Debevoise & Plimpton

The Debrief

Private Equity Investment in Division I College Sports

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The last few years has seen seismic changes in Division I college athletics—from the NCAA's introduction of name, image and likeness ("NIL") payments for college athletes to the establishment of the transfer portal and elimination of one-year transfer eligibility restrictions. The Big Ten and SEC also signed multi-billion-dollar media deals and raided other power conferences for schools, setting off a domino effect across the remaining athletic conferences. This conference realignment and new market for talent have meaningfully changed the on-field product but not dampened the draw of college sports for loyal fan bases.

The latest development comes with the preliminary approval of a settlement of three class actions against the NCAA in October 2024. The $2.78 billion settlement, among other things, (i) establishes retroactive compensation, dating back to 2016, for former athletes who were deprived of NIL compensation; (ii) provides guidelines that permit, but do not require, college athletic programs to share revenue with current and future college athletes, capped at 22% of the athletic program's media, ticket and sponsorship revenue; and (iii) removes scholarship limits in all sports, allowing athletic programs to provide scholarships to the entire roster of student athletes. The settlement also permits the NCAA to regulate how NIL agreements between boosters and student athletes restrict pay-for-play arrangements. The expectation is that these changes will continue to drive up the costs of competing for amateur talent, which was free labor not so long ago, and widen the gap between marquee programs in top conferences and all the rest.

This fast-changing economic landscape of college athletics has spurred speculation that, much like professional sports, college sports will turn to private equity investment to help fund their rosters and development of new revenue streams. In 2024, there were two publicized instances of college organizations considering private equity investment:

- CVC Capital has been rumored to be in discussions with the Big 12 athletic conference (which lost Texas and Oklahoma recently to the SEC), whereby CVC Capital would invest a range of $800 million to $1 billion in exchange for a 15–20% equity stake in the conference. In parallel, the Big 12 pursued a naming rights agreement to rename the conference in exchange for additional revenue that would be shared among its members. These cash infusions were said to be on the table in order to stabilize the conference's finances before its next media rights deal in 2031.

- Sixth Street Partners was also rumored to have been in discussions with Florida State University ("FSU") in relation to staking a new company that would acquire FSU's intellectual property rights. The negotiations came at a time when FSU has filed a lawsuit against its conference, the ACC, to avoid the steep exit fee that it would owe the ACC for leaving the conference.

Neither deal has come to fruition, so what has been impeding widespread private equity investment in Division I college athletics? There are a limited number of top-tier teams with assets that can generate desired returns on a private equity investment. Investments in individual athletic programs may be limited to rights in ticket and event sales and sponsorship rights, with other large revenue streams, such as media rights, often controlled by conferences and harder to access. Varying state legislation governing public universities and colleges may also make such investments more difficult to structure. Some states regulate (i) direct private investment in universities and (ii) the type and terms of any debt that school may incur. An investment from private equity also comes with rights for the sponsor that may be unfamiliar to and disfavored by schools that have more typically relied on donations or NIL funding from boosters for large cash infusions. Finally, athletic conferences and their member schools may not yet have the appetite for such a deal. [1] The CVC deal likely required a supermajority (75%) vote approval of the Big 12 schools, so holdouts matter. The SEC and the Big Ten recently stated that they have yet to be swayed by proposals from private equity firms. Notre Dame's athletic director said that the school has rejected numerous solicitations from private equity firms and intends to face the changing college landscape with its existing sources of capital.

However, it seems unlikely that private equity interest in college sports will fade away. Private equity firms have started to raise funds specifically for investment in college athletics. For example, RedBird Capital and Weatherford Capital joined together to form Collegiate Athletic Solutions, a new investment vehicle that intends to invest $50 to $200 million per deal in public or private athletic departments in exchange for a percentage of revenue streams according to the *Wall Street Journal*. Recently, Investor

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[1] The Ivy League has diverged from the other Division I athletic conferences, declining to form NIL collectives to compensate student athletes and, supposedly, to share revenues with athletes, in addition to already prohibiting athletic scholarships for its student athletes. However, the Ivy League was at the front line for another fight—the Dartmouth men's basketball team voted to unionize in March 2024. Dartmouth declined to bargain with the basketball team and fought the determination by the National Labor Relations Board (the "NLRB") that the players are employees of the school under federal labor law. The basketball team ended up dropping its attempt to unionize at the end of 2024 in anticipation of the NLRB shifting to Republican control after the inauguration.

Marc Lasry, CEO of Avenue Capital Management and former co-owner of the Milwaukee Bucks, has also stated that he is bidding for interests in college sports teams. Private equity continues to knock on the door waiting to be let into the college game.

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