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## Show Me the Money: Conference Realignment in the Collegiate Sports Arena

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## **Introduction**

For many Americans, August is a month marked by mixed emotions. The carefree spirit of summer is still present. There is a sense of trying to capture time in a bottle, to hold onto the freedom that the summer season embodies before having to return to normalcy. August possesses a special kind of intensity and joy, as people strive to make the most of every moment before summer ends. Simultaneously, August carries the weight of impending change. Days become shorter, seasons are changing, new academic years are starting, and routines are returning. This anticipation is often met with some anxiety or disdain, like an elongated Sunday.

However, the end of August also marks a time of great excitement for millions of Americans: the beginning of the collegiate football season. College football is not just a series of games, but is a seasonal phenomenon that encapsulates the spirit of competition and community. It is full of traditions, rituals, and rivalries that date back well over a century. These traditions create a sense of continuity and belonging that spans generations of fans.

Rivalries are also a historic trait of college football. Matchups between schools like the Ohio State University and the University of Michigan, the University of Alabama and Auburn University, or Baylor University and the University of Texas, are highly anticipated contests every season. These rivalries, among others, are a testament to the passion and intensity that college football brings to campuses and communities across the country.

The collegiate sports landscape has undergone a multitude of changes throughout its history – creation of division levels, conference organization, televised broadcasts, and payment for student-athletes through Name, Image, and Likeness deals. One of the biggest and most frequent changes that occurs in college sports is conference realignment, where institutions

change the athletic conference they compete in. There are a number of reasons schools may choose to change conferences, the largest being revenue generated from television deals.

Division I collegiate sports have grown into a multi-billion dollar industry in the US, largely because of these deals. Revenue is also generated through various ways including sponsorship and licensing deals, ticket sales, and distributions from conferences. The current trend in conference realignment shows that institutions want a bigger piece of the broadcasting pie, realigning to conferences with more lucrative television deals.

Who makes the decision to realign, and what factors are considered? Is conference realignment regulated? How sustainable is the current model of realignment? There are no clear answers to these questions, even when looking at past realignments that have occurred. As it currently stands, the National Collegiate Athletic Association (NCAA) has little authority to regulate conference realignment because of the powers collegiate institutions have been granted, as well as grant of rights deals. Additionally, the United States Supreme Court has found in favor of institutions having certain autonomies rather than the NCAA having omnipotent powers. Therefore, the current trend of realignment will continue to persist, allowing institutions to align themselves with conferences that offer them the highest payout from television revenue.

Part I of this paper looks at the creation and history of the NCAA. It outlines the creation the NCAA and its initial governing powers, and discusses changes to those powers over time. This part also discusses the development of television and its impact on collegiate football viewership numbers. Then, I discuss the early television deals the NCAA had with various networks, which led to turmoil within NCAA member institutions. This ultimately led to the creation of the College Football Association (CFA), which challenged the NCAA's power and its ability to control television rights for member institutions. This part concludes with an analysis

of the Supreme Court case *NCAA v. Board of Regents of University of Oklahoma*, which marked a significant shift in the NCAA's power because it effectively ended the NCAA's ability to control the television rights of its member institutions.

Part II of this paper will begin with a brief discussion of the formation of collegiate conferences. I will then introduce the concept of conference realignment and the various motivations behind it. This will include a discussion of grants of rights agreements, which drove realignment in the post-*Regents* era. While financial incentives for universities make up the most compelling reasons for institutions to realign, there are a number of other factors that institutions consider. I include a few of examples of past realignments to highlight specific factors institutions have credited with influencing their decision to realign.

Part III evaluates the effects of conference realignment, including television revenue and financial impacts to institutions, on student-athletes, and on rivalries. Additionally, this section will touch on how certain conferences have been impacted, including whether they have stood the test of realignment or have ceased to exist.

In Part IV, I analyze major past realignments including the Big East Conference realignments, the Big Eight becoming the Big 12 Conference, and the 2005 Conference USA realignment. These case studies will provide a closer look at the long-term effects of realignment, including who benefitted and what those benefits are, as well as any potential disadvantages from their realignments.

Finally, Part V will look at the future of conference alignment. This includes what, if any, moves may be anticipated based on current trends of realignment. I will also speculate on any potential problems that may stem from these moves. Additionally, I offer potential solutions to those problems, and conclude with comments of the realignment movement.

## I. The NCAA's Foundation Stemmed as a Response to Increased Concerns Regarding Player Safety in Collegiate Football

Collegiate sports in the United States pre-date the creation of the NCAA. On August 3, 1852, a rowing competition between Harvard University and Yale University was held on Lake Winnepesaukee in New Hampshire.<sup>1</sup> This race is attributed as being the first collegiate sporting event in the United States, and marked the beginning of organized collegiate sports in the US.<sup>2</sup>

In the early days, intercollegiate athletic competitions were largely organized by students.<sup>3</sup> This meant that there were no standardized rules between institutions, leading to confusion and disputes both during and after competitions. As college sports, particularly football, became more popular in the late 19th and early 20th centuries, concerns began to emerge regarding player safety.

Football, in particular, saw numerous serious injuries and even fatalities. In a fifteen year period, over 300 students died from football-related injuries.<sup>4</sup> The 1905 football season alone resulted in nineteen recorded deaths: “[b]ody blows, producing internal injuries, were responsible for four deaths, concussions of the brain claimed six victims, injuries to the spine resulted fatally in three cases, blood poisoning carried off two gridiron warriors, and other injuries caused four deaths.”<sup>5</sup> As a result to the increasing violence, some institutions closed or suspended their football teams.<sup>6</sup>

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<sup>1</sup> Guy Lewis, *The Beginning of Organized Collegiate Sport*, American Quarterly (1970) at 224.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 228.

<sup>4</sup> Casey E. Faucon, Assessing Amateurism in College Sports, 79 Wash & Lee L. Rev. 3 (2022).

<sup>5</sup> *Nineteen Killed on Gridiron*, The San Francisco Call (Nov. 27, 1905) [vol. XCVIII - No. 180], <https://chroniclingamerica.loc.gov/lccn/sn85066387/1905-11-27/ed-1/seq-1/>.

<sup>6</sup> *Research Guides: NCAA and the Movement to Reform College Football: Topics in Chronicling America: Introduction*, Research Guides at Library of Congress, <https://guides.loc.gov/chronicling-america-ncaa-college-football-reform> (last visited April 23, 2024).

The issue of player safety eventually made its way to the White House. President Theodore Roosevelt called for reforms to collegiate football after his son was injured in a football game at Harvard.<sup>7</sup> He met with representatives from Harvard, Yale, and Princeton in an attempt to reduce unsportsmanlike conduct in college football.<sup>8</sup> He felt that if those institutions promised to reform violent conduct in college football, other institutions would follow suit.<sup>9</sup>

After the death of a Union College football player in a contest against New York University, the NYU Chancellor invited representatives from over sixty institutions to meet to discuss forming a rules committee for college football.<sup>10</sup> On March 31, 1906, the Intercollegiate Athletic Association of the United States (IAAUS) was formed with the primary goal of protecting the safety of student-athletes and the integrity of college football.<sup>11</sup> Thirty-nine institutions initially joined the IAAUS, and membership grew every year.<sup>12</sup> In 1910, the IAAUS officially changed its name to the National Collegiate Athletic Association (NCAA).<sup>13</sup> By this time, the NCAA had established itself as the primary governing body for all collegiate sports.

While spectatorship was initially enjoyed in person or through radio broadcasts, the development and growth of television changed the way college football was consumed. As television networks expanded, they began broadcasting various college football games nationally. These national broadcasts provided unprecedented exposure for college football and helped to elevate the sport's popularity to new heights.

