

MOBILE SPORTS BETTING ON COLLEGE CAMPUSES: LIMITING THE RISKS

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I. INTRODUCTION

Legal gambling has been available in the United States since colonial times.¹ Lotteries were even used to fund the Revolutionary War.² In the past five years, however, the risk of adverse consequences from legal gambling, especially for college-aged students, has taken a quantum leap. Sports betting, which was recently only available in Nevada, is currently legal in more than thirty states.³ Mobile betting is available in twenty-two of those states, and the numbers are growing so quickly that there is a good deal of confusion among gamblers about what is legal and what is not legal.⁴

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¹ See DODD & MEAD AND COMPANY, *SUCKER'S PROGRESS: AN INFORMAL HISTORY OF GAMBLING IN AMERICA FROM THE COLONIES TO CANFIELD 77-78* (Patterson Smith Pub. Co. 1938); see also Ronald J. Rychlak, *Lotteries, Revenue, and Social Cost: A Historical Perspective on State Sponsored Gambling*, 34 *B.C. L. Rev.* 11, 25 (1992).

² See JOHN SAMUEL EZELL, *FORTUNE'S MERRY WHEEL: THE LOTTERY IN AMERICA* 63 (1960).

³ *U.S. Legal Sports Betting*, AM. GAMING ASS'N (2023), https://www.americangaming.org/wp-content/uploads/2023/04/AGA_New_LSBMap_040423.pdf.

⁴ *2020 Survey of American Sports Bettors*, AM. GAMING ASS'N (July 21, 2020) (An *American Gaming Association* study from 2020 found "52% of sports bettors participated in the illegal market in 2019. 55 percent of consumers who placed most of their wagers with illegal operators believed they were betting legally."); 18 U.S.C.S § 1955 (although most gambling laws vary from state to state, there are certain restrictions in regards to interstate commerce and gambling) ("Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal

Modern sports-betting does not require gamblers to find a bookie or even make a trip to a local casino.⁵ Once an account is opened, the online casino/bookmaker will contact the potential gambler. Moreover, that casino will know the bettor's favorite sports, special teams, preferred type of bet, and even how individual gamblers are doing that day. Gambling operators can send personalized ads, encouraging bettors to parlay wins or rebound from losses.

The National Council on Problem Gambling conducts surveys in each state on gambling participation and attitudes.⁶ Around 85% of American adults have gambled in their lives, and "an estimated two million Americans meet the criteria for addictive or pathological gambling."⁷

As opportunities for gambling become more accessible, especially through lotteries, electronic gaming machines, and online, more people will develop serious gambling problems. That is troublesome, because an "epidemic" has already arrived in the collegiate sector; more than one in every twenty college students already has an issue with compulsive gambling.⁸ That is more than twice

gambling business shall be fined under this title or imprisoned not more than five years, or both.") (prohibition of illegal gambling businesses).

⁵ "Bookie" is a shortened version of bookmaker, someone who facilitates gambling, by setting odds, accepting bets, and paying out winnings, most commonly on sporting events. See James Chen, *Bookie: Definition, Meaning, Duties, How They Make Money, and Fee*, Investopedia, <https://www.investopedia.com/terms/b/bookie.asp> (Aug. 21, 2023).

⁶ See generally *Gambling Participation and Attitudes*, NAT'L COUNCIL ON PROBLEM GAMBLING, <https://www.ncpgsurvey.org/mississippi/> (last visited Oct. 24, 2023) [hereinafter *Gambling Participation*] (gambling activities include buying raffle or lottery tickets, sports betting, wagering money on racing, games, roulette, craps, etc.).

⁷ Spencer H. Newman, *Unreasonably Risky: Why A Negligence Standard Should Replace the Bankruptcy Code's Fraudulent Intent Analysis for Gambling Debts*, 8 *UNLV Gaming L.J.* 197 (2018); *Compulsive Gambling*, MAYO CLINIC, <https://www.mayoclinic.org/diseases-conditions/compulsive-gambling/symptoms-causes/syc-20355178> (last visited Dec. 22, 2022) (gambling addiction, also known as gambling disorder or "compulsive gambling . . . is the uncontrollable urge to keep gambling despite the toll it takes on your life, [and] gambling means that you're willing to risk something you value in the hope of getting something of even greater value."); Alan Ellis et. al, *Gambling Addiction: Making the Case for Sentencing Relief*, 30 *Crim. Just.* 1, 2 (2015), https://alanellis.com/wp-content/uploads/2016/07/Gambling_Addiction-Criminal_Justice_Fall_2015.pdf (First recognized by the American Psychiatric Association in 1980, pathological gambling has been recognized as a medical condition for more than three decades.).

⁸ *Gambling*, PARTNERS IN PREVENTION, <https://www.mopip.org/topics/gambling.html> (last visited Oct. 25, 2023) [hereinafter *Partners in Prevention*] (According to the National Center for Responsible Gaming, "[t]he most recent research estimates that 6% of college students in the U.S. have a serious gambling problem that can result in psychological difficulties, unmanageable debt and failing grades."); *College*

the rate for the overall adult population. In May 2023, the NCAA released the results from a survey of 3,527 eighteen-to-twenty-two year olds;⁹ it found that sports wagering is pervasive, “with 58% having engaged in at least one sports betting activity,” and that sports betting “is widespread on college campuses — 67% of students living on campus are bettors...and 35% have used a student bookmaker.”¹⁰

Unfortunately, many college and university administrators have overlooked the very real threat that increased legal betting poses to their students. “[O]nly 22% of U.S. colleges and universities have formal policies on gambling.”¹¹ In fact, some universities are partnering with casinos and other gaming interests in ways that only exacerbate the situation.¹² By focusing attention on the issue, reviewing the associated risks, and encouraging the adoption of best practices, college administrators can play a significant role in

Students at Higher Risk of Gambling Addiction than Adults, DAILY EMERALD (Mar. 29, 2011), https://www.dailyemerald.com/news/college-students-at-higher-risk-of-gambling-addiction-than-adults/article_15a3c92d-e85f-562d-8e7d-8094f6bb4d1e.html [hereinafter *College Student Risks*] (According to Glenn Christenson, chairman of the National Center for Responsible Gaming, “the most recent research estimates that 6 percent of college students in the United States have a serious gambling problem that can result in psychological difficulties, unmanageable debt and failing grades.”) (Current research has shown similarities between gambling addiction and drug or alcohol addictions in “expression, brain origin, comorbidity, physiology, and treatment.”).

⁹ Saquandra Heath, *Addressing Sports Wagering: NCAA Releases Sports Wagering Survey Data*, NCAA (May 24, 2023), <https://www.ncaa.org/news/2023/5/24/media-center-ncaa-releases-sports-wagering-survey-data.aspx> (The United States is the only country in the world “with substantial legalized sports betting on college campuses.”); *LEAD1 Association Examines the Risks of Legalized Sports Wagering on College Campuses*, SPORTS LITIG. ALERT (June 17, 2022), <https://sportslitigationalert.com/lead1-association-examines-the-risks-of-legalized-sports-wagering-on-college-campuses/> [hereinafter *LEAD1*].

¹⁰ Heath, *supra* note 9.

¹¹ *Partners in Prevention*, *supra* note 8 (“Though colleges nationwide have aggressively responded to other types of addiction issues — including those associated with tobacco and alcohol use by creating intervention programs and enforcing strict policies on substance use— . . . [only] 22% of colleges have formal policies on gambling.”); *College Student Risk*, *supra* note 8.

