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## Fair Pay to Play Act: End of Amateurism?

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### Fair Pay to Play Act: End of Amateurism?

The NCAA has seen its fair share of controversy concerning player compensation, whether it be through lawsuits such as the [O'Bannon case](#), former NCAA athletes [complaining of hunger](#) during their time in college, or even NBA star LeBron James's documentary "[Student Athlete](#)." However, no extreme policy changes have emerged from the endless scrutiny of the NCAA's rules of prohibiting its student-athletes from receiving compensation from the use of their names, images, and likeness, among other things. The NCAA argues compensation would [capsize amateurism](#) by turning student-athletes into professionals, putting an end to amateurism in the NCAA all together.

But would it?

### THE ACT

In February 2019, California Senators Nancy Skinner and Steven Bradford introduced [SB-206](#), better known as the "Fair Pay to Play Act." [Recently signed into law by Governor Gavin Newsom](#), the act amended California's Education Code, specifically the [Student Athlete Bill of Rights](#), to prohibit colleges from denying their student-athletes

compensation from the use of their names, images, and likeness. Currently, **intercollegiate athletic college programs** at four-year, private universities in California receive around ten-million dollars or more in annual revenue from media rights.



U.S. Olympic Training Center in Colorado Springs, Colorado

Photo by [Jonathan Chaves](#) on [Unsplash](#)

regard to their relationships with the student athletes.

Compensation for student-athletes under the new law will derive from sponsorship deals and endorsements. Essentially, SB-206 does not require universities to directly compensate their student-athletes, it simply allows the athletes to profit from their likeness – similar to **Olympic athletes**. Additionally, SB-206 prohibits those same colleges from reducing or terminating a scholarship based on receiving compensation.

The bill will also **prohibit these programs** from preventing student athletes from “obtaining professional representation relating to the student’s participation in intercollegiate athletics.” In addition, those representing the athletes must be licensed by the state and agents will have to comply with federal law with

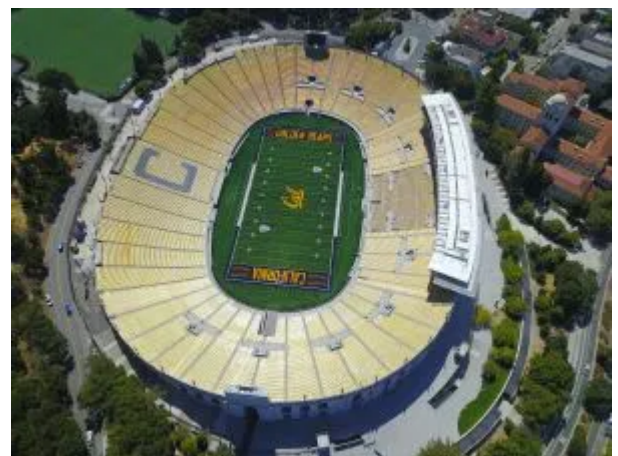
The bill does not go into effect until January 2023.

## SUPPORT OF THE ACT

Those in support of the **Fair Pay to Play Act** have voiced that many student athletes are low-income students of color and are women. In particular, Sen. Skinner has expounded the **unfairness** of NCAA rules for female student-athletes, “...for many young women, college is the only time they could earn income, since women have fewer professional sports opportunities than men.” According to the NCAA, less than one percent of women who participate in **women’s basketball** for the NCAA will end up competing professionally in the WNBA. Additionally, for men, the college to **professional percentages** are slightly higher, with men’s basketball at 1.2% and men’s football at 1.6%.

A **study** done by Drexel University and the National College Players Association (NCPA) illustrates the, “[NCAA] uses amateurism as a tool to deny athletes billions of dollars per year in revenue that they would otherwise receive in a fair market.” Additionally, the study found most student-athletes who participated in Division-I football for the NCAA live below the **federal poverty line**. This includes students on full athletic scholarships, with 82-percent who live on campus and 90-percent who live off-campus, living in poverty.

Sen. Skinner has assured the Act does not require universities to directly pay their student athletes but will instead **reduce student-athletes’ “financial pressure...to quit school and turn pro before (...) complet[ing] their degrees.”** The Act allows college athletes to consult their agents and perhaps **negotiate**



University of California, Berkeley football stadium

Photo by [Anthony Hall](#) on [Unsplash](#)

**contracts** with outside parties regarding the commercial use of their names, images, and likeness. For example, it permits a student-athlete to discuss terms with an apparel company which in turn can lead to a potential profit for the athlete.

## OPPOSITION OF THE ACT

**Stanford** as well as the **University of California and California State University systems** are among many of the California universities opposing SB-206. Stanford Athletic Director Bernard Muir expressed in a letter to the California State Senate that Stanford supports their student-athletes well-being, however, receiving compensation would create issues for education institutions and the “collegiate sports model.”



Stanford University

Photo by **Ian Mackey** on **Unsplash**

Additionally, although the **University of California** has communicated its opposition to SB-206, the organization believes the discussion concerning student-athlete compensation should be at the national level.

The NCAA previously asked California legislators to **deny** the Fair Pay to Play Act, and most **recently released a statement** after Gov. Newsom signed the Act into law. NCAA President, Mark Emmert, even went as far as to warn that he will bar California teams from taking part in national championships. In this, Emmert believes the bill creates an imbalance in competition, where recruits may head to California colleges for the

compensation.

Many wonder if the NCAA is permitted to expel California schools. In fact, **Sports Illustrated** published an article that discussed the Commerce Clause powers of Congress. Explaining, “the Act would clearly impact interstate commerce,” which the Constitution gives the authority to Congress to regulate, not the states. Considering California schools compete in other states, **economic consequences** are without a doubt to arise – through revenue distribution, media rights, etc.

## CONCLUSION

There is still an intense battle to be had between the NCAA and California lawmakers over student-athlete compensation. The **Fair Pay to Play Act** will unquestionably endure a legal fight considering the continuous and outright opposition from the NCAA. SB-260 does not go into effect until January 1, 2023, giving ample time to both the California Senate and NCAA to argue their sides.

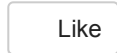
Perhaps **Emmert’s threat** of barring California universities from NCAA participation would deter athletes from committing to play sports at California schools. On the other hand, the compensation may attract high school athletes and create an imbalance in competition among NCAA sports. Either way, the Fair Pay to Play Act has certainly propelled the conversation of student-athlete compensation further into finding a solution.

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Isabella Borges is a member of the Golden Gate University School of Law class of 2021. Prior to entering law school, she graduated from the University of Colorado, Boulder with a BA in Communication and minor in Business. Currently, Isabella serves as the president of the Business Law Association and is a member of the Women's Law Association.



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