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<sup>7</sup> *Roosevelt Campaign for Football Reform*, The New York Times (Oct. 10, 1905), <https://perma.cc/F26J-LH5H>.

<sup>8</sup> *Id.*

<sup>9</sup> Kristen V. Nelson, *Big Money for the Big Five: Why Conference Realignment is the Future of College Sports*, 101 U. Det. Mercy L. Rev. 175 (2024).

<sup>10</sup> *Id.*

<sup>11</sup> *Supra* note 6.

<sup>12</sup> *Supra* note 4, but see Allen R. Sanderson & John J. Siegfried, *The National Collegiate Athletic Association Cartel: Why It Exists, How It Works, and What It Does*, 52 REV. INDUS. ORG. 185, 189 (2018).

<sup>13</sup> *Supra* note 4.

In the 1950s, a study was conducted that showed television broadcasting had an adverse effect on attendances at college football games. In response to this, in 1951, the NCAA adopted a television plan that permitted only one game a week to be broadcast in each area.<sup>14</sup> The plan also limited each school to two television appearances per season. In total, the contract would have generated \$263.5 million from CBS and ABC over a four-year period, and an additional \$17.696 million from TBS over a two-year period.<sup>15</sup> The plan effectively cemented the NCAA's power to control television rights of its member institutions.

While television revenue for the NCAA grew, so did problems between member institutions. Specifically, the issue of how to divide revenue amongst NCAA member institutions grew, as "small schools sought a portion for themselves, while the major football powers resented sharing the income that they generated."<sup>16</sup> There were also questions about how revenue would be distributed amongst the different divisions. Due to the unhappiness, the major football conferences and major independent teams created the College Football Association (CFA) in 1977 to challenge the NCAA's power to control television rights.<sup>17</sup>

In 1981, the NCAA adopted a television plan under which the NCAA entered into two separate broadcasting agreements with ABC and CBS. Each network had the right to broadcast up to fourteen live games.<sup>18</sup> The plan reserved the right to ABC and CBS to negotiate and contract for the telecasting of NCAA college football games, thus allowing each network to negotiate directly with schools for the right to broadcast their games. The networks agreed to pay a fixed rate to member institutions, regardless of viewership of any game. The plan stated that

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<sup>14</sup> Jerry Garau, *The Effect of NCAA v. Board of Regents on the Power of the NCAA to Impose Television Sanctions*, 18 IND. L. REV. 937 (1985).

<sup>15</sup> *NCAA v. Bd. of Regents*, 468 U.S. 85, 91-92 (1984).

<sup>16</sup> *Supra* note 15.

<sup>17</sup> *Id.*

<sup>18</sup> U. Det. Mercy L. Rev., 101:175.

"no member institution [was] eligible to appear on television more than a total of six times and more than four times nationally, with the appearances to be divided equally between the two carrying networks."<sup>19</sup> Additionally, NCAA members could not independently sell their television rights unless they were in accordance with this plan, per the NCAA bylaws.<sup>20</sup>

Many schools were unsatisfied with the division of television revenue under the this plan.<sup>21</sup> Because of this, the CFA sought to negotiate its own television deal for its members. The CFA received an offer from NBC, which "would have allowed a more liberal number of appearances"<sup>22</sup> and revenue for CFA member institutions. The plan would have generated \$180 million for the 61 CFA member institutions, with each school guaranteed at least two televised games and at least \$1 million in revenue for the next four seasons.<sup>23</sup> In response, the NCAA threatened sanctions against any CFA member institution that complied with the CFA-NBC contract.<sup>24</sup> Ultimately, the plan fell through because of a lack of member participation.

In response, the Universities of Georgia and Oklahoma sued the NCAA, alleging antitrust violations under Section 1 of the Sherman Act.<sup>25</sup> The case, *NCAA v. Board of Regents of University of Oklahoma*, became a landmark decision. Section 1 prohibits "[e]very contract, combination . . . or conspiracy, in restraint of trade or commerce among the several States, or

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<sup>19</sup> *NCAA v. Bd. of Regents*, 468 U.S. 85 (1984).

<sup>20</sup> Garau quoting NCAA Bylaws: "Any commitment by a member institution with respect to telecasting or cablecasting or otherwise televising its football games in a future season or seasons shall be subject to the terms of the NCAA football television principles and supporting plan provisions applicable to such season(s) for that institution's football division." Bylaws and Interpretations of the National Collegiate Athletic Association, art. VIII, § 2(d), reprinted in [1984-85] Manual of the National Collegiate Athletic Association 115-16.

<sup>21</sup> *Id.*

<sup>22</sup> *NCAA v. Bd. of Regents*, 468 U.S. 85 (1984).

<sup>23</sup> *The College Football Association announced Monday that its attempt...* - UPI archives (1981) UPI. <https://www.upi.com/Archives/1981/12/14/The-College-Football-Association-announced-Monday-that-its-attempt/7716377154000/>

<sup>24</sup> *Supra* note 15.

<sup>25</sup> *Id.*



with foreign nations."<sup>26</sup> While the language states the section applies to every contract, courts have interpreted this section to prohibit only unreasonable restraints of trade.<sup>27</sup>

In order to determine liability under Section 1, courts look at (1) whether there is a contract, combination, or conspiracy; (2) whether a restraint is unreasonable; and (3) whether a restraint affects interstate commerce or foreign trade.<sup>28</sup> To meet the first element, a party must show that at least two competitors agreed to fix prices for the purpose of, or with the effect of, restraining trade or commerce.<sup>29</sup> The second element requires an analysis under the “per se rule” or the “rule of reason” approach. Under the per se rule, acts like price fixing, bid rigging, and market allocation are considered unreasonable restraints of trade because these practices raise prices for consumers and have no legitimate justification.<sup>30</sup> The rule of reason analysis requires courts to consider “(1) whether the practice in question in fact is likely to have a significant anticompetitive effect in a relevant market and (2) whether there are any procompetitive justifications relating to the restraint.”<sup>31</sup> Under this approach, practices are not deemed unlawful if the practice’s procompetitive effects outweigh any anticompetitive harms.<sup>32</sup> To prove the third element, the restraint must affect interstate commerce or foreign trade.<sup>33</sup>

The universities argued that the NCAA’s agreement “unreasonably restrained trade in the televising of college football games.”<sup>34</sup> The United States District Court for the Western District of Oklahoma ruled in their favor, finding that the controls exercised by the NCAA regarding

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<sup>26</sup> 15 U.S.C. § 1.

<sup>27</sup> Sherman Act Section 1 Fundamentals, <https://plus.lexis.com/api/permalink/83c8f197-d6c1-407b-9086-f1493552f3b2/?context=1530671>.

<sup>28</sup> *Id.*

<sup>29</sup> Archived Antitrust Resource Manual (Elements of the Offense), Dep’t Just., <https://www.justice.gov/archives/jm/antitrust-resource-manual-1-attorney-generals-policy-statement>.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Supra* note 19.

televising games violated the Sherman Act. The District Court utilized the rule of reason analysis and defined the relevant market as ‘live college football television’ because it found that “alternative programming has a significantly different and lesser audience appeal.”<sup>35</sup> The court found that competition in the relevant market was restrained in three ways: “(1) NCAA fixed the price for particular telecasts; (2) its exclusive network contracts were tantamount to a group boycott of all other potential broadcasters and its threat of sanctions against its own members constituted a threatened boycott of potential competitors; and (3) its plan placed an artificial limit on the production of televised college football.”<sup>36</sup>

In its defense, the NCAA argued that the plan protected in person attendance of its members and that the plan preserved the competitive balance amongst football programs. The District Court rejected both arguments, stating that there was no evidence to support the claim that gate attendance would suffer due to televised games, and evidence failed to show that other NCAA regulations regarding matters like recruitment and preserving amateurism would be insufficient to maintain an appropriate competitive balance.<sup>37</sup>

The NCAA appealed the decision to the Court of Appeals, who also ruled against them, finding that the plan constituted “illegal per se price fixing.”<sup>38</sup> The NCAA presented three arguments to establish the procompetitive effects of the plan, which again were rejected. The NCAA subsequently appealed the decision to the United States Supreme Court.