¹² Kevin Draper, *Senator Seeks Details of Schools’ Deals with Betting Companies*, N.Y. TIMES (March 27, 2023), <https://www.nytimes.com/2023/03/27/sports/sports-gambling-universities.html#:~:text=Senator%20Richard%20Blumenthal%2C%20Democrat%20of,the%20schools%20are%20doing%20to> (In March 2023, Senator Richard Blumenthal [D-Conn], sent a letter to 66 of the country’s colleges and universities with the largest athletic budgets, requesting information about their efforts to form partnerships with sports betting companies, as well as information about what the schools were doing to prevent underage betting and to combat gambling addiction.).

reducing the exposure of students to the threats presented by commercial gambling.

II. GAMBLING AND SPORTS

Gambling consists of three elements: consideration, chance, and reward. Lotteries are perhaps the best example of pure gambling. A typical lottery, which involves a person purchasing one or more chances to win a prize based on a random drawing, clearly involves all three elements. Consideration is found in the cost of the ticket. Tickets are randomly drawn, or numbers are randomly selected, rendering a result clearly based on chance. The reward is the prize that the lucky ticket holder hopes to win.¹³

A. Early History

Gambling is nearly as old as civilization itself. Various games of chance existed among ancient Egyptians, Chinese, Japanese, Hebrews, Greeks, Romans, and the early Germanic tribes.¹⁴ Gambling and the regulation of gambling also have long histories in this country.¹⁵

The Puritans drafted the earliest gambling regulations in the New World.¹⁶ When the Colonies discovered how to put gambling to good use, they were not reluctant to employ it. Early Americans often relied on lottery proceeds to finance public works, including the establishment of many colleges and universities.¹⁷

¹³ See Rychlak, *supra* note 1, at 15.

¹⁴ See JOHN ASHTON, *THE HISTORY OF GAMBLING IN ENGLAND* 3–12 (Patterson Smith Publ. Co. 1989) (describing gambling practices through time); see also *COMPULSIVE GAMBLING: THEORY, RESEARCH, AND PRACTICE* 3, 4 (Howard J. Shaffer et al. eds., 1989) (“The Babylonians, Etruscans, and the ancient Chinese were among the first civilizations to participate in organized gambling.”).

¹⁵ See generally HENRY CHAFETZ, *PLAY THE DEVIL: A HISTORY OF GAMBLING IN THE UNITED STATES FROM 1492 TO 1955* (1960).

¹⁶ *THE DEVELOPMENT OF THE LAW OF GAMBLING: 1776-1976*, 13, 15 (Cornell Inst. on Organized Crime, 1976).

¹⁷ Between 1746 and the Civil War, American lotteries were authorized for such projects as the establishment or improvement of Harvard, Yale, Kings College (Columbia University), Princeton, Rutgers, Dartmouth, Rhode Island College (Brown University), the University of Pennsylvania, the University of North Carolina, and the University of Michigan; the benefit of the Masons; the fortification of New York City and Philadelphia; the construction of roads, hospitals, lighthouses, and jails; the promotion of literature; the improvement of navigation on rivers; the development of industry; and even the construction of churches. *Id.* at 662–63 (identifying general nature of benefited entities). For citation to several of the acts authorizing these lotteries, see Rychlak, *supra* note 1, at 15. During this period, lotteries provided funds to 47 colleges, 300 lower schools, and 200 church groups

Win, lose, or draw, there is a long history of gambling and adverse social consequences, including suicide, bankruptcy,¹⁸ and divorce.¹⁹ A book published in 1870 told this story:

It is said that the Goddess of Fortune, once sporting near the shady pool of Olympus, was met by the gay and captivating God of War, who soon allured her to his arms. They were united; but the matrimony was not holy, and the result of the

(including most minor denominations and every major denomination except the Quakers); JOHN DOMBRINK & WILLIAM THOMPSON, *THE LAST RESORT: FAILURE IN CAMPAIGNS FOR CASINOS* 8 (1990); *see also* HERBERT ASBURY, *SUCKER'S PROGRESS: AN INFORMAL HISTORY OF GAMBLING IN AMERICA FROM THE COLONIES TO CANFIELD* 73–74 (Patterson Smith Pub. Co. 1969) (1938) (discussing various uses of early American lottery proceeds). The Continental Congress even authorized a national lottery to help fund the Revolutionary War; *see also* *Homer v. United States*, 147 U.S. 449, 458 (1893) (mentioning the Revolutionary War era lottery).

¹⁸ Over twenty percent of those addicted to gambling eventually file for bankruptcy because of their multiple gambling losses. Newman, *supra* note 7, at 198. Current research has shown similarities between gambling addiction and drug or alcohol addictions in “expression, brain origin, comorbidity, physiology, and treatment.” Denise-Marie Griswold, *Gambling Addiction and Facts*, *THE RECOVERY VILL.* <https://web.archive.org/web/20221206204255/https://www.therecoveryvillage.com/process-addiction/compulsive-gambling/gambling-statistics/> (May 2, 2022).

¹⁹ *The Mahabharata*, an Indian epic poem written around 300 BC, narrates the struggle between two groups of cousins in the Kurukshetra War and the fates of two rival princes and their successors. The story's central figure is Yudhishtira, a warrior-prince from the Pandavas family. A rival family, the Kauravas, conspires to steal his kingdom and stages a great feast for that purpose. There, Sakuni, the cleverest gambler among the Kauravas, challenges Yudhishtira to a game of coupon, in which dice are thrown from a box. Yudhishtira was aware of Sakuni's reputation, so he hesitates. When Sakuni questions his bravery, Yudhishtira angrily replies, “I have no fear either in play or in war.” Unfortunately for Yudhishtira, the dice were loaded. First, he lost a beautiful pearl, then a thousand bags of gold, then a piece of gold so pure that it was as soft as wax, then a chariot set with jewels, then slaves, cattle, his land, and the whole of his kingdom. Yudhishtira gambled away his brothers' wealth, then his brothers' freedom, consigning them to slavery. He wagered his own freedom and lost. Sakuni says, “You have done a bad act, Yudhishtira, in gaming away yourself and becoming a slave. But now, stake your wife, Draupadi, and if you win the game you will again be free.” Yudhishtira accepted this challenge and lost again. He and his family went into exile. His wife, Draupadi, drew her long black hair in front of her face and vowed to leave it so until the Kauravas were all slain. Years later, the Pandavas family returns to wage war on the Kauravas in an effort to regain their kingdom. The fighting ends a bloodbath by which time almost all members of both families are killed. *See* N.V.R. KRISHNAMACHARYA, *THE MAHABHARATA* (Penguin Classics, 1983). For a general discussion of gambling's relationship with human behavior, *see* DOMBRINK & THOMPSON, *supra* note 17, at 12–19.

union was a misfeatured child named Gaming. From the moment of her birth this wayward thing could only be pleased by cards, dice, or counters.

