



Antitrust's Death Knell for Amateurism and College Sports: A March Madness Case Study

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JULY 2025

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EXECUTIVE SUMMARY

Over the last decade, the National Collegiate Athletic Association (NCAA) has struggled with the legality of policies that restrict athlete compensation, particularly for “name, image, and likeness (NIL).” In the aftermath of losses in antitrust lawsuits and mounting legal and political pressure, the NCAA allowed student athletes to profit from their NIL beginning in 2021. *House v. NCAA* (2021) is perhaps the highest profile antitrust class action case involving NIL, where a recently finalized settlement will bring sweeping change to intercollegiate sports.

The *House v. NCAA* settlement requires colleges and universities, among others, to pay damages for previously restricted NIL and compensate student athletes through a complex revenue-sharing system over the next decade. The major beneficiaries of the settlement are athletes in high-revenue, Division 1 men’s football and basketball, and women’s basketball programs. The reality, however, is that the financial penalties will have an impact on schools across *all* Division 1 programs.

Many of the headline-grabbing changes in college sports, including cutting low-revenue programs and increased use of the transfer portal, predate the recent *House v. NCAA* settlement. But schools also made changes in *anticipation* of the final settlement, which enshrines a semi-professional model of high-revenue college sports and puts it on steroids. For example, NIL values are skyrocketing, the NCAA’s transfer portal is clogged with student athletes, coaches are resigning, expenses for top college basketball programs are in the eight-figure range, and athletic directors are being replaced with general managers.

This transformation will have spillover effects on everything from high school recruiting, to the viability of the Olympic development program, and the health, safety, and education of young adults. More broadly, the *House v. NCAA* settlement brings an end to the principle of “amateurism” that has

guided the NCAA's approach to intercollegiate athletics for the last 90 years. This Progressive Policy Institute (PPI) white paper makes the case for why the impact of the *House v. NCAA* settlement on intercollegiate sports creates a public policy problem that warrants a federal legislative solution.

There is no doubt that antitrust enforcement is an important tool for protecting competition in labor markets for student athletes. But the impact of the *House v. NCAA* settlement makes clear that it is not the appropriate forum for managing policy around college sports in the U.S. PPI's analysis unpacks a decade of data from the March Madness men's basketball tournament to examine the impact of the NCAA's NIL policy and anticipated fallout from the settlement. The implications of the analysis can be extended to other high-revenue college sports. Major takeaways that highlight the magnitude of change in the March Madness tournament include:

- **Top basketball programs at schools in the most prominent conferences have come to dominate March Madness over the period 2015-2025.**
- **The “Cinderellas,” or lower-ranked schools that unexpectedly make deep runs into the tournament, are disappearing.**
- **Steadily rising men's basketball program budgets increasingly drive success in the competition.**

These results support PPI's recommendations for comprehensive federal legislation that mitigates the adverse effects of the *House v. NCAA* settlement and reframes a model of U.S. college sports under a modern version of amateurism that makes the welfare of student athletes the most important priority.

I. THE FALL OF AMATEURISM AND RISE OF SEMI-PROFESSIONAL COLLEGE SPORTS

Since it was created in 1906, the NCAA has managed sports competition for U.S. colleges and universities.¹ It has navigated numerous changes to the three-tier system of Division I, II, and III college sports.² But the NCAA has also struggled with the legality of policies that restrict athlete compensation, such as for NIL, inter-collegiate transfers, and eligibility rules.³ The pinnacle of a decade-long antitrust battle over NIL is the *House v. NCAA* case, filed originally in 2021. The suit was settled recently with an agreement that effectively semi-professionalizes high-revenue college sports, under a complex scheme where schools will pay student athletes through a revenue-sharing system.

Even before the *House v. NCAA* settlement was final, however, changes were already in play.⁴ Schools have cut programs and rosters, and college coaches have resigned, unwilling or unable to engage with the chaos generated by new high-stakes financial commitments.⁵ It is hard to miss the headlines on skyrocketing NIL or the NCAA's transfer portal — described as “out of control” or the “Wild West” — that is clogged with student athletes.⁶ Expenses for top college basketball programs are now in the eight figures and athletic directors are being replaced with general managers.⁷

The *House v. NCAA* settlement will supercharge many of these trends. It will also increase pressure for athletes to engage in collective bargaining if the new compensation system leads to their classification as employees of a college or university.⁸ Moreover, private equity investment in the most lucrative college athletic programs and conferences may be on the horizon.⁹

The semi-professionalization of high-revenue college sports will have massive spillover effects on high school recruiting, the viability of the Olympic development program, and the health, safety, and education of college student-athletes. More broadly, the settlement effectively ends any semblance of “amateurism” that has guided the NCAA’s approach to college athletics for the last 90 years.¹⁰ Amateurism rests on the notion that intercollegiate athletics are an integral part of the educational program and the student athlete is an integral part of the student body.¹¹ As a result, there must be a “clear line of demarcation” between intercollegiate athletics and professional sports.¹²

While antitrust is an important tool for protecting competition in labor markets for student athletes, it is not the appropriate forum for managing policy around intercollegiate athletics. The *House v. NCAA* settlement compensates student athletes who are victims of an antitrust violation. This is a fundamentally different goal than setting legal, economic, and social parameters around how student athletes participate in organized sports as part of their higher education journey. This Progressive Policy Institute (PPI) white paper makes the case for why the effects of the *House v. NCAA* settlement on student athletes and the institution of college sports creates a public policy problem that warrants a federal legislative solution.¹³

Support for this position is based on PPI’s analysis of changes in the March Madness men’s basketball tournament from 2015 to 2025. Top-line takeaways from the analysis include: top schools in the most prominent conferences have come to dominate March Madness; the “Cinderellas,” or lower-ranked schools that unexpectedly make a deep run into the tournament, are disappearing; and school budgets increasingly drive success in the competition. PPI’s analysis provides important

perspective for lawmakers in framing legislation that mitigates the impact of the *House v. NCAA* settlement and reshapes the model of college sports around a modern version of amateurism that puts the welfare of college athletes front and center.