The Supreme Court applied a rule of reason analysis because the NCAA marketed competition between its member institutions, evaluating whether the NCAA’s justifications for its restraints had procompetitive effects. The Court found that the NCAA’s practices were a

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Supra* note 19.

<sup>38</sup> *Id.*

restraint of trade because they limited the freedom of member institutions to negotiate and enter into their own television contracts. Additionally, the television contracts created horizontal restraints in trade regarding the quantity of games, which was a limit on output. Finally, the Court found price fixing.<sup>39</sup>

Ultimately, the Court held that the NCAA's television plan violated the Sherman Act because the restraints had anticompetitive effects and the NCAA failed to adequately justify its restraints as procompetitive.<sup>40</sup> The ruling meant that the NCAA could no longer retain exclusive control of the television rights of its member institutions, marking the end of an era within collegiate sports, while ushering in a new one.

## **II. Creation of Conferences and the Driving Forces Behind Realignment**

Conferences serve as smaller governmental organizations under the NCAA governance model.<sup>41</sup> At the Division I level, a Board of Directors comprising mostly of university presidents from the Power 5 Conferences – the Atlantic Coast Conference (ACC), the Big Ten Conference, Big 12 Conference, Pac-12 Conference, and Southeastern Conference (SEC) – vote on rule changes that the rest of the division is then free to follow.<sup>42</sup> In addition to creating rules, conferences generate schedules for members to play against each other.<sup>43</sup> To be conference members, institutions give up certain rights and powers to the conference authoritative structure, but receive other benefits.<sup>44</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *What are NCAA conferences?*, SportEdge (Aug. 10, 2020), <https://www.thesportedge.com/blog/what-are-the-ncaa-conferences> (last visited Mar. 30, 2024).

<sup>42</sup> *How the NCAA works*, NCAA.org, <https://www.ncaa.org/sports/2015/10/28/how-the-ncaa-works.aspx>

<sup>43</sup> Harv. J. of Sports & Ent. Law, 8:63.

<sup>44</sup> *Id.*

Conferences are almost as old as collegiate sports themselves.<sup>45</sup> In 1896, the universities of Illinois, Michigan, Minnesota, Northwestern, Purdue, Wisconsin, and Chicago formed the first official conference – the Western Conference – known today as the Big Ten Conference.<sup>46</sup> The conference was created out of the geographic proximity of the member institutions, with the purpose to develop a set of regulations for intercollegiate athletic competitions between the member institutions. The conference served as “a blueprint for the administration of college athletics under the direction of appointed faculty representatives.”<sup>47</sup>

In 1955, the Big Ten “formulated a revenue-sharing model designed to pool all football television rights of its members and share those proceeds equally.”<sup>48</sup> The model established a grant of rights agreement, which “grants the collective media rights of member programs to their overarching conference, which then sells off this package”<sup>49</sup> to broadcasting companies. The proceeds from these agreements are distributed to conference members, usually in equal or pro rata proportions. Grant of rights agreements became one of the primary powers members ceded to conferences, while gaining increased exposure and millions of dollars in revenue.

In the post-*Regents* era, the CFA successfully negotiated four television agreements on behalf of its members spanning from 1984 to 1995, but its success as a collective body was short lived.<sup>50</sup> In 1991, the University of Notre Dame resigned its membership to the CFA to enter into its own television agreements. In 1995, the SEC entered into an agreement with CBS for \$85

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<sup>45</sup> Stewart Mandel, *College football conference realignment timeline: 124 years of drama, money and bitterness*, The Athletic (Jul. 14, 2023), <https://theathletic.com/4662822/2023/07/14/college-football-conference-realignment-history/>.

<sup>46</sup> *Supra* note 37.

<sup>47</sup> *Big Ten History*, Big Ten Conference, <https://bigten.org/sports/2018/6/6/trads-big10-trads-html.aspx>

<sup>48</sup> *Id.*

<sup>49</sup> Kevin P. Gildea, *The Paperwork Curbing Enthusiasm for College Football Realignment*, DarrowEverett LLP (June 22, 2023); <https://www.darroweverett.com/college-football-realignment-acc-grant-rights-analysis/> (last visited Mar. 30, 2024).

<sup>50</sup> Christian Dennie, *The Bowl Championship Series and Conference Realignment: Conference Realignment: From Backyard Brawls to Cash Cows*, 1 Miss. Sports L. Rev. 249 (2012).

million spread out over five years, which was “double the average amount each team was receiving under the CFA agreement.”<sup>51</sup> These moves showed how realignment was changing, as institutions were now free to consider moves based on broadcast plans.<sup>52</sup>

This newfound freedom schools possessed created a boom in college sports broadcasting. The SEC deal “became the envy of college sports,”<sup>53</sup> as CBS paid the conference around \$17 million per year and broadcast the games nationwide. Throughout the late 1990s and early to mid-2000s, television viewership grew, which increased the value of rights agreements. In just 10 years after the CFA’s dissolution, conferences were negotiating deals worth hundreds of millions of dollars.<sup>54</sup> Institutions became eager to cash in on these deals, with major waves of realignment occurring just before new broadcast deals begin, as discussed later.

There are a number of reasons schools choose to realign in addition to securing lucrative broadcast deals. Some institutions seek to join conferences with a higher competitive level that matches the school's athletic programs. The hope is that tougher competition will lead to more successful seasons and subsequently increased visibility, which in turn can enhance revenue, facilities, recruitment, and the school's overall prestige. For example, in 2014, the University of Louisville left the Big East Conference to join the ACC.<sup>55</sup> The move was driven by the school’s desire to compete against stronger competition in football and basketball, and to gain access to the ACC's television contracts and revenue-sharing model.<sup>56</sup>

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<sup>51</sup> *Supra* note 63, but see Tom Dienhart & Mike Hugenin, *CFA Bids Farewell After Accomplishing Its Goal*, *The Sporting News* (June 30, 1997).

<sup>52</sup> *Supra* note 37.

<sup>53</sup> Andy Staples, *How television changed college football – and how it will again*, *Sports Illustrated* (Aug. 6, 2012), <https://perma.cc/MZ5H-ZHX6>.

<sup>54</sup> Matthew Dixon, *College Football TV Contracts Since 1984: How Much Higher Can They Go?*, *Sports Enthusiasts* (Jul. 8, 2023), <https://sportsenthusiasts.net/2023/07/08/a-comprehensive-history-of-college-football-tv-contracts-since-1984-how-much-higher-can-they-go/> (last visited Apr. 30, 2024).