She was not without fascinations, and many were her admirers. As she grew up she was courted by all the gay and extravagant of both sexes, for she was of neither sex, and yet combining the attractions of each. At length, however, being mostly beset by men of the sword, she formed an unnatural union with one of them, and gave birth to twins - one called DUELLING, and the other a grim and hideous monster named SUICIDE. These became their mother's darlings, nursed by her with constant care and tenderness, and her perpetual companions.²⁰

By the 1830s, most of the revolutionary era lotteries had been outlawed due to fraud and a perception that they eroded the moral fabric of society.²¹ There was a brief revival of state-run lotteries in the late 1860s due to the need for funds to finance post-Civil War projects, primarily in southern and western states.²² The last of those lotteries, from Louisiana, were shut down by federal legislation around 1905.²³ For much of the next seventy years, there were few forms of legal gambling.²⁴

Nevada legalized casino gambling in 1931.²⁵ Kentucky and a few other states had parimutuel betting on horse or greyhound races, but most states prohibited almost all forms of betting.²⁶ As a result, various crime syndicates

²⁰ A. STEINMETZ, *THE GAMING TABLE: ITS VOTARIES AND VICTIMS* 1–2 (1870, reprinted ed. 1969).

²¹ See Rychlak, *supra* note 1, (setting forth reasons for the downfall of early American lotteries).

²² DAVID WEINSTEIN & LILLIAN DEITCH, *THE IMPACT OF LEGALIZED GAMBLING: THE SOCIOECONOMIC CONSEQUENCES OF LOTTERIES AND OFF-TRACK BETTING* 10 (1974).

²³ See Rychlak, *supra* note 1, at 40–44.

²⁴ See DOMBRINK & THOMPSON, *supra* note 17, (In 1910, “the nation became virtually free of legalized gaming.”). In 1964, New Hampshire reintroduced America to the state-run lottery, and by 1974, eleven states were on the lottery bandwagon. See WEINSTEIN & DEITCH, *supra* note 22; see also *New York State Broadcasters Ass’n v. United States*, 414 F.2d 990, 991 (2d Cir. 1969) (discussing New York’s adoption of lottery in 1966–67).

²⁵ Sonia Church Vermeys et al. *The Gambling Law Review: USA - Nevada*, BROWNSTEIN HYATT FARBER SCHRECK LLP, (May, 2023) <https://thelawreviews.co.uk/title/the-gambling-law-review/usa-nevada> (“Nevada legalized [sic] casino gambling in 1931 when Governor Fred Balzar signed Assembly Bill 98 into law.”).

²⁶ See DOMBRINK & THOMPSON, *supra* note 17.

filled the void, offering numbers games and sports wagering.²⁷ In fact, the mob's dominion over organized sports betting led to the Interstate Wire Act of 1961, commonly known as the Wire Act.²⁸ This prevented bets from being placed from one state to another over telephone lines.²⁹ So, to bet on sports legally, gamblers had to travel to Nevada.

B. PASPA

New Hampshire reintroduced the state lottery in 1964,³⁰ and several other states followed suit in the ensuing decades.³¹ As lotteries spread, New Jersey took the next logical step in 1977 authorizing casinos in Atlantic City.³² Those casinos were not, however, authorized by state law to accept bets on sporting events. There was a good deal of interest in adding that form of gambling, but the federal government stepped in before that could happen.³³

In June of 1991, the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks held public hearings on sports gambling,³⁴ which culminated in the Professional and Amateur Sports Protection Act of 1992, also

²⁷ See Nevada Tax Comm. v. Hicks, 310 P.2d 852, 854 (Nev. 1957) (expressing concern over infiltration of Nevada's legalized gambling by organized crime); see also Jerome H. Skolnick & John Dombink, *The Limits of Gaming Control*, 12 CONN. L. REV. 762 (1980) (discussing organized crime's role in legalized gambling).

²⁸ The first subsection of the act states: "Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both." 18 U.S.C.A. § 1084.

²⁹ *Id.*

³⁰ See N.H. Rev. Stat. Ann. § 287-F:3 (1987) (New Hampshire's Lottery legislation).

³¹ Today, only five states do not have a state lottery: Alabama, Alaska, Nevada, Hawaii, and Utah. The latter two of that grouping are the only states that have no authorized form of gambling.

³² See The New Jersey Casino Control Act, N.J.S.A. 5:12-1; *Casino Gaming in New Jersey*, NJ CASINO CONTROL COMMISSION, [https://www.nj.gov/casinos/home/gamingnj/#:~:text=In%201976%2C%20legalized%20casino%20gaming,%E2%80%9D\)%20was%20signed%20into%20law](https://www.nj.gov/casinos/home/gamingnj/#:~:text=In%201976%2C%20legalized%20casino%20gaming,%E2%80%9D)%20was%20signed%20into%20law) (last visited Dec. 21, 2022).

³³ See Joseph F. Sullivan, *As Casinos Profit, So Do Lawyers in a New Field*, N.Y. TIMES, (Sep. 30, 1994), <https://www.nytimes.com/1994/09/30/us/as-casinos-profit-so-do-lawyers-in-a-new-field.html>.

³⁴ See *US Sports Betting: The Bridge Between Two Parties*, GAMING AMERICA (July 25, 2023), <https://gamingamerica.com/magazine/8217/us-sports-betting-the-bridge-between-two-parties> (noting "multiple public hearings in June 1991, headed by the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks").

known as PASPA.³⁵ This legislation was proposed to the Senate by New Jersey Senator Bill Bradley,³⁶ a former college and NBA basketball star, who was concerned about the integrity of professional and amateur sports.³⁷ It went into

³⁵ PASPA stated, “It shall be unlawful for—(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or (2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.”

See S. 474 (102nd): Professional and Amateur Sports Protection Act, GOVTRACK.US, <https://www.govtrack.us/congress/bills/102/s474/text> (last visited Dec. 21, 2022).

³⁶ Brent Johnson, *The Story of When N.J. Almost Legalized Sports Betting in 1993*, NJ.COM (Feb. 16, 2022, 10:09 AM), https://www.nj.com/politics/2015/03/the_story_of_njs_missed_opportunity_on_sports_bett.html (“Bradley formed a coalition of pro sports leagues, NCAA officials, church groups, and law-enforcement agencies to continue to push against sports betting in New Jersey.”).

³⁷ Dave Zirin, *‘Athletes Aren’t Roulette Chips’: Bill Bradley Speaks Out on Gambling in Sports*, THE NATION (June 12, 2018), <https://www.thenation.com/article/archive/athletes-arent-roulette-chips-bill-bradley-speaks-gambling-sports/> (quoting Bradley, “I mean, what’s going to happen, particularly if they have betting on college in basketball, is you’re going to have scandals like in the 1950s and 1960s. When there’s a lot of money at stake—and there is—and you have players who are not going to make it in the pros, but who could maybe have an impact on the outcome of a game. That’s my big worry.”)

There have been several notable instances of high-profile point shaving and sports book scandals throughout American history. See Ronald J. Rychlak, *A Bad Bet: Criminalizing Nevada’s College Sports Books*, 4 NEV. L. REV. 320, 323 (2003-04) [hereinafter Rychlak, *A Bad Bet*]; see also Ronald J. Rychlak, *Pete Rose, Bart Giamatti, and the Dowd Report*, 68 MISS. L.J. 892 (1999); see also Ronald J. Rychlak, *Gambling with the Bronx Bombers: Betting on, Against, and With the Yankees*, 3 UNLV GAMING L. J. 165 (2012); see also *COURTING THE YANKEES: LEGAL ESSAYS ON THE BRONX BOMBERS* 215 (Ettie Ward, ed., 2003); see also Dave Feschuk, *Compulsive Gambling By Athletes is a ‘Silent Plague’ in Pro Sports*, TORONTO STAR (March 12, 2022), https://www.thestar.com/sports/compulsive-gambling-by-athletes-is-a-silent-plague-in-pro-sports-perception-is-money/article_b58a0ab6-d818-5d5c-9669-9aa0312a6015.html. See generally Lenny Vangilder, *A Sad Anniversary: 25 Years Since Tulane Basketball’s Point Shaving Scandal*, CRESCENT CITY SPORTS, (Mar. 26, 2010), <https://crescentcitysports.com/a-sad-anniversary-25-years-since-tulane-basketballs-point-shaving-scandal/> (detailing probably the most consequential point shaving scandal with a local connection involved Tulane’s men’s basketball program). In 1985 Tulane student Gary Kranz approached basketball player Clyde Eads with the proposition of fixing Tulane’s upcoming game with Southern Mississippi. Needing help to accomplish the task, Eads recruited four teammates, three of whom were starters. For the scheme to work, the favored Tulane