II. THE NCAA’S ROCKY ANTITRUST HISTORY

Controversy over policies that restrict compensation to college athletes have rocked the NCAA. The antitrust issues that have swirled around the organization for decades originate from a basic legal question. Is the NCAA a single entity that manages sports competition among colleges, or a group of colluding member schools and conferences? If the latter, do restrictions on certain activities violate antitrust law, to the detriment of college athletes?¹⁴

The NCAA’s record is not a good one. For example, the NCAA lost its case regarding restrictions on NIL on appeal to the 9th Circuit in *O’Bannon v. NCAA* (2015).¹⁵ The NCAA lost again on appeal to the Supreme Court in the landmark case, *Alston v. NCAA* (2019), which focused on limits to education-related benefits for student athletes.¹⁶ In response to mounting legal and political pressure, the NCAA allowed student athletes to profit from their NIL beginning in 2021.¹⁷

In *House v. NCAA* (2021), the NCAA and five power conferences — i.e., Atlantic Coast Conference (ACC), Southeastern Conference (SEC), Pac-12 Conference, Big 12 Conference (Big 12), and Big Ten Conference (Big 10) — agreed to settle claims that they restricted NIL, in violation of antitrust law.¹⁸ The plaintiff class in *House v. NCAA* comprises almost 400,000 Division 1 athletes.¹⁹ The sweeping agreement that settled the case was granted final approval on June 6, 2025.²⁰

The agreement compensates Division 1 college student-athletes for about \$2.8 billion in damages

for NIL that was denied between 2016 and 2024.²¹ It also establishes a framework for forward-looking injunctive relief, under which schools that opt into the settlement can share revenue with athletes, more than \$20 million per year, per school starting in 2025-2026. This puts the value of the settlement at about \$19.4 billion over the next decade.²²

Not surprisingly, the major beneficiaries of the *House v. NCAA* settlement are athletes in high-revenue Division 1 men's football and basketball and women's basketball. However, penalties will have a significant impact on schools across *all* Division 1 programs. These include smaller sports programs that generate little or no revenue that will also pay back damages but with far fewer resources to finance them. At the same time, these schools will compete with larger, better-resourced programs to attract athletes under the new revenue-sharing scheme.²³

III. THE NCAA MARCH MADNESS TOURNAMENT DATA

The first NCAA March Madness men's basketball tournament was held in 1939, when the University of Oregon defeated Ohio State.²⁴ Unlike today, the NCAA had competition back then. It was, in fact, overshadowed for two decades by the men's basketball National Invitational Tournament.²⁵ But the NCAA increasingly attracted the best teams and the most television broadcast revenue, to become the premier post-season tournament in college basketball by the early 1970s.²⁶

The NCAA March Madness men's basketball tournament is one of the most-watched college competitions in college sports. The tournament provides a rich case study for evaluating the likely effects of the sea-change in college sports around NIL payments and the burgeoning transfer portal, especially in the wake of the *House v. NCAA* settlement.²⁷

In the next sections, PPI unpacks 10 years of tournament data, with the exception of 2020, when the tournament was not played during the COVID-19 pandemic, to reveal major themes emerging from the semi-professionalization of college basketball culminating in the *House v. NCAA* settlement.²⁸ These themes can be extended to other college sports, such as men's football and women's basketball.

The March Madness tournament hosts 68 total schools that are selected on the basis of NCAA rules and procedures on automatic or at-large berth placement and the ranking of "seeds."²⁹ Schools with low numerical seed assignments are considered "high-seeds," or closer to the top of the rankings, and schools with high numerical seed assignments are considered "low-seeds," or closer to the bottom of the rankings.

After the initial "First Four" play-in games, the tournament proceeds to six subsequent rounds: the First Round of 64, Second Round of 32, Sweet 16, Elite Eight, Final Four, and Semi-Final.³⁰ Annual data for each school include: conference, win-loss record, overall seed, elimination round, and basketball program expenses, to the extent they are publicly available. Major takeaways from the analysis of the March Madness tournament outcomes include:

- **High-seed schools are increasingly defining March Madness outcomes. High-seed schools are on the rise and low-seed schools are on the decline and could eventually be squeezed out of the tournament altogether.**
- **The "Cinderellas" are disappearing. Low-seed schools that unexpectedly advance to the later rounds of the tournament are fading out, potentially reducing incentives for colleges to continue to invest in some sports programs.**

- **Basketball program budgets drive success. High-seed schools have disproportionately higher budgets than low-seed schools, setting up a “haves” and “have-nots” dynamic for obtaining the best athletes that become part of top-performing teams.**
- **Just a few of the most prominent power conferences have come to dominate the March Madness tournament. Conferences may well further consolidate, increasing the risk of carving off to form a “super-league.”**

IV. THE RISE OF THE TOP BASKETBALL SCHOOLS

A major feature of the March Madness tournament is the dominance of the high-seed schools, typically in one of the most prominent power conferences, that frequently appear in later rounds of the tournament. Even in the late 1940s, power schools were emerging. Repeat champions include Duke and University of Indiana with five championships each, University of Kentucky with eight, University of North Carolina and University of Connecticut (“UConn”) with six, and the University of California at Los Angeles, with 11.³¹