<sup>55</sup> Brett McMurphy, *Louisville propels ACC forward*, *ESPN* (Jul. 1, 2014), [https://www.espn.com/college-football/story/\\_/id/11161888/louisville-cardinals-official-move-acc-big-step-conference](https://www.espn.com/college-football/story/_/id/11161888/louisville-cardinals-official-move-acc-big-step-conference)

<sup>56</sup> *Id.*

Some schools may consider academic reputations as part of their realignment decisions. Conferences like the ACC have membership from highly regarded academic institutions. Schools seeking to become more competitive academically, or to establish themselves as leading research institutions, may want to align with conferences already known for academic success. For example, in November 2023, the University of Delaware (UD) announced its decision to join Conference USA.<sup>57</sup> UD's president stated, "UD ranks among the nation's leading public research institutions... Joining Conference USA will present opportunities to not only broaden exposure of our athletics programs, but also enhance awareness and visibility of our excellent academic offerings, [and] our ground-breaking research initiatives."<sup>58</sup>

Institutions may seek alignments with conferences that reduce travel costs and time, align with their geographic location, or place them closer to rival schools to enhance local interest and rivalries. Texas Christian University (TCU) is a recent example of realignment with strong geographical considerations. From 2005 through 2011, TCU was a member of the Mountain West Conference (MWC).<sup>59</sup> During its tenure in the MWC, conference membership included schools in Colorado, Utah, New Mexico, Nevada, California, and Wyoming.<sup>60</sup> In 2011, TCU announced a move from the MWC to the Big 12. The Chair of the Big 12 Board of Directors called the move "a perfect geographic fit,"<sup>61</sup> as the Big 12 had a strong presence in Texas and the surrounding region. TCU's Chancellor stated that joining the Big 12 connected them "to schools

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<sup>57</sup> *Delaware Accepts Invitation to Join Conference USA as Full Member*, University of Delaware Blue Hens Athletics (Nov. 28, 2023), <https://bluehens.com/news/2023/11/28/delaware-athletics-delaware-accepts-invitation-to-join-conference-usa-as-full-member> (last visited Apr. 12, 2024).

<sup>58</sup> *Id.*

<sup>59</sup> *TCU To Join Mountain West Conference*, Texas Christian University (Jan. 30, 2004), <https://gofrogs.com/sports/2018/7/13/genrel-013004aaa-html>

<sup>60</sup> *Id.*

<sup>61</sup> *TCU To Join Big 12 Conference*, Big 12 (Oct. 10, 2011), <https://big12sports.com/news/2011/10/10/205314233.aspx>.

with whom we share a rich tradition in sports,”<sup>62</sup> notably the University of Texas at Austin, Texas Tech University, and Baylor University.

### III. Effects of Conference Realignment

Just as there are multiple reasons institutions have for realigning, there are multiple effects of realignment. Realignment impacts trickle down from the conferences themselves, to individual institutions, to the student-athletes, and more. The impacts also spread wide, touching not just teams and their respective student bodies, but to local communities and the wider network of college alumni and fans of college sports.

#### A. Financial Impacts to Institutions

As discussed previously, the main reason schools realign conferences typically revolves around financial benefits for schools. Schools often switch conferences to increase their revenue from television contracts, which are generally more lucrative in bigger or more competitive conferences. Stronger conferences often have higher television deals because of their ability to attract larger audiences. Revenue can also come from marketing, sponsorships, and fan bases. The distribution of revenue sources for the 2018 fiscal year showed that almost 35% of revenue at the Division I Power-5 level came from media rights.<sup>63</sup>

In 2022, the Power-5 conferences combined for over \$3.3 billion in revenue, with a large portion coming from broadcast deals.<sup>64</sup> Brief summaries of the current Power-5 media rights agreements are provided here:

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<sup>62</sup> *Id.*

<sup>63</sup> Kendall Baker, *How college sports make money*, Axios Sports (Apr. 16, 2020), <https://www.axios.com/2020/04/16/college-sports-make-money-media-rights-football> (last visited Apr. 29, 2024).

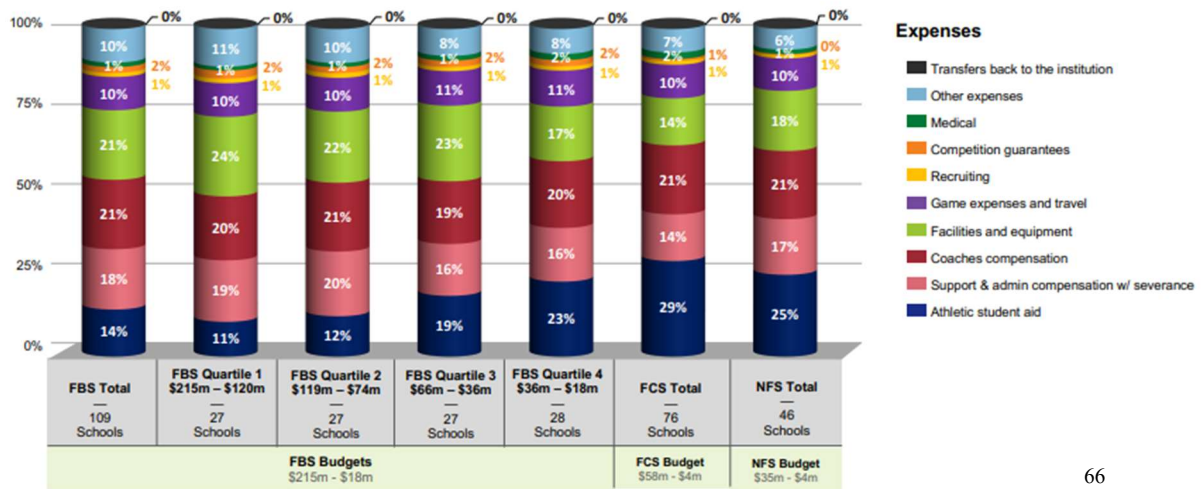
<sup>64</sup> Steve Berkowitz, *NCAA's Power Five Conferences are Cash Cows. Here's how Much Schools Made in Fiscal 2022*, USA Today (May 19, 2023, 4:23 PM) <https://www.usatoday.com/story/sports/college/2023/05/19/power-5-conferences-earnings-billions-2022/70235450007/>.

Conference	Value	Expiration	Per-year Average	Per-school, per-year average
Big 12	Current: \$2.6 billion deal; new: \$2.28 billion	Current: 2024-25; new deal runs through 2031	Current: \$220 million; new: \$380 million	Current: \$22 million; increase to \$31.7 million
Big 10	\$8.05 billion	2029-2030 academic year	\$1.15 billion	\$71.875 million
SEC	\$6 billion	2034	\$300 million	\$68 million
ACC	\$4.8 billion	2036	\$240 million	\$17.1 million
Pac-12	\$3 billion	2024	\$250 million	\$20.8 million

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The money generated from athletic departments is distributed in various ways. Over 50% of revenue generated by athletic departments stays within athletics, evidenced by the chart below:

NCAA Division I Public Institutions, 2020  
**Where the Money Goes**  
 Athletics Department Expenses



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### B. Recruitment to Athletic Teams

Realignment may affect recruitment efforts for all sports. Athletes may be drawn to schools in conferences that offer better competition or greater exposure, leading to shifts in talent

<sup>65</sup> *Current College Sports Television Contracts*, Business of College Sports (last updated Mar. 19, 2024) <https://businessofcollegesports.com/current-college-sports-television-contracts/#conference-television-contracts>.

<sup>66</sup> *Where the Money Goes*, Knight Commission, <https://www.knightcommission.org/wp-content/uploads/2022/03/2020DIFinancesGraphs.pdf>



distribution across different programs. Additionally, realignment may change the geographic areas schools recruit from. While many programs search for in-state or geographically close recruits, having opponents that are not confined to a specific geographic region would expand the area from which programs typically recruit from.

However, realignment may have the opposite effect. For example, the University of Oregon beach volleyball team may struggle to recruit new players due to Oregon realigning from the Pac-12 to the Big 10. While beach volleyball has been a staple and growing sport in the Pac-12, the Big 10 currently has no other beach volleyball teams. It will likely be difficult for Oregon to recruit new players to its beach volleyball team without meaningful intraconference competition in the Big 10, and thus could face dissolution.