effect on January 1, 1993, preventing states (with certain “grandfather” provisions for Nevada, Oregon, Delaware and Montana) from legalizing and taxing sports betting.³⁸ Congress provided a one-year window of opportunity from the effective date of the Act for states that allowed licensed casino gaming for the previous ten-year period to pass laws permitting sports wagering.³⁹ New Jersey was the only state to make a serious effort to meet that window, but it failed.⁴⁰ So, Atlantic City casinos were prohibited from offering sports betting, and Nevada maintained its sports book monopoly.⁴¹

PASPA did not make sports gambling a federal crime, but it restrained the States’ ability to enact legislation regarding sports gambling.⁴² PASPA made it unlawful for a State or its subdivisions “to sponsor, operate, advertise, promote, license, or authorize by law or compact...a lottery, sweepstakes, or other betting, gambling, or wagering scheme based...on” competitive sporting events, and for “a person to sponsor, operate, advertise, or promote” those same gambling schemes if done “pursuant to the law or compact of a governmental entity.”⁴³

team needed to win the contest by less than the 10.5-point spread. Tulane held on for a one-point victory despite questionable play by the players involved. Kranz and some fraternity brothers wagered over \$7,000 on Southern Miss to cover through various bookmakers. Each player involved in the scheme received between \$400-\$900 dollars for their efforts.

The plan was put in place again for Tulane’s game against the Memphis State Tigers, who were 20-2 and amid an eventual Final Four run. The Tigers were favored by seven points. After a tight first half, in which the Tigers clung to a six-point lead, Memphis State cruised to an eleven-point victory. The Tulane players involved in the scheme collected a total of \$13,500 for the game. When rumors began to circulate, Tulane officials looked into the matter. They uncovered not only the point-shaving scheme, but also illicit drug use by players and illegal payments from coaches to players. The scandal resulted in the disbanding of Tulane’s basketball program for three years. *Id.*

³⁸ See 28 U.S.C. § 3704(a)(1)–(2). Oregon, Delaware, and Montana did not have a full sports book at that time, but they had some lottery-type games that were tied to sports. Also excluded from the reach of PASPA were jai alai and parimutuel horse and dog racing.

³⁹ Professional and Amateur Sports Protection Act, 28 U.S.C. § 3704.

⁴⁰ See *Murphy v. Nat’l Collegiate Athletic Ass’n*, 138 S. Ct. 1461, 1471 (2018) (granting a one-year window after the passage of the Act to legalize sports gambling “in a municipality with an uninterrupted 10-year history of legal casino gaming.”). The only municipality that fit this description was Atlantic City. *Id.* at 1471 n. 27.

⁴¹ See Johnson, *supra* note 36.

⁴² See *id.* (“Given just one year to approve sports betting after Congress banned it across the nation, the New Jersey Assembly ran out the clock and did nothing in the Summer of ‘93. Sports betting was allowed to die amid political fights that featured a deal made in Congress, lobbying from basketball legends, harsh words from Donald Trump—and a heated gubernatorial election.”).

⁴³ Professional and Amateur Sports Protection Act, 28 U.S.C. § 3702; see Rychlak, *A Bad Bet*, *supra* note 37.

Legal jockeying went on for over quarter of a century.⁴⁴ There were even serious proposals to end sports betting even in Nevada.⁴⁵ Throughout this time, the NCAA, the NFL, the NBA, MLB, and the NHL all supported PASPA and opposed legal sports betting.⁴⁶

C. The Fall of PASPA

The first challenge to PAPSAs came in 2012 when New Jersey sought to enact a state law legalizing sports wagering.⁴⁷ Following the procedure outlined in PASPA, the NCAA along with the other major professional sports leagues sued Governor Chris Christie.⁴⁸ They won, and PASPA was upheld, but that was not the end of the story.⁴⁹

New Jersey then took a new approach. Instead of trying to enact a state law legalizing sports wagering, the state repealed a provision in the state constitution that prohibited sports wagering.⁵⁰ That was again challenged, and this case made its way to the Supreme Court.⁵¹

In *Murphy v. Nat'l. Collegiate Athletic Ass'n.*,⁵² the United States Supreme Court ruled that PASPA violated the Tenth Amendment's anti-commandeering rule, which prevents the federal government from placing state

⁴⁴ See generally George R. Brand, Note, *Breaking the Ban: Sports Gambling, Anti-Commandeering, and Lots and Lots of Money*, 84 MO. L. REV. 831, 832 (2019).

⁴⁵ See Rychlak, *A Bad Bet*, *supra* note 37, at 325 ("The proposed legislation has received widespread support from educational and sports institutions. The National Collegiate Athletic Association, the American Association of State Colleges and Universities, the American Council of Education, and the United States Olympic Committee are just a few of the many supporters of the bill.").

⁴⁶ Johnson, *supra* note 36.

⁴⁷ See Jessica Dye, *NCAA, Pro Leagues Sue to Stop New Jersey Sports Betting*, REUTERS, <https://www.reuters.com/article/us-usa-sports-gambling/ncaa-pro-leagues-sue-to-stop-new-jersey-sports-betting-idUSBRE8760ZK20120807> (Aug. 7, 2012, 9:49 AM); See also Reuter's Staff, *U.S. Judge Blocks New Jersey Sports Betting Law*, REUTERS, <https://www.reuters.com/article/us-usa-new-jersey-gambling/u-s-judge-blocks-new-jersey-sports-betting-law-idUKKCN0J602J20141122> (Nov. 21, 2014, 8:34 PM).

⁴⁸ *NCAA v. Governor of N.J.*, 730 F.3d 208, 217 (3rd Cir. 2013).

⁴⁹ *Id.* at 240 (holding that PASPA was within Congress's power under Commerce Clause, did not violate the anti-commandeering principle; and was not invalid under doctrine of equal sovereignty).

⁵⁰ MaryAnn Spoto, *Sports Betting Backed By N.J. Voters*, NJ.COM, https://www.nj.com/news/2011/11/nj_residents_vote_on_legalizin.html (Feb. 16, 2022, 10:09 AM) (vote authorizing amendment); *Murphy v. NCAA*, 138 S. Ct. 1461, 1466 (2018).

⁵¹ *Murphy*, 138 S. Ct. at 1468.