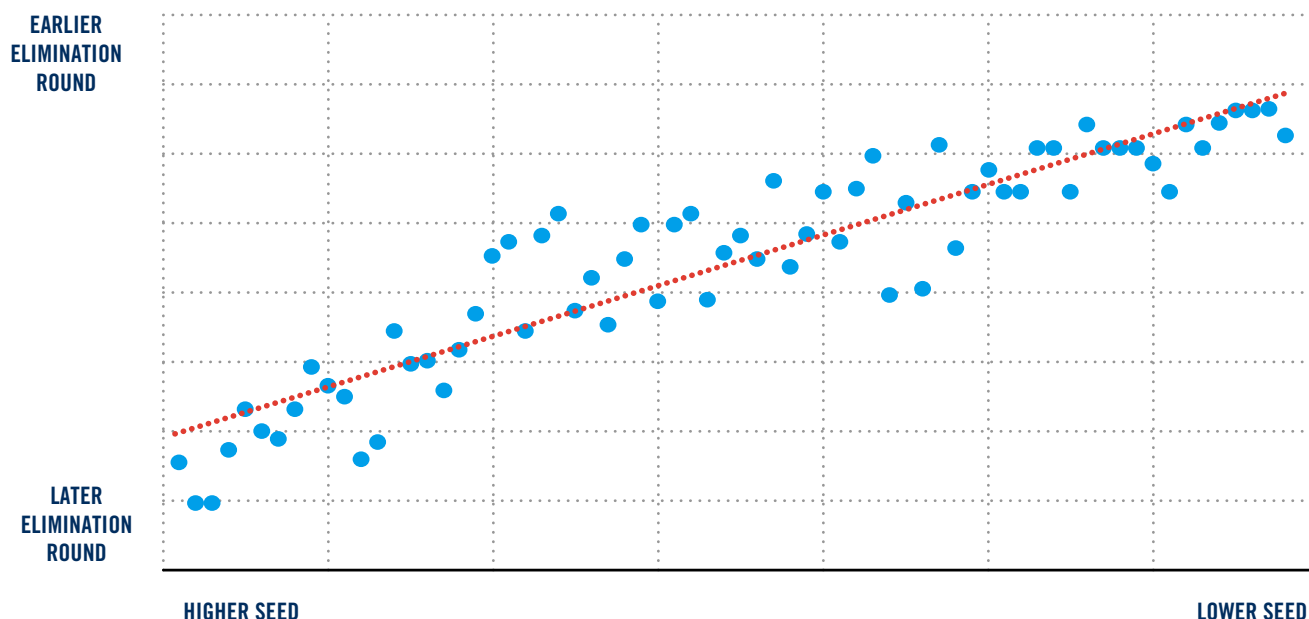
The data reveal, not surprisingly, that the relationship between a school’s seed in the March Madness tournament and elimination round is positive. In other words, the higher the seed, the more likely a school is to advance to late-stage elimination rounds. Likewise, the lower the seed, the more likely a school will be eliminated in an early round. Overall, the correlation between

seed and elimination round over the last decade of March Madness hovers just below what is statistically considered “strong.”³²

The analysis indicates that the correlation between seed and elimination round generally increases over the last decade, particularly over the period 2021-2025. This coincides with burgeoning NIL payments and increasing use of the transfer portal. By 2025, correlation spikes to the highest level over the entire decade, as reflected in the top four seeds — Auburn, Duke, University of Houston, and University of Florida — all advancing to the Final Four.³³

The scatterplot in Figure 1 shows the relationship between seed and elimination for the March Madness tournament between 2015 and 2025, with the high- to low-seed schools moving right along the horizontal axis and late-stage to early-stage elimination rounds moving up the vertical axis. The scatterplot tells us a lot about the performance of different categories of seeds in the March Madness tournament.

For example, the low-seed, early elimination round schools are more tightly clustered around the trend line at the upper right corner of the scatterplot. There is more “noise,” or variance, in this relationship around the trend line, however, as the plot moves toward the lower left-hand corner, toward the high-seed schools that advance further in the tournament.

FIGURE 1: CORRELATION OF SEED V. ELIMINATION ROUND FOR MARCH MADNESS TOURNAMENT (2015-2025)

Over the period 2015-2025, middle-seed schools tend to be eliminated earlier in the tournament, relative to the trend line.³⁴ This pattern changes for the No. 1 through No. 10 seeds, where top schools run deeper into the tournament relative to the trend line.³⁵ These takeaways are important for anticipating further changes in college sports in the post-*House v. NCAA* world. For example, if the elimination of low-seed Division I schools is far more probable under the new world order of massive NIL payments, the transfer portal, and big basketball program budgets, there may be little incentive to invest in some sports programs.

For the low-seed schools that remain in the March Madness competition, they will almost certainly be forced into smaller conferences, without the power to amass or leverage media rights that the power conferences have. These pressures could carve off smaller, less well-resourced schools and the opportunities they provide to student athletes

while reshaping competition in the March Madness tournament.