However, the team, along with the women's club rowing team, have sued the university over its decision to realign.<sup>67</sup> The suit alleges Title IX gender discrimination and fraud. The volleyball team alleges that they were the only team sport in the Pac-12 that had not received any scholarship money. Players allege that they were told athletic scholarships and a brand new practice facility were forthcoming during their recruiting visits, but neither have been delivered as promised to the athletes. The rowing team alleges that there are opportunities and interest for the team to be elevated to the varsity level, but the school has failed to sponsor them.<sup>68</sup>

According to the complaint, women represent just over 49% of the varsity athletes at Oregon, but the school only spent 25% of its total athletic expenditures on them and only 15% of its recruiting dollars on them. Other allegations include a lack of a suitable practice facility, unequal athletic aid compared to male athletes, a lack of support staff, and various issues when traveling. They contend that beach volleyball is an afterthought at the university, and the decision

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<sup>67</sup> *Schroeder, et al. v. Univ. of Oregon*, United States District Court for the District of Oregon Eugene Division, 2023.

<sup>68</sup> *Id.*

to realign was based on seeking more broadcast revenue from football. Notably, when one of the lead plaintiffs asked a university compliance officer about the lack of beach volleyball in the Big 10, the officer was surprised “because they had not even thought about it.”<sup>69</sup>

While it is too soon to say what this lawsuit means in the realignment space, it could have massive implications on how schools approach realignment if courts rule in favor of the teams.

### C. Negative Impacts on Specific Teams

As discussed previously, joining conferences with a competitive level garnered towards specific sports might have positive impacts for specific teams, but negative impacts for other teams. A major consequence is that some teams may not survive a school’s decision to realign. For example, in 2013, the University of Cincinnati moved to the American Athletic Conference (AAC) after eight years in the Big East. The move was motivated by seeking conference stability, enhanced competition and exposure, geographic considerations, and financial incentives. However, the realignment caused budgetary constraints that led to the school cutting men’s soccer in 2019.<sup>70</sup>

Another impact occurs when schools have found themselves effectively left out or needing to find new conference affiliations as a result of realignment. This usually occurs when they were not included in a new or restructured conference or because their previous conference dissolved or reorganized without them. For example, the Western Athletic Conference (WAC) ceased to sponsor football after the 2012 season due to the departure of most of its football

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<sup>69</sup> Susan M Shaw, Why Women Student-athletes Allege Title IX Violations At U Of Oregon, Forbes.com, (Jan. 15, 2024, 7:10 PM), <https://www.forbes.com/sites/susanmshaw/2024/01/15/why-women-student-athletes-allege-title-ix-violations-at-u-of-oregon/?sh=3edb3dc4730e> (last visited Apr. 12, 2024).

<sup>70</sup> Mark Schlabach, *Cincinnati drops men’s soccer program amid ‘widespread uncertainty’*, ESPN (Apr. 14, 2020), [https://www.espn.com/college-sports/story/\\_/id/29034684/cincinnati-drops-men-soccer-program-amid-widespread-uncertainty](https://www.espn.com/college-sports/story/_/id/29034684/cincinnati-drops-men-soccer-program-amid-widespread-uncertainty).

members.<sup>71</sup> The University of Idaho and New Mexico State University were forced to find new homes for their football programs. Idaho eventually moved its football program to the Big Sky Conference in 2018 after a stint as an independent FBS team,<sup>72</sup> while New Mexico State played as an independent FBS team for several years before joining Conference USA in 2023.<sup>73</sup>

#### D. Travel Impacts on Student-Athletes

Another critique of realignment has been the impacts of far and excessive travel on student-athletes. Various softball players who currently compete for schools leaving the Pac-12 voiced concerns. Paige Sinicki of the Oregon softball team said “I picked to play in a high level softball conference where being close to home would allow my parents to come watch my games. It’s unfortunate to hear that my senior year I’ll be playing as far as New Jersey-Rutgers as well as other east coast schools.”<sup>74</sup> Morgan Scott, also of the Oregon softball team, said “Anyone going to talk about all the other sports that play multiple games in a weekend? What happened to [the] mental health of student-athletes being important? The balance of practice, travel, school, and having a social life is already hard enough. Why add even more stress?”<sup>75</sup> Another softball player wrote “[I]t’s an upsetting day for the Pac-12 lovers and people who love the sanity of student-athletes’ mental health.”<sup>76</sup>

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<sup>71</sup> Irv Moss, *WAC to drop football after 2012 season, commissioner Hurd says*, The Denver Post (August 20, 2012), [https://web.archive.org/web/20120823002638/http://www.denverpost.com:80/colleges/ci\\_21355122/wac-drop-football-after-2012-season](https://web.archive.org/web/20120823002638/http://www.denverpost.com:80/colleges/ci_21355122/wac-drop-football-after-2012-season).

<sup>72</sup> *Idaho Vandals School History*, Sports Reference, <https://www.sports-reference.com/cfb/schools/idaho/index.html>.

<sup>73</sup> New Mexico State Aggies School History, Sports Reference, <https://www.sports-reference.com/cfb/schools/new-mexico-state/>.

<sup>74</sup> Paige Sinicki (@paige\_sinicki), X (Aug. 4, 2023, 7:17 PM), [https://twitter.com/paige\\_sinicki/status/1687603716365684736](https://twitter.com/paige_sinicki/status/1687603716365684736).

<sup>75</sup> Morgan Scott (@Morgan\_Scotty11), X (Aug. 4, 2023, 7:49 PM), [https://twitter.com/Morgan\\_Scotty11/status/1687611701976289280](https://twitter.com/Morgan_Scotty11/status/1687611701976289280)

<sup>76</sup> KK Humphreys (@\_kaykayy13), X (Aug. 4, 2023, 7:39 PM) [https://twitter.com/\\_kaykayy13/status/1687609293682655232](https://twitter.com/_kaykayy13/status/1687609293682655232)

Coaches have also voiced concerns that increased travel may have on student-athletes. Missouri's head football coach Eliah Drinkwitz asked whether the university considered the costs to student-athletes beyond football teams. "We're talking about a football decision but what about softball and baseball who have to travel cross-country? Did we ask about the cost of them? Do we know what the number one cause of mental health [issues] is: it's lack of rest and sleep."<sup>77</sup> He also mentioned the differences in travel accommodations between teams, noting that many teams have to travel commercially, which could have negative impacts on a number of student-athletes.<sup>78</sup>

#### E. Construction of Facilities and Strategic Scheduling

However, conferences that span various regions may have positive impacts when it comes to scheduling and facilities. For many teams in the Big 10 with spring seasons, weather impacts scheduling. For example, the Pennsylvania State University baseball team played most games in February and March of 2024 in North Carolina and California.<sup>79</sup> Having intraconference schools on the West Coast may bode well for various teams like the Penn State baseball team because it will give teams the flexibility to schedule intraconference based on weather. Additionally, schools may be able to build indoor facilities to have home games earlier in the season from increased revenue from realignments.

Intraconference competition may also benefit from having members from different regions for other reasons. The University of Virginia women's swimming and diving program has won four consecutive NCAA championships.<sup>80</sup> However, they will face new intraconference

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<sup>77</sup> Jared Bush, *Mizzou head coach Eli Drinkwitz criticizes conference realignment*, Fox 4 News (Aug. 6, 2023, 4:47 PM), <https://fox4kc.com/sports/college/mizzou/mizzou-head-coach-eli-drinkwitz-criticizes-conference-realignment/>.

<sup>78</sup> *Id.*

<sup>79</sup> 2024 Baseball Schedule, PSU Sports, <https://gopsusports.com/sports/baseball/schedule/2024>.