⁵² See Brand, *supra* note 44 at 842. See generally *id.* at 1478.

legislatures under the direct control of Congress.⁵³ By prohibiting states from authorizing sports gambling, the Court stated, it were “as if federal officers were installed in state legislative chambers...A more direct affront to state sovereignty is not easy to imagine.”⁵⁴ This, of course, opened the door for state legislation to legalize sports betting.⁵⁵

Many states worked quickly to either pass legislation or modify their existing legislation to legalize sports betting. In Delaware, for instance, less than one month after *Murphy*, the state authorized single game betting at three casinos.⁵⁶ Since that time, legal sports betting has grown at a dizzying pace while state legislators and regulatory agencies struggle to keep up. In 2018, the total amount of legal sports betting revenue in the United States was roughly \$430 million dollars.⁵⁷ By 2020, that figure tripled to over \$1.5 billion dollars, not including sportsbooks at tribal casinos in Mississippi, New Mexico, New York, and Oregon.⁵⁸ By 2021, the amount stood at \$4.33 billion.⁵⁹ According to the National Council on Problem Gambling, “the risk of anyone—even nongamblers—developing a disorder rose roughly 50 percent” between 2018 and 2021.⁶⁰

III. THE RESPONSE TO LEGAL SPORTS BETTING

A. The Risk to Student-Athletes

Dayton University basketball head coach Anthony Grant recently spoke about threats, including death threats, that his players had received following a

⁵³ *Murphy*, 138 S. Ct. at 1478. (The anti-commandeering rule prohibits the federal government from creating laws that force states to act. Here, PASPA was ordering states not to act. Essentially, PASPA regulated a state’s exercise of its lawmaking power by prohibiting modifying, or repealing, its laws prohibiting sports gambling.).

⁵⁴ *Id.*

⁵⁵ *Id.* at 1484–85. (The monumental affect that *Murphy* had on the sports betting industry can be attributed to the Supreme Court ruling that no provision of PASPA was severable and no part of it would remain in effect.).

⁵⁶ Maya Salam, *Delaware Kicks off Full-Scale Sports Betting, a First Outside of Nevada*, N.Y. TIMES (June 5, 2018), <https://www.nytimes.com/2018/06/05/sports/sports-betting-delaware.html>.

⁵⁷ Statista Research Department, *Total Sports Betting Revenue in the United States from 2018 to 2022*, STATISTA (Sep. 7, 2023) <https://www.statista.com/statistics/1126480/sports-betting-revenue-us/>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ John Briley, *Sports Betting is Exploding. This Ex-Gambler Has a \$15,000 Cautionary Tale*, WASHINGTON POST (Apr. 29, 2022, 10:30 AM), <https://www.washingtonpost.com/wellness/2022/04/29/sports-gambling-addiction-legal/>.

game in which they won, but failed to beat the point spread.⁶¹ That, of course, is a very serious concern and calls for the utmost attention. A different concern, however, has been at the forefront as states have legalized betting on college sports.

The NCAA has always prohibited college athletes from wagering on the games in which they participate.⁶² In fact, student-athletes are banned from betting on any sport that is regulated by the NCAA, regardless of whether the game in question is regulated by the NCAA.⁶³

To protect the integrity of college athletics contests, NCAA regulations prohibit student-athletes from betting money on any sporting event (college, professional or otherwise) in which the NCAA conducts collegiate championships. Violations of this regulation can result in a student-athlete losing his or her athletics eligibility, which has clear negative repercussions for the individual and his or her team.⁶⁴

Note, however, that the focus indicated in this passage is protecting the integrity of the game.

⁶¹ Tom Archdeacon, *Dayton Coach's Passionate Plea Against Attacks Comes as Sports Gambling Grows*, DAYTON DAILY NEWS (Jan. 18, 2023), <https://www.daytondailynews.com/sports/archdeacon-dayton-coachs-passionate-plea-against-attacks-comes-as-sports-gambling-grows/CU763ZLQBNF3ZNDVPMVDRKFIHE/> (“In some cases, this wasn’t just hate, it was threats of violence. And it wasn’t so much from local fans, as it was from gamblers across the nation who lost money.”).

⁶² The NCAA first considered the dangers of sports gambling at its 1939 convention, at which it adopted its “unethical conduct” legislation, now known as Bylaw 10 of the Division I Manual. Adam Epstein & Bridget Niland, *Gambling and Collegiate Athletics*, THE FREE LIBR. (2009), <https://www.thefreelibrary.com/Gambling+and+collegiate+athletics.-a0249053648> (citing NCAA convention proceedings, Kansas City, KS (1939)).

⁶³ Jeffrey L. Derevensky & Tom Paskus, *Mind, Body and Sport: Gambling Among Student-Athletes*, NCAA SPORT SCIENCE INSTITUTE, <https://www.ncaa.org/sports/2014/11/5/mind-body-and-sport-gambling-among-student-athletes.aspx> (last visited Nov. 13, 2022). Thus, a college football player is in violation of NCAA regulations if he bets on an NBA game, because the sport of basketball is regulated by the NCAA.

⁶⁴ *Id.* (A 2012 study commissioned by the NCAA finding that “[o]ne notable difference between student-athletes and their peers is that student-athletes tend to be drawn to sports wagering at higher rates . . . [d]espite NCAA regulations prohibiting sports wagering for money, 26 percent of male student-athletes report doing just that, with 8 percent gambling on sports at least monthly. Of particular concern is the culture surrounding golf, where on-course wagering is considered a normative aspect of the experience. Males who participate in NCAA golf are approximately three times more likely to wager on sports (or engage in other gambling behaviors) than other student-athletes.”).

NCAA regulations “make certain that college athletes are better informed about the illegality and the dangers of gambling than any other students.”⁶⁵ “The NCAA undertakes many efforts to be sure that student-athletes know about the dangers (and illegality) of gambling. It has implemented regulations that prohibit all forms of legal and illegal wagering by student athletes and athletic department staff members.”⁶⁶

Much attention has been directed toward maintaining the integrity of the game with efforts to keep inside information away from gamblers.⁶⁷ This is a legitimate concern. It is important, however, to protect all college students, including college athletes, from the dangers typically associated with problem gambling. “In testimony to the U.S. Senate Judiciary Committee in 2020, Heather Lyke, the athletic director at the University of Pittsburgh, warned that gambling [has] a corrosive and detrimental impact on student-athletes and the general student body alike.”⁶⁸

Studies have long shown that problem gambling “contributes to chaos and dysfunction within the family unit, disrupts marriages, leading to high rates of separation and divorce, and is associated with child abuse and neglect.”⁶⁹ Family members of pathological gamblers “suffer from depressive or anxiety

⁶⁵ Rychlak, *A Bad Bet*, *supra* note 37, at 329 (Titus Ivory, a basketball player for Penn State University, testified that student athletes are well aware of the dangers of gambling and the penalties imposed by the NCAA for gambling violations.).

⁶⁶ *Id.*; see Amateur Sports Integrity Act, S. 718: Hearing Before the Comm. on Commerce, Sci., and Transp., 107 Cong. 60 (2001) (Statement of Chairman McCain) (Private companies have developed products that provide a secure conduit between college or professional sports leagues and betting operators. It facilitates the exchange of sensitive data, such as the identity of prohibited bettors. Schools or leagues can maintain a list of prohibited individuals, and operators can query this list as required, ensuring compliance with betting regulations and maintaining the integrity of the sport.); see also *The Prohibited Bettor Solution*, PROHIBET (last visited Aug. 17, 2023).

⁶⁷ See Derevensky & Paskus, *supra* note 63 (stating that the NCAA regularly surveys student-athletes about various matters, including gambling activities. In general, athletes are more prone to gamble than non-athletes, and men are more likely to gamble than women. Surprisingly perhaps, Division I athletes are less likely to gamble than Division III athletes. This may be due to more educational efforts or, perhaps, because the possibility of a professional career makes the risk of being caught too costly).

