

LEGAL UPDATES

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## Uncapped Student Athlete Education-Related Benefits' Impact On Federal Student Aid

In the wake of *NCAA v. Alston*, a student-athlete's education-related benefits may impact the amount of Federal Student Aid the student-athlete receives.

According to the U.S. Department of Education rules, a student who receives Federal Student Aid (FSA) funds may not receive need-based FSA in an amount that exceeds the student's calculated need, and the student's total *financial* aid package plus other "Estimated Financial Assistance" (EFA) must not exceed the student's Cost of Attendance (COA), as determined for FSA purposes. If a student's aid package exceeds the student's need or COA, the student's college or university must attempt to eliminate the overage by reducing other aid the school controls.

Post-*Alston*, NCAA rules now allow schools to award up to \$5,980 in education-related benefits to student athletes. The NCAA imposes its own rules around the use of COA to determine athletic aid and education-related benefits.

From an FSA perspective, *if* those benefits should be counted as EFA for purposes of calculating a student's FSA, the benefits may reduce a student's aid package—which could make school more expensive, or unattainable, for the student. In addition, *if* those benefits should be considered *and* require a school to reduce a student-athlete's FSA, a school that fails to do so risks issuing "overawards," which could result in liabilities to the U.S. Department of Education (ED).

ED's regulations and official subregulatory guidance do not directly address the treatment of education-related benefits as EFA. According to one report, in unofficial guidance to the Atlantic Coast Conference, one ED official wrote:

“Any source of assistance a student receives as the result of his or her status as a student is considered [EFA].” This is consistent with prior ED guidance, which says, “For example, athletically related scholarships, academic or graduation incentive awards, as well as complimentary room and board given to athletes, must be counted as EFA in packaging a student for Title IV assistance.” The National Association of Student Financial Aid Administrators (NASFAA) has provided advice on how financial aid offices should treat education-related benefits:

[F]or college athletes whose *only* source of [FSA] was from Pell Grants, institutional athletic aid did not need to be reduced in circumstances where the total assistance exceeded the cost of attendance. By this determination, schools would not need to offset any new *Alston* monies to their athletes. (emphasis added)

NASFAA explained that ED has generally accepted that students are entitled to federal Pell Grants, regardless of other aid; that is, schools do not control the amount of Pell Grant funds awarded. However, as NASFAA also acknowledges, there seems to be an “open question about partial scholarship players, who receive other forms of [FSA] besides Pell Grants, and whose aid with *Alston* benefits may now exceed their COA.” The question is: must schools reduce those student-athletes’ other FSA if receiving education-related benefits means that the student-athletes’ total aid awards exceed their COA?

### **What this means to you**

Since the majority of student-athletes do not receive full-ride scholarships, and the majority of students receive FSA, this issue impacts a number of college and university student-athletes. To avoid potential FSA (or even NCAA) liabilities, institutions should ensure they are appropriately considering education-related benefits in student-athlete FSA awards. Critical to this initiative are effective channels for athletic departments (which often use an NCAA-driven definition of COA) to communicate with financial aid offices (which must apply the FSA definition of COA).

### **Contact us**

For more insights on navigating the changing NCAA and legal landscape of college athletics, join Husch Blackwell’s Jason Montgomery and Scott Schneider for a complimentary webinar on January 27, 2022 as part of our Issues in Higher Education series.