V. WHERE HAVE THE CINDERELLAS GONE?

March Madness has been home to many Cinderellas, a phenomenon that has delighted college basketball fans for decades.³⁶ For example, in 2022, No. 60 seed St. Peter's made it to the Elite Eight.³⁷ In 2016, No. 46 seed Loyola Chicago made it to the Final Four, and No. 30 seed North Carolina³⁸ and No. 17 seed San Diego State advanced to the semi-finals in 2022 and 2023, respectively.³⁹

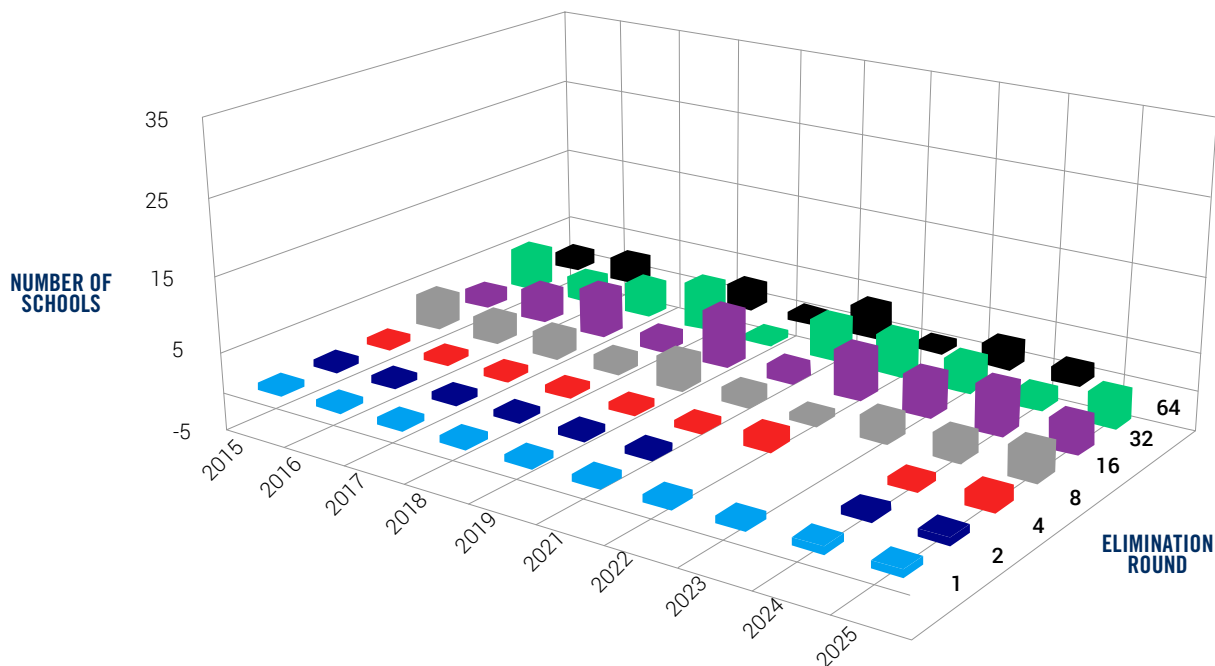
The collection of historical NCAA rules governing compensation of student athletes for athletic versus educational purposes, scholarships, and player eligibility, among others, were designed to promote amateurism.⁴⁰ An ancillary effect of these rules was to preserve the chance that a low-seed could make a run deep into the tournament.

The NCAA's rules were not dissimilar from those that level the playing field for competition in professional sports leagues such as MLB, NFL, NHL, and NBA. For example, salary caps and restrictions on team relocation are designed to prevent well-resourced clubs from acquiring all the talent or creating imbalances in regional competition.⁴¹ But unlike the new world of college sports, professional athletics works within a well-defined structure that governs compensation, player unions, and collective bargaining.⁴²

The March Madness data provides important insight into how the Cinderella story has played

out over the last decade. Tournament seeds are divided into two groups for the analysis: high-seed schools (No. 1 to No. 16) and low-seed schools (No. 17 to No. 64). The data reveal that low-seed schools are almost always eliminated in the First Round (64) and Second Round (32) of the tournament. From 2015 to 2025, for example, only 12% of the low-seed schools advanced beyond the Sweet 16 while 64% of the high-seed schools advanced beyond the Sweet 16. Figure 2 shows the No. 17 to No. 64 seeds, and Figure 3 shows the No. 1 to No. 16 seeds that made it to the Sweet Sixteen.

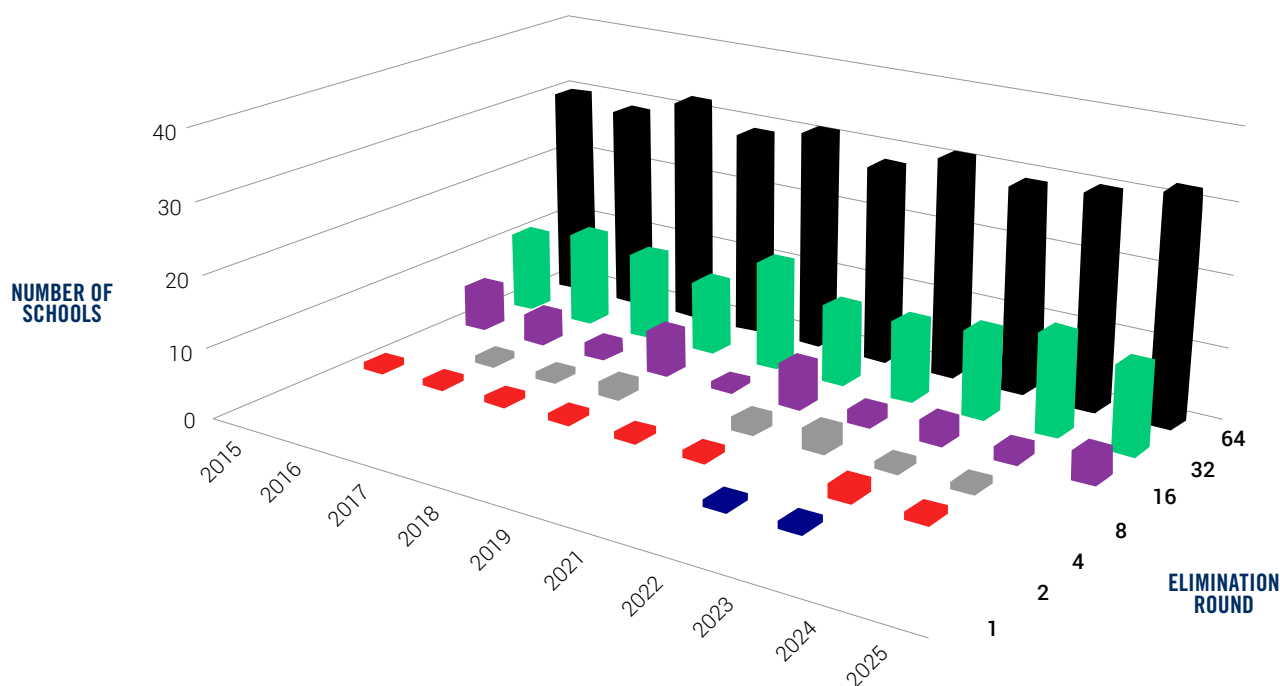
FIGURE 2: DISTRIBUTION OF MARCH MADNESS SCHOOLS ACROSS ELIMINATION ROUNDS: NO. 1 TO NO. 16 SEEDS (2015-2025)