⁶⁸ Anna Betts et al., *A Risky Wager: How Colleges and Sports-Betting Companies ‘Caesarized’ Campus Life*, NY TIMES, <https://www.nytimes.com/2022/11/20/business/caesars-sports-betting-universities-colleges.html> (last visited Dec. 22, 2022).

⁶⁹ Martha C. Shaw et al., *The Effect of Pathological Gambling on Families, Marriages, and Children*, CAMBRIDGE UNIV. PRESS, <https://www.cambridge.org/core/journals/cns-spectrums/article/abs/effect-of-pathological-gambling-on-families-marriages-and-children/58D1EF6DE18E978872B1B97F1A8C8E6D> (last visited Feb. 3, 2023).

disorders, and misuse alcohol, drugs, or both.”⁷⁰ Problem gambling is also closely associated with suicide.⁷¹ “Roughly one in five pathological gamblers attempts suicide, a rate higher than that for any other addictive disorder.”⁷²

Modern technology has essentially placed a complete casino in the pocket of anyone who owns a cell phone.⁷³ In Tennessee, where there are no commercial casinos, no riverboat gambling, and no operating dog or horse tracks, anyone aged twenty-one or older can bet on college or pro sports from the comfort of their den or dorm room.⁷⁴ Moreover, “there’s little doubt teenagers are betting using accounts that older friends or family members set up. ‘It’s rampant,’ one insider told the gambling industry media outlet *SportsHandle.com*.”⁷⁵

⁷⁰ *Id.*; see also Dean Gerstein et al., *Gambling Impact and Behavior Study*, NAT’L OP. RSCH. CTR. (Apr. 1, 1999), <https://www.norc.org/content/dam/norc-org/pdfs/GIBSFinalReportApril1999.pdf> (*The National Gambling Impact Study* estimating that lifetime divorce rates for problem and pathological gamblers were 39.5% and 53.5% respectively; the same rate for non-gamblers was 18.2%).

⁷¹ *Gambling is a Hidden Addiction That Has the Highest Suicide Rate*, FOX 19 Now (Sept. 27, 2022, 8:50 AM), <https://www.fox19.com/video/2022/09/27/gambling-is-hidden-addiction-that-has-highest-suicide-rate/>.

⁷² Jon Doss, *Problem Gamblers Have Highest Suicide Rate of Any Addiction Disorder*, *Studies Show*, <https://www.news5cleveland.com/news/local-news/problem-gamblers-have-highest-suicide-rate-of-any-addiction-disorder-studies-show> (Sept. 9, 2021, 9:22 AM).

⁷³ See Rychlak, *supra* note 1. (For a long time, the big debate was over the spread of state lotteries.). See generally DON LIDDICK, *THE MOB’S DAILY NUMBER: ORGANIZED CRIME AND THE NUMBERS GAMBLING INDUSTRY* 68 (University Press of America, 1999) (Many were concerned that with the state operating a “numbers game,” it would be hard to contain the spread of gambling, and it would impact all aspects of American lives.).

⁷⁴ See Archdeacon, *supra* note 61.

(“Now you can bet on sports events in multiple ways:

- Mobile wagering on phone apps
- Gambling at sports books run by racinos, casinos and pro sports teams.
- Betting at select bars, restaurants and other retail sites with self-service

gaming kiosks.

Kroger grocery stores will soon offer sports gambling. The Pro Football Hall of Fame in Canton will have betting.

According to the *New York Times*, eight universities have deals with sports gambling companies. *The Times* reported at least a dozen college athletic departments and booster clubs have signed agreements with brick-and-mortar casinos. LSU and Michigan State signed deals with Caesars, and the University of Colorado and the University of Maryland have a sponsorship arrangement with PointsBet.

The Times reported students had gotten emails to their inboxes encouraging them to ‘place your bets and earn your first bonus points.’”)

⁷⁵ Eric Raskin, *Raising the Stakes on Sports Betting*, *READER’S DIG.*, Feb. 2023, at 28, 30.

Increased sports gambling leads to increased problem gambling.⁷⁶ “The National Council on Problem Gambling finds sports bettors to be at least three times more likely to report ‘frequent risky behavior’ than gamblers who don’t bet on sports.”⁷⁷ After New York introduced sports betting, calls to the state’s gambling addiction hotline jumped dramatically.⁷⁸

B. Institutional Responses

After long opposing legalized gambling, and while still holding to that official position, the NCAA has begun facilitating gambling on college sports. In April 2022, it issued an interpretation that would allow “any individual, school, or conference to provide information to sports betting company suppliers, provided the information is available to the general public.”⁷⁹ Shortly thereafter, the Mid-Atlantic Conference announced such an agreement with *Genius Sports*.⁸⁰

The NCAA also rescinded its policy prohibiting championship events from being held in states that have legalized sports gambling (which essentially

⁷⁶ *Id.* at 29 (It seems that sports betting, being limited to the events during or surrounding a game, may serve to whet appetites for other forms of gambling, and this may be part of the business model. “BetMGM, DraftKings and FanDuel... make most of their money from casino games, even though the brands themselves as sportsbooks.”).

⁷⁷ *Id.* at 30.

⁷⁸ *Id.* (“In January 2022, when a record \$1.69 billion was bet in New York state, calls to the state’s gambling addiction hotline jumped 46% over the previous January. The National Council on Problem Gambling finds sports bettors to be at least three times more likely to report ‘frequent risky behavior’ than gamblers who don’t bet on sports.”).

⁷⁹ John Holden, *New Official Data Rule Means NCAA Must Change Betting Tack*, LEGAL SPORTS REP. (May 10, 2022), <https://www.legalsportsreport.com/69537/opinion-ncaa-official-data-sports-betting/#:~:text=The%20NCAA%20recently%20released%20a,available%20to%20the%20general%20public.> (On April 27, 2022, the NCAA released revised guidance regarding the sale of data. The new interpretation states: “The NCAA Division I Interpretations Committee determined the legislation precluding an individual, institution or conference from providing information for sports wagering purposes does not apply to competition statistics compiled by, or with the permission of, the institution, provided that information is available to the general public. As a result, it is permissible for an individual, institution or conference subject to the sports wagering activities legislation to provide such information to individuals or companies involved in or associated with sports wagering activities. It is not permissible to provide information that is not available to the general public.”).

⁸⁰ *LEADI*, *supra* note 9.

meant Nevada).⁸¹ Those actions coupled with changed societal attitudes toward gambling and sports gambling legalization, make it quite difficult for those who are susceptible to problem gambling to avoid the temptation of commercial gambling.⁸²

Most state Name, Image, and Likeness (NIL) laws and institutional policies prohibit college athletes from having NIL deals with sports betting entities, but some permit it,⁸³ and some schools are making deals with gambling corporations.⁸⁴ Louisiana State University (LSU), for instance, announced its athletic department's partnership with *Caesars Sportsbook* for a multi-year agreement worth "multiple millions" of dollars.⁸⁵ In the deal, *Caesars* will receive naming rights for a Skyline Club at Tiger Stadium coupled with signage throughout the stadium. *Caesars* also produced an annual scholarship fund to support students from the university.⁸⁶ After the LSU deal was finalized, "the university sent an email encouraging recipients—including some students who were under 21 and couldn't legally gamble—to 'place your first bet (and earn your first bonus).'"⁸⁷

At Michigan State, *Caesars Entertainment* was authorized to "Caesarize" tailgating space outside the football stadium, and the agreement calls for *Caesars* to be mentioned (and able to make special offers) in monthly emails sent to Michigan State's 775,000 fans.⁸⁸ There will also be live call-outs during game broadcasts (suggested language: "This is Spartan basketball and we're courtside at the *Caesars Sportsbook* broadcast booth.")⁸⁹ Students who bet \$50 or more will receive a \$150 credit to spend at Michigan State's merchandise store.⁹⁰

⁸¹ Chris Murray & AP Wire, *Good News: Nevada Can Now Host NCAA Championship Events*, NEV. SPORTS NET (May 3, 2019), <https://nevadasportsnet.com/news/reporters/good-news-nevada-can-now-host-ncaa-championship-events>.