<sup>80</sup> *Virginia wins 2024 NCAA DI women's swimming &* <https://www.ncaa.com/news/swimming-women/article/2024-03-23/virginia-wins-2024-ncaa-di-womens-swimming-diving->

competition beginning next season as the University of California, Berkely, Southern Methodist University, and Stanford University teams join the ACC.<sup>81</sup> Both California and Stanford’s swim teams have a history of success, amplifying the competition level in ACC swimming.<sup>82</sup>

#### F. Rivalry Impacts

One of the main arguments against conference realignment is that it destroys historic rivalries. Realignment of years past have shown mixed results.

One study considered how fans of the Texas A&M Aggies, the University of Missouri Tigers, and Texas Christian University Horned Frogs viewed rivalries before and after conference realignment. The study compared fans’ “rival perceptions toward teams they considered to be their biggest rivals in their previous and current conferences before and after conference realignment.”<sup>83</sup> The findings indicated history played an important role with longstanding rivalries. Specifically, Aggie fans still viewed the University of Texas Longhorns as their biggest rival, and Tiger fans continued to view the University of Kansas Jayhawks as their biggest rival after realignment. With their new intraconference rivals, fans had negative perceptions of the institutions and rival fan bases rather than the teams themselves. However, historic rivalries prevailed as the bigger rivalry with these two institutions even after realignment.<sup>84</sup>

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[championships#:~:text=Virginia's%20women's%20swimming%20and%20diving,win%20the%202024%20national%20title](#) (last visited Apr. 14, 2024).

<sup>81</sup> *The Atlantic Coast Conference Welcomes the University of California, Berkeley, Southern Methodist University and Stanford University as New Members*, ACC, (Sep. 1, 2023), <https://theacc.com/news/2023/9/1/general-the-atlantic-coast-conference-welcomes-the-university-of-california-berkeley-southern-methodist-university-and-stanford-university-as-new-members.aspx>.

<sup>82</sup> *Di Women's Swimming & Diving Championship history*, NCAA.com, <https://www.ncaa.com/history/swimming-women/d1>, (last accessed April 19, 2024).

<sup>83</sup> Havard, Cody T et al., *Does Time Heal all Wounds? A Case Study on Rival Perceptions Before and After Conference Realignment*, *International journal of exercise science* vol. 10,6 823-832 (1 Oct. 2017) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5685082/>.

<sup>84</sup> *Id.*

TCU's realignment showed a different result amongst fans. TCU's previous conference rival was Boise State Broncos, but there was a lack of history between the teams as they had only played each other four times.<sup>85</sup> After realignment, the Baylor University Bears became their biggest conference rival. However, Baylor was not a 'new' rival for TCU. The study revealed that TCU fans welcomed realignment because joining the Big 12 meant renewal of a historic rivalry between the schools that dates back to 1899.<sup>86</sup>

Unfortunately, not all historic rivalries survive realignment. For example, the rivalry between the University of Colorado Buffaloes and the University of Nebraska Cornhuskers, once a cornerstone of college football rivalries, has seen a notable decline since both schools realigned in 2011.<sup>87</sup> The moves by Colorado and Nebraska ended annual matchups between the two teams, diluting a rivalry that had been built on regular, often high-stakes games. Without the annual showdowns, newer generations of fans have grown distant from the rivalry, and its significance has diminished in the college football landscape.

#### IV. Case Studies

##### A. Big East Realignments

The Big East Conference (Big East) has undergone two major realignments since 2000. It was founded in 1979 and found early success in having members with strong basketball programs.<sup>88</sup> The conference's athletic membership was subsequently expanded in the 1990s and 2000s to include football programs in order to become a competitive multi-sport conference.<sup>89</sup>

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<sup>85</sup> *Id.* The study looked at fan perceptions in 2012 before beginning athletic competition in new conferences, and considered how perceptions had changed in the three years after realignment.

<sup>86</sup> *Id.*

<sup>87</sup> Craig Meyer, *How Bill McCartney turned Colorado-Nebraska into one of college football's great rivalries*, *Coloradoan* (Sep. 9, 2023), <https://www.coloradoan.com/story/sports/college/football/2023/09/09/colorado-nebraska-rivalry-bill-mccartney-college-football/70782789007/>.

<sup>88</sup> *Big East Conference*, *Encyclopedia Britannica*, <https://www.britannica.com/topic/Big-East-Conference> (last visited Apr. 30, 2024).

<sup>89</sup> *Id.*

The Big East’s first major realignment occurred from 2003 to 2005.<sup>90</sup> In 2003, the ACC announced plans to expand its football membership. Several Big East football programs elected to realign to join the ACC, including the University of Miami, Boston College, and Virginia Tech.<sup>91</sup> In response to the defections, the remaining Big East schools filed a lawsuit against the ACC, Miami, and Boston College. Virginia Tech was initially a plaintiff, but was dropped from the complaint once they were invited to join the ACC.

The lawsuit alleged that the ACC was conspiring with Miami and Boston College “to weaken the Big East by luring away some of its biggest football powers.”<sup>92</sup> It included claims of tortious interference, breach of fiduciary duty, and unjust enrichment, claiming that the ACC's expansion efforts were intended to damage the Big East financially and competitively.<sup>93</sup> The plaintiffs argued that they would lose substantial revenue from television contracts, bowl games, and NCAA basketball tournament appearances due to the weakened competition.<sup>94</sup>

The parties settled in 2005, with the institutions agreeing to pay a combined total of \$5 million.<sup>95</sup> The ACC did not admit to any wrongdoing but agreed to refrain from encouraging any further Big East members to switch conferences as part of the settlement agreement.<sup>96</sup> Thus, these lawsuits highlighted the potential legal and financial risks associated with conference

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<sup>90</sup> *Big East Realignment Timeline: A Graphic Examination*, CBS Sports, <https://www.cbssports.com/college-basketball/news/big-east-realignment-timeline-a-graphic-examination/> (last visited Apr. 30, 2024).

<sup>91</sup> *Supra* note 102.

<sup>92</sup> *ACC expansion takes place quietly*, AccessWDUN, July 1, 2004, <https://accesswdun.com/article/2004/7/156577> (last visited Apr. 30, 2024).

<sup>93</sup> Harmon Gallant, *ACC-Big East Lawsuit: All About The Money*, Sports Business Journal (June 16, 2003), <https://www.sportsbusinessjournal.com/Journal/Issues/2003/06/16/Opinion/ACC-Big-East-Lawsuit-All-About-The-Money.aspx> (last visited Apr. 30, 2024).

<sup>94</sup> *Id.*

<sup>95</sup> *Conferences Schedule Games as Part of Settlement*, ESPN.com, (May 3, 2005), <http://sports.espn.go.com/ncaa/news/story?id=2052787>.

<sup>96</sup> *Id.*

realignment. They also set a precedent that influenced how future conference realignments were negotiated, leading to more cautious and legally vetted approaches.

The second major Big East realignment began in 2011, when the University of Pittsburgh and Syracuse University announced that they would be leaving the Big East to join the ACC.<sup>97</sup> Both schools had strong football and basketball programs, and cited desires for greater stability and potentially higher revenue from television contracts among reasons for realignment. Subsequently, West Virginia University announced it would leave the conference to join the Big 12.<sup>98</sup> The Big East added several new schools, including Southern Methodist University, the University of Houston, and the University of Central Florida.<sup>99</sup>

However, in December 2012, seven non-FBS schools (DePaul University, Georgetown University, Marquette University, Providence College, Seton Hall University, St. John's University, and Villanova University), known as the "Catholic 7," announced their decision to leave the Big East and form a new conference that would retain the Big East name.<sup>100</sup> The split was formalized in 2013.<sup>101</sup> The new Big East refocused on basketball, and the remaining schools (primarily public universities with FBS football programs) joined other conferences.<sup>102</sup> Since then, Big East basketball teams have continued to generate national success, winning four of the last 10 national championships on both the men's<sup>103</sup> and women's<sup>104</sup> sides.