The tall wall of columns at the back of the graph in Figure 2 tells a visual story of how many low-seed schools are eliminated in the First Round of 64. Some advance to the Second Round of 32, but further advancement falls off precipitously after the Sweet Sixteen. Deeper runs by low-seed schools into the later stages are spotty, with no

appearances in the final three rounds in 2025. Figure 3 looks very different. Advancement to the Sweet Sixteen is common, with encroachment into the Elite Eight, followed by consistent appearances in the later rounds of the tournament.

FIGURE 3: DISTRIBUTION OF MARCH MADNESS SCHOOLS ACROSS ELIMINATION ROUNDS: NO. 17 TO NO. 64 SEEDS (2015-2025)



The search for the glass slipper will be much harder in the aftermath of the *House v. NCAA* settlement. For example, the data show that the gap between the number of low-seed and high-seed schools that reach the Sweet Sixteen widens significantly after 2023. In 2024 and 2025, 75% of high-seed schools advanced beyond the Sweet 16, the most consistent showing at this level in the last decade. Meanwhile, low-seed schools have been disappearing from the Sweet Sixteen since 2023. Only 8% of schools made it to the Sweet Sixteen in 2024 and 2025 — the lowest penetration rate for multiple years in a decade. This trend is likely to continue, or further deteriorate, in the future.

VI. BASKETBALL PROGRAM BUDGETS DRIVE SUCCESS

The impact of higher budgets on the success of schools in the March Madness tournament cannot be overstated. Schools with more financial resources in the post-*House v. NCAA* era will do better because they have highly compensated,

superior athletes; offer higher quality training and support for tutoring and healthcare programs; and are more experienced at high-level competition.⁴³ The NCAA expects that for a typical power school, men's football and basketball will account for about 90% of the total revenue-sharing required under the *House v. NCAA* settlement.⁴⁴ In 2025-2026, this could top \$146,000 per athlete for football and \$218,000 per athlete for basketball.⁴⁵

Average, inflation-adjusted spending on basketball programs for March Madness tournament schools has increased dramatically since the inception of NIL in 2021.⁴⁶ Expenses increased by about 60% between 2015-2024.⁴⁷ But between 2015-2019, the increase in spending is only about 17%, or an average of about 3.5% per year. This increases to 80% between 2021-2024, after NIL payments are allowed, or an average of 15% per year.⁴⁸

These aggregated expenses for schools that participate in March Madness, however, do not account for the differences based on seed. PPI

looked, therefore, at budgets for the highest No. 1 to No. 16 seeds, the middle No. 17 to No. 45 seeds, and the lowest No. 46 to No. 64 seeds. As shown in the table below, high-seed schools increased inflation-adjusted spending by 27% from 2015-2024, while middle-seed schools increased spending by 10%, and low-seed schools *decreased* spending by almost 60%. Within the last decade, however, there are dramatic differences in spending for different tiers of seeds before and after NIL payments began.

For example, between 2015-2019, high-seed schools increased spending, on average, by 13%. But between 2021-2024, spending increased by 64%. For middle-seed schools, these same statistics are 19% for 2015-2019, with a small decrease to 17% between 2021-2024. For low-seed schools, spending increased by 23% from 2015-2019 but falls precipitously by 63% between 2021-2024.