⁸² See David Purdum, *Alabama Baseball Coach Brad Bohannon Fired After Link to Suspicious Bets, Sources Say*, ESPN (May 4, 2023), https://www.espn.com/college-baseball/story/_/id/37409279/alabama-fires-baseball-coach-brad-bohannon-amid-betting-probe (It should, therefore, come as no surprise that gambling scandals are erupting across college sports.); see ESPN News Services, *Iowa, Iowa State Investigating Athletes Gambling*, ESPN (May 8, 2023), https://www.espn.com/college-sports/story/_/id/37568592/gaming-commission-investigating-iowa-possible-ncaa-violation.

⁸³ *LEAD1*, *supra* note 9.

⁸⁴ Betts et al., *supra* note 68.

⁸⁵ Associated Press, *LSU, Caesars Sportsbook Enter Sponsorship Agreement*, WBRZ (Sept. 17, 2021), <https://www.wbrz.com/news/lsu-caesars-sportsbook-enter-sponsorship-agreement>.

⁸⁶ Betts et al., *supra* note 68.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

The University of Maryland has a partnership with the sports-betting site *PointsBet*.⁹¹ The university's website links to a *PointsBet* page that entices new customers with the promise of first bets risk free and up to \$100 in free bets.⁹² Other schools make similar offers.⁹³

The University of Colorado Boulder's short-lived deal with *PointsBet* held every time someone downloaded that company's gambling app using the university's promotional code and placed a bet, the university would collect \$30.⁹⁴ Even Texas Christian University, in Fort Worth, "joined *WinStar World Casino and Resort* to open a new club with suites and premium seating."⁹⁵

IV. RECOGNIZING THE PROBLEM

Certain factors "make [college] students especially vulnerable to gambling problems, including their age, stress levels and histories of substance abuse or depression."⁹⁶ However, the signs of problem gambling are often masked by alcohol abuse, drug abuse, or other more readily identifiable symptoms.⁹⁷ Thus, gambling is sometimes called the "silent addiction" on college campuses.⁹⁸ Too often, colleges and universities are poorly equipped to identify students who show signs of gambling disorders.⁹⁹

Studies show that about 65% of problem gamblers who commit to a self-help program or cognitive behavioral therapy (or both) successfully overcome their gambling habits.¹⁰⁰ As with other addictions, early detection and support are essential to overcoming gambling problems and preventing the most severe

⁹¹ Betts et al., *supra* note 68.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.* ("It's appalling for the university to be collecting a bounty each time a student places their first bet," said Jennifer Hendricks, a law professor at the school. She said the university was trying "to exploit our students for profit."); see also Izzy Fincher, *CU Boulder Ends Sports Betting Partnership with PointsBet*, CU INDEP. (Mar. 31, 2023), <https://www.cuindependent.com/2023/03/31/cu-boulder-ends-sports-betting-partnership-with-pointsbet/>.

⁹⁵ Betts et al., *supra* note 68.

⁹⁶ *Id.*

⁹⁷ See Steve Inguanti, *The Problem with Gambling*, WORDS NOT NOS. (July 3, 2018), <https://wordsnotnumbers.net/2018/07/03/the-problem-with-gambling/> ("Many people with problem gambling are missed because their symptoms are masked by other disorders and often hidden from practitioners . . .").

⁹⁸ *Gambling Becomes a 'High Roller' on College Campuses*, UNIV. OF MO. NEWS BUREAU (Aug. 22, 2007), <https://munewsarchives.missouri.edu/news-releases/2007/0422-gambling-high-roller.php.html>.

⁹⁹ Betts et al., *supra* note 68.

¹⁰⁰ Briley, *supra* note 60.

consequences.¹⁰¹ Unlike other addictions, problem gambling has no physical symptoms. Moreover, it may be “masked” by other problems, such as drug or alcohol abuse.¹⁰² Additionally, given the common stigma surrounding discussing finances, gambling problems often go undetected, resulting in devastating consequences for the gambler and his or her family.¹⁰³

To determine if someone has a gambling disorder, the American Psychological Association uses these nine criteria:

1. Needs to gamble with increasing amounts of money to achieve the desired excitement.
2. Gets restless or irritable when attempting to cut down or stop gambling.
3. Has made repeated and unsuccessful efforts to stop gambling.
4. Is frequently preoccupied with gambling, such as thinking about past gambling experiences or planning for future gambling experiences.
5. Often gambles when feeling distressed.
6. After losing money gambling, often returns another day to get even or cut their losses.
7. Lies to conceal the extent involvement of gambling.
8. Has jeopardized or lost significant relationship, job, or educational or career opportunities because of gambling.
9. Relies on others to provide money to relieve financial situation caused by gambling.¹⁰⁴

Those who meet four to five of the criteria are considered to have a mild gambling disorder; those who acknowledge six to seven have a moderate condition; and those who answer ‘yes’ to eight or nine are considered to have a severe gambling problem.¹⁰⁵

¹⁰¹ See Sophia Achab et al., *Early Detection of Pathological Gambling: Betting on GPs’ Beliefs and Attitudes*, NAT’L LIBR. OF MED. (Aug. 27, 2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4160611/>.

¹⁰² Doss, *supra* note 72.

¹⁰³ *Id.*

¹⁰⁴ Hector Colon-Rivera, *What is Gambling Disorder?* AM. PSYCHOLOGICAL ASS’N (Aug. 2021), <https://www.psychiatry.org/patients-families/gambling-disorder/what-is-gambling-disorder>.

¹⁰⁵ Briley, *supra* note 60. (Other matters that may indicate a problem include:

- Exaggerating gambling wins and downplaying losses
- Asking for loans to cover gambling losses
- Poor work performance
- Restlessness or irritability when not gambling).

Doss, *supra* note 72 (The National Center for Responsible Gaming recently opened CollegeGambling.org, a website aimed at educators, parents, and students to provide

V. A MODEL FOR UNIVERSITIES

Schools that have published gambling policies and published policies prohibiting on-campus legal-aged drinking and/or prohibiting alcohol at on-campus events have significantly lower binge drinking rates than those without such gambling and alcohol-related policies in place.¹⁰⁶ So, it is important to follow certain practices.¹⁰⁷

First, educational institutions should not partner with gambling enterprises to promote gambling on campus. Even the “Responsible Marketing Code,” published by the American Gaming Association, an umbrella group for the gaming industry, says sports betting should not be advertised on college campuses.¹⁰⁸ Martin Lycka, Senior Vice President for American Regulatory Affairs & Responsible Gambling at *Entain*,¹⁰⁹ put forth these three points.

1. Provide education on college campuses about responsible betting and explaining how betting works.
2. Constantly monitor games through sophisticated sports integrity teams who can red-flag suspicious behavior.
3. Enforce rules that prohibit minors from betting.¹¹⁰

awareness on problem gambling and to offer resources trying to overcome problem gambling.)

