA does not here contest) that student-athletes have nowhere else to sell their labor.”).

246. *See discussion supra* Part III.C.

247. Heath, *supra* note 140.

248. *Letter Shows NCAA Has Found 175 Sports-betting Violations Since 2018*, *supra* note 139.

249. Johnson, *supra* note 1.

250. *Id.*

251. *See supra* notes 84–88 and accompanying text.

252. *See discussion supra* Part III.C.

Similarly, Iowa's gaps require filling, particularly in the wake of the Iowa Gambling Scandal of 2023.

The NCAA should roll back its rules that student-athletes cannot gamble on professional sports. Furthermore, the NCAA should roll back its rules on what collegiate sports athletes can bet on and go further in its modernization of betting punishments. This could be achieved by introducing a sliding scale that considers how close of a connection an athlete has to a collegiate sporting event when they are caught betting on something they should not.

For the State of Iowa, adopting one of two measures could prevent a similar scandal from happening again. First, Iowa could follow in the footsteps of New Jersey and completely prohibit sportsbooks from carrying wagers on in-state college competitions. Alternatively, the state can keep in-state college competitions on sportsbooks and adopt the ICAD, a database that sportsbooks can use to prevent in-state athletes from betting on Iowa collegiate athletic events, balancing the interests of the public with the desire to maintain the integrity of Iowa collegiate sports.