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<sup>97</sup> Brendan Prunty, *Syracuse, Pittsburgh Leave Big East for ACC*, NJ.com (Sep. 18, 2011), [https://www.nj.com/rutgersfootball/2011/09/syracuse\\_pittsburgh\\_leave\\_big.html](https://www.nj.com/rutgersfootball/2011/09/syracuse_pittsburgh_leave_big.html).

<sup>98</sup> *West Virginia University To Join Big 12 Conference*, Big12Sports.com (Oct. 28, 2011), <https://big12sports.com/news/2011/10/28/205323383.aspx>.

<sup>99</sup> *Supra* note 102.

<sup>100</sup> *Catholic 7 Schools to Keep Big East Name for New League Next Season, According to Sources*, ESPN (Feb. 28, 2013), [https://www.espn.com/mens-college-basketball/story/\\_/id/9000502/catholic-7-schools-keep-big-east-name-new-league-next-season-according-sources](https://www.espn.com/mens-college-basketball/story/_/id/9000502/catholic-7-schools-keep-big-east-name-new-league-next-season-according-sources).

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Men's Basketball DI Championship History*, NCAA.com, <https://www.ncaa.com/history/basketball-men/d1> (last visited May 12, 2024).

<sup>104</sup> *Women's Basketball DI Championship History*, NCAA.com, <https://www.ncaa.com/history/basketball-women/d1> (last visited May 12, 2024).



## B. Big Eight Becoming the Big 12 Conference

The transformation of the Big Eight Conference into the Big 12 represents a significant chapter in the history of collegiate athletics. Prior to the move, the Big Eight was known for its strong traditions in football, basketball, and other sports. In 1994, the decision was made to merge the Big Eight with four Texas schools from the Southwest Conference (Texas Tech University, the University of Texas at Austin, Texas A&M University, and Baylor University), which was dissolving.<sup>105</sup> The merge was finalized in 1996, and was indicative of broader trends in college athletics, where regional alliances expanded to create more competitive and financially lucrative conferences.<sup>106</sup>

The transformation into the Big 12 Conference was driven by several factors, including the financial gains of television rights, the desire to increase the competitive standing of the conference, and the need to respond to the nationwide trend of conference realignment. Adding four Texas institutions enhanced the conference's geographic footprint, and was particularly strategic due to the large number of college football fans in Texas.<sup>107</sup>

The merge also opened new revenue streams, particularly through television contracts and sponsorships, by leveraging the larger market and increased competitive appeal of the conference.<sup>108</sup> The competition level also increased due to more conference members who had strong athletic programs. Since the merge, Big 12 programs have continued to build reputations for success in football, basketball, softball, and other sports.

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<sup>105</sup> *Big Eight adds up to 12 as Texas schools join*, Tampa Bay Times (Feb. 26, 1994), <https://www.tampabay.com/archive/1994/02/26/big-eight-adds-up-to-12-as-texas-schools-join/>.

<sup>106</sup> *Id.*

<sup>107</sup> John Rohde, *Realignment Next Big Step*, The Oklahoman (Feb. 27, 1994), <https://www.oklahoman.com/story/news/1994/02/27/realignment-next-big-step/62433079007/>.

<sup>108</sup> *Id.*

### C. Conference USA Basketball Realignment

Conference USA (CUSA) was formed in 1995 by merging the Metro and Great Midwest Conferences, two basketball-centric conferences that did not sponsor football.<sup>109</sup> Despite forming without sponsoring football, the CUSA quickly changed tunes, introducing football as a sponsored sport a year later.<sup>110</sup> The conference “quickly emerged as one of the nation’s top conferences,”<sup>111</sup> having early and continued success in basketball and other sports.

The conference experienced a major realignment in 2005 that occurred as a result of the Big East realignment.<sup>112</sup> Nine CUSA member institutions left: five members went to the Big East, two members joined the Atlantic 10 Conference, TCU left for the Mountain West Conference, and Army, who was a football-only member of CUSA, chose to leave the conference to be an independent football program.<sup>113</sup> However, CUSA was able to restore its membership to 12 schools by inviting other institutions to join.

One study was conducted to evaluate the effects this realignment had on CUSA men’s basketball programs regarding national success and competitive balance.<sup>114</sup> The purpose of the study was to show whether the 2005 realignment positively or negatively impacted the competitive success and thus financial rewards in CUSA for men’s basketball. The results of the study indicated that realignment negatively impacted the success of men’s basketball at both the

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<sup>109</sup> Kaleb Henry, *A History of Conference Realignment*, KLIN News Talk (Aug. 13, 2023, 5:58 PM), <https://klin.com/2023/08/13/a-history-of-conference-realignment/#>.

<sup>110</sup> *Membership Timeline*, Conference USA, [https://conferenceusa.com/sports/2023/6/20/membership\\_timeline.aspx](https://conferenceusa.com/sports/2023/6/20/membership_timeline.aspx).

<sup>111</sup> *Conference USA: Building the Next Generation of Great College Programs*, Conference USA, <https://conferenceusa.com/sports/2016/7/1/ot-about-c-usa-html.aspx>.

<sup>112</sup> Martin M. Perline, G. Clayton Stoldt, Mark C. Vermillion, *The Effects of Conference Realignment on National Success and Competitive Balance: The Case of Conference USA Men’s Basketball*, *The Sport Journal* (Jan. 3, 2012), <https://soar.wichita.edu/server/api/core/bitstreams/3a4d2e83-d173-48b4-8fe3-9535940d22bc/content>.

<sup>113</sup> *Id.*

<sup>114</sup> Martin M. Perline, G. Clayton Stoldt, Mark C. Vermillion, *The Effects of Conference Realignment on National Success and Competitive Balance: The Case of Conference USA Men’s Basketball*, *The Sport Journal* (Jan. 3, 2012), <https://soar.wichita.edu/server/api/core/bitstreams/3a4d2e83-d173-48b4-8fe3-9535940d22bc/content>.

national and intraconference levels.<sup>115</sup> The winning percentages of men’s basketball programs were lower after realignment, meaning less NCAA tournament appearances as well. The decrease in competitive success also meant that CUSA received less revenue after realignment, generating nearly \$10 million more in the five-year period before realignment than it had in the five years after realignment.<sup>116</sup>

Since then, CUSA has continued to experience high rates of membership turnover, earning it a reputation for being a stepping stone conference for smaller or lesser known Division I programs looking to gain national exposure. Despite the frequent change in membership, CUSA has continued to generate success in multiple sports. Its football teams regularly appear in bowl games, its basketball and baseball teams frequently appear in the NCAA tournament, and CUSA has produced an NCAA men’s soccer championship team as well as over 40 individual track and field national champions.<sup>117</sup>

#### **V. What Does the Future of College Sports Look Like as a Result of Realignment?**

In the 40 years since the *Board of Regents* case was decided, the realignment trend has primarily followed television broadcast deals. Given how the trend has progressed, it is not farfetched to think that the membership of the Power 5 and G5 conferences could continue to grow, which would introduce further conflicts between institutions, conferences, and the NCAA.