¹⁰⁶ DIVISION ON ADDICTIONS AT THE CAMBRIDGE HEALTH ALLIANCE AND THE NATIONAL CENTER FOR RESPONSIBLE GAMING, *A CALL TO ACTION: ADDRESSING COLLEGE GAMBLING: RECOMMENDATIONS FOR SCIENCE-BASED POLICIES AND PROGRAMS* 13 (2009).

¹⁰⁷ See generally *High Stakes: Gambling Reform for the Digital Age*, DEP’T FOR CULTURE, MEDIA & SPORT (Apr. 27, 2023), <https://www.gov.uk/government/publications/high-stakes-gambling-reform-for-the-digital-age> (The numerous proposals related to safer games, account protection, empowered customers, online protection, advertising restrictions, dispute resolution, protection of minors, loss limitations, and more.).

¹⁰⁸ *Responsible Marketing Code for Sports Wagering*, AM. GAMING ASS’N (Mar. 28, 2023), <https://www.americangaming.org/responsible-marketing-code-for-sports-wagering/> (“Sports wagering should not be promoted or advertised in college or university-owned news assets (e.g., school newspapers, radio or television broadcasts, etc.) or advertised on college or university campuses.”) “63% of on-campus students recall seeing betting ads. This is a higher rate than that found in the general population or those that commute/virtually attend college, and 58% of those students indicate they are more likely to bet after seeing the ads.” Heath, *supra* note 9.

¹⁰⁹ *LEADI*, *supra* note 9 (Entain is a global sports betting, gaming, and interactive entertainment group, which operates in the U.S. through BetMGM.).

¹¹⁰ *Id.*

These might form a minimum baseline, but there is much more that should be done.

A detailed list of recommendations came from the Task Force on College Gambling Policies which was established by the Division on Addictions at the Cambridge Health Alliance, a teaching affiliate of Harvard Medical School.¹¹¹ After a review of the scientific literature and consideration of college student behavior and the realities of implementing policies on campus, the Task Force developed the following recommendations:

1. Establish a campus-wide committee to develop and monitor a comprehensive policy on gambling.
2. Ensure that college policies are consistent with local, state and federal laws.
3. Strive for consistency and universal application with prohibitions and restrictions on gambling and alcohol use at special events.
4. Promote campus-community collaborations that focus on reducing problems with student drinking and gambling.
5. Encourage adjustments in disciplinary action applied to violators of gambling rules if the student seeks assistance from health or counseling services.
6. Make reasonable accommodations for students focused on recovery from a problem with gambling or alcohol.
7. Measure student attitudes, behaviors and problems with gambling through campus surveys or by incorporating such measures into existing campus health-related surveys.
8. Promote campus-wide awareness of (1) gambling addiction as a mental health disorder that has a high rate of comorbidity with alcohol use and other addictive disorders and (2) responsible gambling principles.
9. Employ evidence-based strategies to identify and help students with gambling and alcohol problems.
10. Strengthen the capacity of counseling services to identify and treat gambling disorders.¹¹²

These are not matters that will develop on their own. They need to be taken to individual campuses and adapted into best operating practices.

The National Council on Problem Gambling, published its recommendations on relations between universities and sports betting

¹¹¹ *Task Force on College Gambling Policies and Recommendations*, COLLEGEGAMBLING.ORG, <https://www.collegegambling.org/cg-information/task-force-on-college-gambling-policies-and-recommendations> (last visited Oct. 29, 2023) (“The Task Force focused its recommendations on three primary areas: On-campus prohibitions and restrictions, Recovery recognition and facilitation, Special events.”).

¹¹² *Id.*

operators.¹¹³ Among its recommendations for colleges and universities were the following:

Universities should:

1. Not accept any incentives, especially monetary incentives, based on sign ups, registrations, gambling participation, revenue, handle or profits.
2. Require gambling partners to have in place a formal responsible gambling policy.
3. Provide training and education to athletic departments and student athletes by public/behavioral health professionals certified in disordered gambling.
4. Provide training and education to (academic advisors, counseling & testing centers, health centers, etc.) by public/behavioral health professionals certified in disordered gambling.
5. Provide clear policies on gambling in student codes of conduct.
6. Set clear standards for on-campus and University-affiliated properties and online content on sports betting advertising and promotion, including: not advertising in areas where the predominant population is expected to be under 21 (e.g., dormitories, dining halls); not using likeness of any specific student athlete; not advertising in conjunction with alcohol, cannabis, or other products that present risk to student health and safety.
7. Provide disordered gambling screening questions on counseling intake questionnaires to determine if gambling is part or all of a student's problem.
8. Provide disordered gambling treatment services on campus, or establish a formal treatment referral process for a student to get services off campus from a mental health professional certified in disordered gambling.
9. Review and incorporate the International Center for Responsible Gaming Task Force for College Gambling Policies and Recommendations into their programs.¹¹⁴

The American Gaming Association, in its new *Responsible Marketing Code for Sports Wagering*,¹¹⁵ sets forth the following rules:

¹¹³ *NCPG Recommendations on Partnerships Between Higher Education Academic Institutions and Sports Betting Operators*, NCPG (Mar. 16, 2021), <https://www.ncpgambling.org/wp-content/uploads/2021/03/NCPG-Recommendations-for-Sports-Betting-and-Colleges-Mar-2021.pdf>.

¹¹⁴ *Id.*

¹¹⁵ *Responsible Marketing Code for Sports Wagering*, AM. GAMING ASS'N (Mar. 28, 2023), https://www.americangaming.org/responsible-marketing-code-for-sports-wagering/#_ftn2.

1. Sports wagering should not be promoted or advertised in college or university-owned news assets (e.g., school newspapers, radio or television broadcasts, etc.) or advertised on college or university campuses.
2. Partnerships with colleges or universities should not include any component that promotes, markets or advertises sports wagering activity. This prohibition does not apply to alumni networks or content that is exclusively focused on responsible gaming education or problem gambling awareness.
3. Sportsbooks should not enter name, image and likeness (NIL) endorsements or partnerships with amateur athletes.¹¹⁶

Unfortunately, several colleges and universities have failed to meet these guidelines.

VI. CONCLUSION

Online gambling presents risks to everyone, but for college students, especially young men, it is a particularly serious risk. Unfortunately, many educational institutions see the gaming industry as a source of funding, so they are embracing it.¹¹⁷ Administrators need to know the risks and learn how to protect their students from exploitation.

The first step is to educate the faculty, staff, and administration about new forms of gambling and the associated risks. Traditional sports betting involved placing a bet before the game and waiting for the outcome. Campus leaders who think in those terms are doing a disservice to their student body.

Once the realities of modern sports betting are understood, campuses need to assess their own activities. Recently, many campuses have reached agreements with casinos and other betting establishments. Some universities have actively encouraged betting. Students listen to those messages, and they model what they see. Institutions of higher education should not encourage dangerous behaviors.

A concerned university should begin by charging a campus-wide committee to develop a campus policy on gambling. The policy, at a minimum, should provide for education about the law, NCAA regulations, responsible betting, and how commercial gambling works. Treatment options (on or off campus) should be made available to students who have developed or are developing serious gambling problems. Other measures may also be developed, taking into consideration the various factors set forth above.

Concerned faculty, administrators, parents, and even students need to be cognizant of the issues and informed about ways to help others avoid gambling

¹¹⁶ *Id.*

¹¹⁷ Rychlak, *supra* note 1, at 51 (That is the same thing states have done with lotteries.).

problems. It will not be easy, but with a methodical approach, the risks can be reduced significantly.