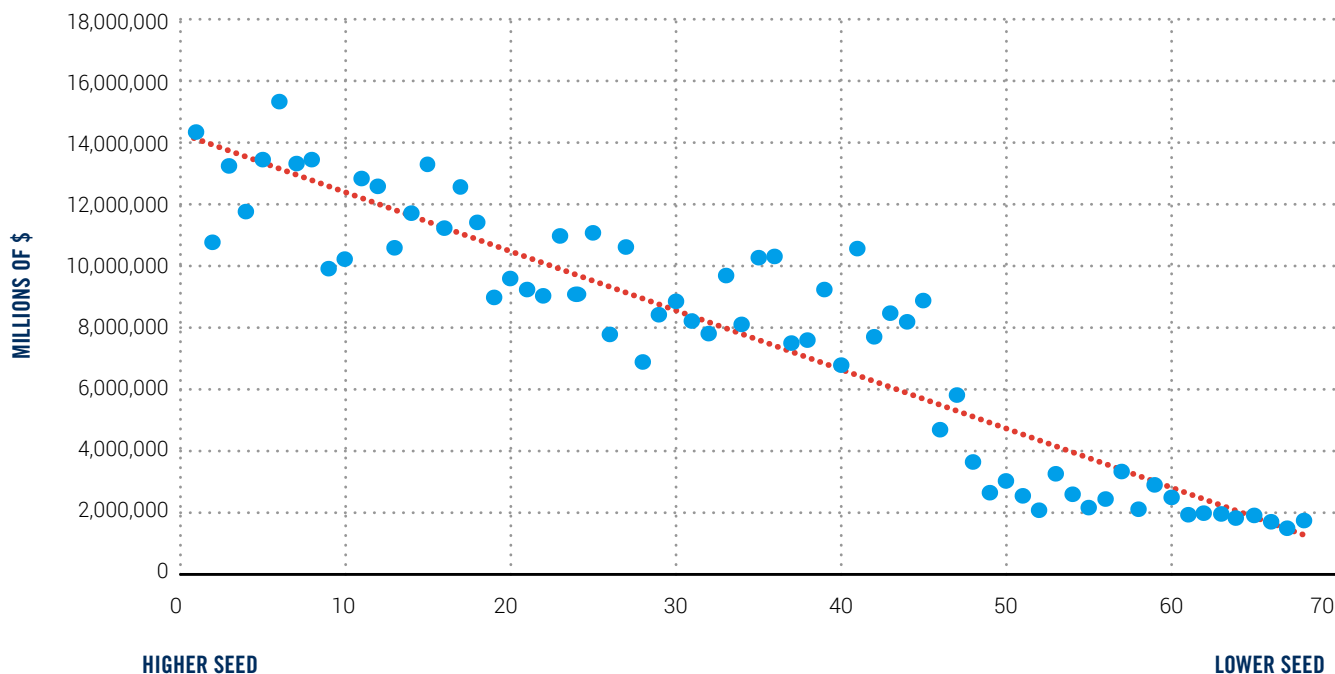
TABLE 1: AVERAGE CHANGE IN BASKETBALL PROGRAM SPENDING FOR MARCH MADNESS SCHOOLS BY SEED TIER (2015-2024)

SEED TIER	2015-2025 (ALL YEARS)	2015-2019 (PRE-NIL)	2021-2024 (POST-NIL)
HIGH-SEED	27%	13%	64%
MIDDLE-SEED	10%	19%	17%
LOW-SEED	-60%	23%	-63%

Increases in spending by the top men's college basketball programs will have a marked effect on the March Madness tournament. There is a strong relationship between school and basketball budget for the period 2015-2024. For example, the higher the seed, the higher the basketball program

budget, and the lower the seed, the lower the budget.⁴⁹ Figure 4 shows a scatterplot of the data, with high- to low-seed schools moving right on the horizontal axis and low to high average annual basketball program budgets moving up the vertical axis.

FIGURE 4: CORRELATION OF SEED V. AVERAGE ANNUAL EXPENSES FOR MARCH MADNESS TOURNAMENT SCHOOLS (2015-2025)



In the lower right-hand corner, low-seed, lower budget schools closely track the trend-line. However, there is more “noise” as the scatterplot moves northwest toward the high-seed schools with higher budgets. Indeed, those schools spend up to 30 times more than low-seed schools. While the correlation between seed and expenses is strong over the last decade, it has strengthened considerably since 2021. Spending for some high-seed schools now runs into the eight figures. For example, the No. 4 seed University of North Carolina’s men’s basketball budget for 2024 was about \$32 million. This was topped by No. 11 seed University of Kentucky at about \$33 million. Another big spender that year was the No. 8 seed University of Tennessee at about \$27 million.⁵⁰

These budgets contrast sharply with, for example, No. 48 seed James Madison and No. 61 seed South Dakota State, with budgets in 2024 of less than \$2 million in 2024.⁵¹ For low-seed schools with tiny budgets in small conferences, the

downturn in spending after 2021 tells an important story about the widening gap between the “haves” and the “have-nots.” These results reinforce the notion that the March Madness competition has and will continue to change dramatically, with a much higher probability of success for schools that have the most resources.

VII. THE PRE-EMINENCE OF THE POWER CONFERENCES

The March Madness tournament features about 40 conferences over the period 2015-2025, ranging from the power conferences to the tiny Summit League, NEC, and Mid-American conferences. Pundits predict that the incentives created by the *House v. NCAA* settlement will result in a reorganization of the college conference system, including the consolidation or even the disappearance of longstanding conferences.⁵² Of course, history is replete with examples of the rise and fall of sports leagues, especially involving high salaries and deep-pocketed owners.

For example, in 2021, the top football clubs in Europe secretly planned to form an elite, exclusive European Super League (ESL) to replace or rival the existing UEFA Champions League.⁵³ The teams in the ESL would play each other, with little opportunity for promotion and relegation, rendering other competition largely irrelevant. While unsuccessful, the ESL is a leading example of the incentives facing powerful sports organizations.

The monetization of college sports spurred by NIL deals and other forms of compensation that draw the best players will magnify financial disparities between schools and conferences. This dynamic potentially affects everything from the value of media rights, to conference structures. These factors triggered the defection of schools from the Pac-12 and limited its ability to compete financially with the SEC and Big Ten.⁵⁴ They are undoubtedly in play between 2022-2024, after NIL payments are allowed, when the schools in the Pac-12 did not advance beyond the Sweet Sixteen.