One analyst formulated a “Realignment Attractiveness Score” that quantified several factors, including the success of the school’s football team, television viewership, market attractiveness of the conference, the institutional resources and other academic success, and

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<sup>115</sup> *Id.*

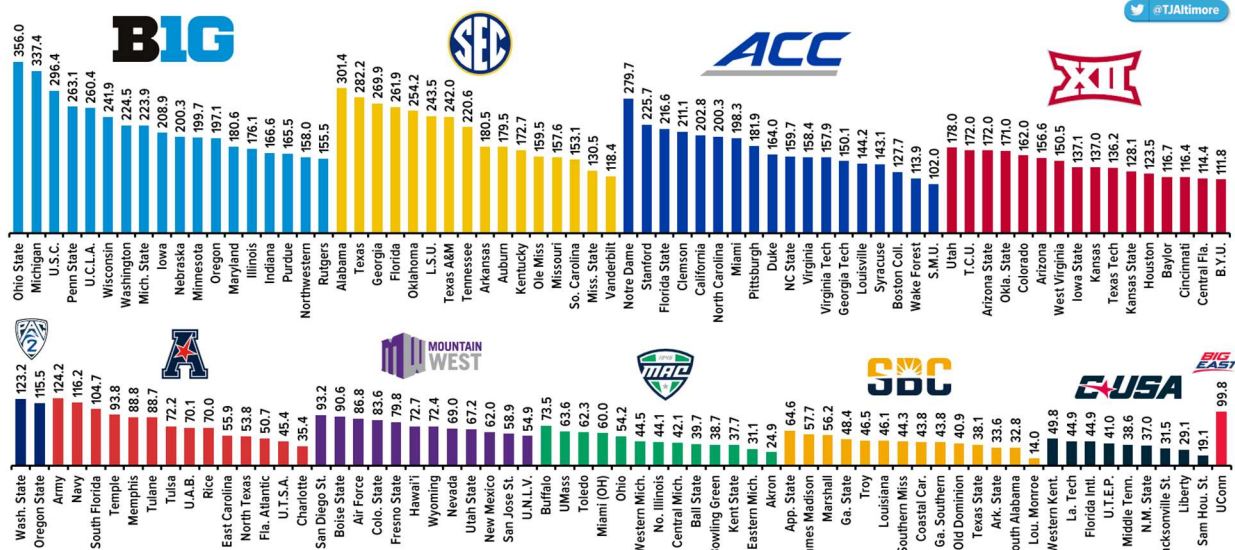
<sup>116</sup> *Id.* The study showed that from 2001-2005, the conference generated \$30,722,250 from 39 NCAA tournament appearances, but received only \$21,269,388 from 19 NCAA tournament appearances from 2006-2010.

<sup>117</sup> Zach McLearn, *A History of Conference USA*, A Sea of Red (Jul. 17, 2023), <https://www.aseaofred.com/a-history-of-conference-usa/> (last visited May 10, 2024).

more.<sup>118</sup> The table, featured below, illustrates how ‘attractive’ specific institutions within the Power 5 and G5 Conferences are. The higher the score of an institution, the more attractive it is. While the conferences themselves are not given raw scores, it is clear to see what conferences are the most attractive and are thus likely to continue to generate interest from institutions looking to realign.

# REALIGNMENT ATTRACTIVENESS SCORE

Football Success | TV Draw | Market Attractiveness | Athletic & Basketball Success | Institutional Resources & Academic Success | Key Bonus Factors | Key Risks



Methodology summarized below in comment. School officials, clients, or media with questions are welcome reach out for more info or benchmarking data.

The Division I governing structure under the NCAA, television viewership, and realignment trends suggest that conferences with strong football programs have significant power within the NCAA. These factors, in conjunction with the Realignment Attractiveness Scores, suggest that the membership of Power 5 and G5 conferences will continue to grow. Consolidated membership growth may lead to the disbandment of smaller and weaker conferences. It may also lead to a dynamic power shift, where strong football conferences may

<sup>118</sup> Tony Altimore (@TJAltimore), X (Mar. 23, 2024, 9:56 AM), <https://twitter.com/TJAltimore/status/1771536506886222121>

<sup>119</sup> *Id.*

become more powerful than the NCAA as an entity and may thus outgrow the need for the NCAA. Could changes to the college football governing structure be on the horizon?

Scholars and fans alike have proposed structural reforms to the college football structure. One reform proposal is called the “Macro Reform,” where FBS college football programs could break away from the NCAA and form their own governing structure.<sup>120</sup> Non-FBS football programs and all other college sports would remain part of the NCAA.<sup>121</sup> One of the benefits of creating a college football-centric governance system is that the entity would likely better serve the needs of collegiate football programs, while keeping non-FBS football schools and all other NCAA sports “tethered to the core principles of higher education.”<sup>122</sup>

The second proposal is the “Micro Reform,” which would reduce the total number of teams in top-tier conferences, but keep all football teams under NCAA governance. Approximately sixty schools in the SEC, Big10, Pac-12, and ACC conferences, as well as Notre Dame, hold the power for the next iteration of the NCAA. In order to effectuate a Micro Reform, smaller schools would need to form alliances to upstage the schools that hold the power. One of the benefits of reducing the number of top-tier conferences and teams could mean that the strongest teams could be closer together, but conferences that lose their strongest members would likely try to add schools from other, lower conferences.<sup>123</sup> Additionally, this plan would significantly alter the current media rights deals, which would be extremely difficult to do.

Another approach could be a rise in the formation of football-only conferences, which are types of athletic conferences primarily concerned with overseeing and organizing competitions

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<sup>120</sup> Drew Thornley, *College Football: Proposals for Structural Reform and Antitrust Implications*, 32 Marq. Sports L. Rev. 471 (2022).

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

between schools for football. While the schools in these conferences would compete with each other in football, they might not compete against each other in other sports. The benefit of these kinds of conferences includes making decisions specifically for football programs, without having to consider impacts to different teams.

The United Athletic Conference (UAC), recently formed in 2023, is an example of a football-only conference. The Atlantic Sun and Western Athletic Conferences announced the partnership to create interconference competition between football programs of their member institutions.<sup>124</sup> The conference has an independent budget and policies for its 10 member institutions specific to football operations.<sup>125</sup> In addition, the conference champion receives an auto-bid to participate in the FCS playoffs. While this model might not fit for Power-5 or G5 schools who generally have strong competition levels across a variety of sports, football-only conferences like the UAC could be a great alternative to lower-level Division I schools looking to promote their football programs without impacting their other athletic programs.

## VI. Conclusion

While conference names and memberships have undergone numerous changes in the post-*Regents* era, one component remains true: institutions have continued to follow the money when realigning. There is little evidence to suggest that this trend will slow down, or that any of the reasons cited will be enough to compel institutions to think differently about realignment. Additionally, the NCAA's bylaws show that schools have the authority to realign as they see fit, and the NCAA has no power to control the conferences' media rights deals under the *Board of Regents* decision. The University of Oregon women's beach volleyball lawsuit illustrates one

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<sup>124</sup> Stan Becton, *Making sense of FCS conference realignment*, NCAA.com (May 10, 2024), <https://www.ncaa.com/news/football/article/2024-05-10/making-sense-fcs-conference-realignment> (last visited May 12, 2024).

<sup>125</sup> *About the UAC*, United Athletic Conference, [https://uacfootball.com/sports/2024/2/12/FB\\_0212241040.aspx](https://uacfootball.com/sports/2024/2/12/FB_0212241040.aspx).

potential legal avenue to fight the current model, but is unlikely to significantly change the powers institutions possess regarding realignment.

Therefore, change is only likely to come when the promise of increased revenue is no longer enough, such as if schools begin to earn less money through distribution models in potential super conferences. There are structural reforms that could be implemented to avoid these conflicts from arising, but without real pressure, change is unlikely.

However, the current model has not proven to be particularly harmful in the long run. Schools have continued to generate hundreds of millions of dollars in revenue for themselves from athletics that in turn get largely redistributed into the school's athletic communities. Success of athletic teams and greater national exposure also draw more students to schools, which in turn can enhance academics and overall student life. The current model is not perfect, but it has generally produced more winners than losers. Therefore, the landscape of collegiate conferences will continue to change as schools follow the money promised from ever-increasing broadcast deals.