The rise of the power conferences in the March Madness tournament since the advent of NIL is remarkable. The analysis shows that between 2021-2025, the number of schools in the six most prominent conferences (SEC, Big Ten, Big 12, Big East, ACC, and the Pac-12) to advance beyond the Sweet Sixteen is over four times higher than between 2015-2019. As the power conference schools have taken over March Madness, the role of non-power conference schools has faded.

Figure 5 shows this trend for schools that advanced beyond the Sweet Sixteen from 2015-2025. Non-power conference schools increasingly advanced beyond the Sweet Sixteen between 2015-2022. But as of 2023, this trend reversed, while the power conference schools rapidly escalated to later elimination rounds through 2025. This pattern highlights the widening gap between high-revenue and low-revenue Division 1 programs, potentially leading to their permanent exit from the March Madness tournament.

FIGURE 5: POWER CONFERENCE V. NON-POWER CONFERENCE SCHOOLS ADVANCING BEYOND THE SWEET SIXTEEN (2015-2025)

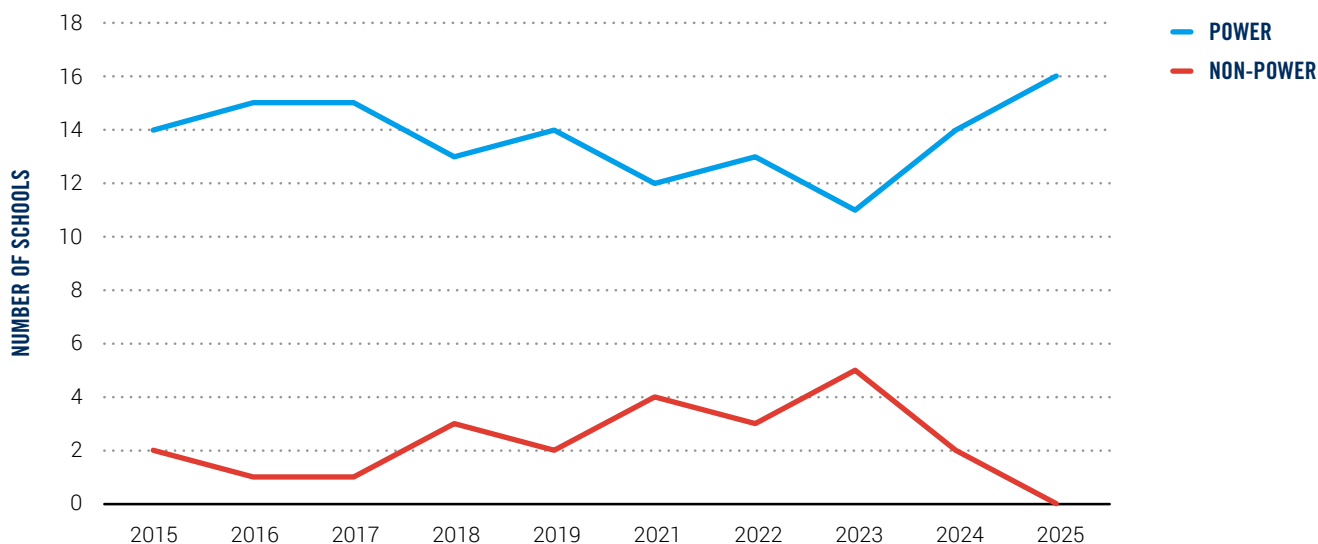
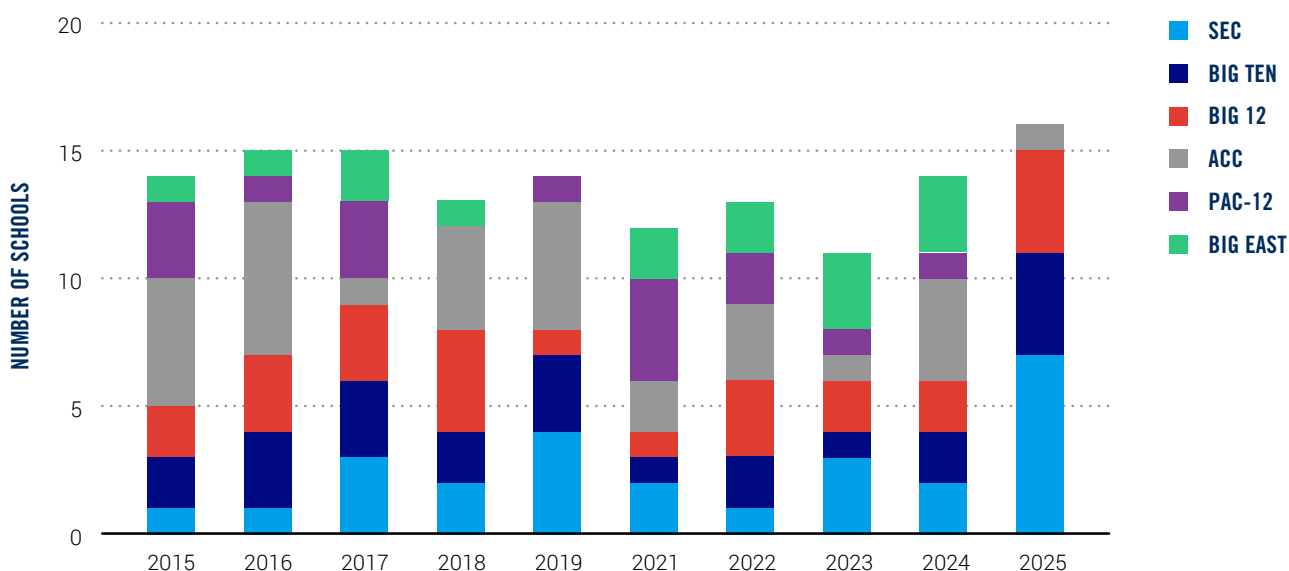


Figure 6 shows schools in the six power conferences that advanced beyond the Sweet Sixteen between 2015-2025, or how the role of each power conference has changed in the March Madness tournament over time. The ascendance of the SEC in 2025 is clear, as is the expansion of the Big Ten and Big 12, while the ACC, Pac-12, and

Big East fall off. With the exception of the SEC, which significantly expanded its membership in 2025, incursions by the power conferences beyond the Sweet Sixteen in 2025 are not accounted for by changes in conference size. Rather, they are accounted for by the rise of the high-seed schools that make up the power conferences.

FIGURE 6: POWER CONFERENCE SCHOOLS ADVANCING BEYOND THE SWEET SIXTEEN (2015-2025)



One year of data is, of course, insufficient to predict further changes in conferences in the aftermath of the changes that will be brought about by the *House v. NCAA* settlement. Should consolidation among top conferences occur, however, it would concentrate power in fewer conferences. The associated loss of bargaining power for student athletes vis-à-vis the conferences could potentially lead to harmful policies, such as playing through dangerous injuries or other practices that jeopardize athlete well-being.

VIII. IMPLICATIONS FOR THE FUTURE OF COLLEGE BASKETBALL AND OTHER SPORTS

PPI's analysis of March Madness data helps us understand the sea-change in college basketball in

the wake of NCAA antitrust losses that have given rise to NIL payments, increased use of the transfer portal, and the semi-professionalization of high-revenue college sports. The settlement in *House v. NCAA* codifies a new model of college sports with far reaching effects on what sports are offered by colleges and universities, how NCAA competitions evolve, and student athlete pathways into, and out of, college sports.

There is strong evidence that the beginning of NIL payments to athletes in 2021 is an inflection point for the performance of the high-seed schools with large budgets versus low-seed, less well-resourced schools. The analysis highlights how smaller schools could fade from the tournament while the

power schools come completely to dominate it. This will likely bring an end to the Cinderella story as the gaps between the most prominent power and non-power conferences widen. With these changes come weaker incentives for middle-seed and low-seed basketball programs to retain a stake in the March Madness competition. And for those that want to remain viable in college competition, they will likely cut other programs to divert resources to high-revenue sports.

The departure from amateurism that is embodied in the model of college sports codified by the *House v. NCAA* settlement has serious implications for the welfare of student athletes. The rough and tumble of semi-professional sports, including the physical and emotional stress it brings, is likely to negatively impact a sensitive age group.⁵⁵ PPI's analysis provides a strong basis for anticipating future trends and framing legislation that mitigates the effects of the *House v. NCAA* settlement while framing a new model of college sports based on a modern version of amateurism.

There are over 30 state laws on the books governing NIL⁵⁶ and over 19 federal bills have been proposed since 2019.⁵⁷ A federal legislative approach, not a patchwork of state laws, is the best policy tool for addressing concerns around the model of college sports in the U.S. While most student athletes and intercollegiate institutions desire a single federal solution in place of the current patchwork of state laws, debate over the precise terms and scope of a potential solution continues.⁵⁸ Currently, no proposal captures the full scope of issues triggered by the semi-professionalization of high-revenue college sports that is enshrined by the *House v. NCAA* settlement.⁵⁹

The lack of a unified Republican proposal, or a palatable bipartisan one, and the shifting landscape for NIL from 2019-2025 make any

comprehensive reform unlikely, at least in the short term. The debate is fractured around support for broader legislation that empowers governmental bodies and codifies the rights of student-athletes (whether to NIL, revenue sharing, employment status, or health and safety), versus simply NIL rights, and whether the NCAA should be immunized from liability under federal antitrust law.

As a result, there is no clear legislative leadership on college sports from either party. PPI's analysis indicates that further fallout from the *House v. NCAA* decision will complicate this debate as Division I schools continue to make potentially radical changes to athletic departments. In light of PPI's analysis, legislation designed to mitigate damage from the *House v. NCAA* settlement and create a framework for a new model of intercollegiate sports should focus on the following general principles:

- **Include a clause that establishes federal preemption of state laws governing NIL.**
- **Consider limits on NIL or an equitable NIL-sharing regime across all Division I athletes.**
- **Establish clear guidelines for completion of a student athlete's education, and protection of their health and safety.**
- **Develop enforceable guidelines governing the representation of student athletes by commercial sports agents.**
- **Enforce NCAA rules banning "prop" betting that involves the performance of a student athlete.**

- Consider rules to de-incentivize excessive use of the transfer portal over the course of a college career.
- Prohibit the classification of student athletes as employees of an educational institution.
- Reject proposals that exempt the NCAA from liability under federal antitrust law

ABOUT THE AUTHOR

Diana L. Moss is Vice President and Director of Competition Policy at the Progressive Policy Institute. An economist, Dr. Moss's work spans the economic, policy, and legal analysis of antitrust enforcement and sector regulation, across a wide range of industries. She has spoken widely; testified before Congress, state legislatures, regulatory commissions, and in federal court; and has made numerous radio and television appearances.

Many thanks to PPI's **Max Sherrill** and **Joseph Delmastro** for research support.

Notes and References

- 1 See Nat'l Collegiate Athletic Ass'n v. Alston, 594 U.S. 69, 76 (2021).
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