



Raymond A. Mason School of Business

WILLIAM & MARY

LEADERSHIP & BUSINESS PODCAST

EPISODE 158: JEREMY MARTIN & KEVIN DWAN – NIL & THE CHANGING FACE OF COLLEGE ATHLETICS

Ken White

From William & Mary in Williamsburg, Virginia, this is Leadership & Business, the podcast that brings you the latest and best thinking from today's business leaders from across the world. We share the strategies, tactics, and information that help make you a more effective leader, communicator, and professional. I'm your host, Ken White. Thanks for listening. For years, student-athletes competing at colleges and universities governed by the NCAA were considered to be amateur athletes. Well, that amateur status meant they were prohibited from making money using their name, image, and likeness. Well, that changed recently thanks to the NCAA's name, image, and likeness policy known as the NIL policy. Now, any person, business, or organization can pay a college athlete fair market value to endorse or represent them. For example, athletes can now be paid for personal appearances or for mentioning a business on their social media feeds. In the weeks since the new policy went into effect, stories of athletes signing deals have popped up all across the country. Two leaders in William & Mary's Athletic Department join us today to discuss the changes. Jeremy Martin spent the last ten months as Interim Athletics Director. Kevin Dwan is Senior Associate Athletics Director for External Operations for Revenue Generation and Brand Management. They join us to discuss NIL, what it all means, and what lies ahead. Here's our conversation with Jeremy Martin and Kevin Dwan.

Ken White

Kevin, Jeremy, thanks very much for being here. I appreciate it your expertise on a very interesting topic. Jeremy, to get us started, can you kind of take us back from the beginning? Where did all this come from, and where is it going?

Jeremy Martin

Well, there's certainly been a lot of conversation around college athletics for a number of years. And so I always like to sort of start with a broader financial reality of people assume, and there are billions of dollars annually spent on college athletics, and people say, okay, well, you've got a multibillion-dollar industry. How is this working, and how is this benefiting what often is called the labor in the student-athletes and those sorts of things. But to sort of frame financial reality. So, according to the NCAA's report in FY 19, you had

25 of the 350 plus universities that were NCAA Division One institutions had had an athletics department that generated a net profit. And so among those folks, the power five programs, which are the ones that you generally hear about, the sixty-five schools in the ACC, SEC, Big Ten, PAC 12, and Big 12, their median expenses exceeded median revenues by seven million dollars. And among the institutions outside the power five. So sometimes called the Group of five. The other conference, the median deficit was twenty-three million dollars. So to start with, you've got a range of institutions within the FBS Sixty-five. There's a high of a net profit of forty-four million a low of a net deficit of sixty-five million. But most institutions are not making money on athletics.

Ken White

Right.

Jeremy Martin

Now there are sports and, by the way, no SES program, a football championship subdivision program like William & Mary. None of these departments generate a net profit. Now there are sports that generate profit at specific schools beyond those twenty-five. So you may have a school that has a football generating net revenue, but not other sports and not the department as a whole and those sorts of things. And so anyway, that's where is the background of the reality of like the institutions are not making that revenue on athletics in general. You have a few other things that are going on. NIL is obviously one of these. But the Austin case, which was just decided by the Supreme Court, basically upheld that the NCAA could not restrict education-related benefits to Division one basketball and FBS football student-athletes. Now, the specificity, I think, of who those athletes are will quickly go away. But that's the specifics of this decision. And it also establishes that the NCAA is not exempt from the Sherman Antitrust Act, which had previously been the viewpoint, and that if there's an exemption granted like that, which is unlikely, it would have to come through Congress. And so what that's done is sort of set this broader environment with NCAA government or Mark Emmert and others are sort of saying, well, now the conferences and individual institutions have more sway over what they do in the market than the NCAA does as the constrainer or the definer of the entire market. So a conference could say no education-related benefits because it doesn't affect the other 30 plus conferences. But the NCAA can't say it for the entire market from the Austin case. So in the mix and at the same time, you have name, image, likeness, which is basically previously no student-athlete can monetize their name, image, likeness, NIL. You had state-by-state actions that were coming. You had some federal proposals. And basically, what happened was before July 1st, when some states policies were going into effect, the NCAA passed an interim policy, basically granting freedom for everyone in states that had not yet passed policy to do so, to allow the athletes to monetize their name, image, likeness. That, by the way, is where William & Mary fits. The Commonwealth of Virginia is expected to take action at some point but has not yet. And so we fall under

that. Our policy falls under that. And so you also sort of have this uneven, a little bit differentiated landscape and that you have institutional policies in NIL. You have state legislation in NIL, and you don't have a fully consistent playing field. And then the last is sort of always plays in anything around college athletics is where Title nine and gender equity plays into this and really in regard to NIL. And it will ultimately play out in terms of educational benefits from the Austin case, how people apply that you put the institution, the notion of the role of facilitator; sorry, the role of educator in regard to educating student-athletes on what they can do with NIL, but not in the role of being the facilitator or the deal broker to say and we're bringing these NIL deals to you, because how you differentiate that between markets from men's sports and women's sports and those kind of things are really difficult. So really, you have the institutions almost stepping back as the third party saying, here's who can help you with your NIL. Here's what you need to know about your NIL, and you too will independently have to meet it won't be facilitated by us.

Ken White

If I'm an athlete and you say, here's who can help me. Who do you mean? Agencies?

Jeremy Martin

You've looked at a lot of the products?

Ken White

This is your area, Kevin?

Kevin Dwan

I mean, there are agencies. You know, you can secure an agent now as long as it's a talent agent and not for playing your sport.

Ken White

Got it.

Kevin Dwan

Tax advisors, financial advisors, attorneys to review contracts, things like that. So those are all the types of things that we certainly recommend our student-athletes take advantage of and educate themselves on. But like Jeremy said, we can't specifically provide that service to them.

Ken White

But this was not something you've done in the past. So this is work. This is effort and a lot of it. Correct, because there are a million question marks.

Kevin Dwan

Yeah, this is all brand new and the amount of companies that have kind of come into being just in the last several months is unbelievable. I think both of our inboxes are probably filled with them on a daily basis with new solutions and new ideas and opportunities. So we've taken the time to learn as much as we possibly can about them all. In order to provide a service for our student-athletes as much as we're able to. But it's definitely hard to kind of weed through all the different.

Jeremy Martin

So getting ready for this, Kevin, who deals with all the external revenue generation not affiliated with fundraising, and Paul Cox, he's our Assistant AD for Compliance, have been leading a working group throughout the university because we know that there are partnerships that we're going to need to help educate our student-athletes how to function that way.

Ken White

Yeah.

Jeremy Martin

But it's the notion of compliance, marketing, and sponsorship like the differing expertise. But they have to come together to make this work for student-athletes.

Ken White

So compliance for the non the non-college sports fan, what is what does that mean?

Kevin Dwan

So our compliance department, in our case, Paul, is is the one who's making sure that we're all following all the NCA guidelines, that our student-athletes remain eligible, that our coaches are following the recruiting guidelines, that we're doing all the right thing. You know, the NCA rule book is sizable.

Ken White

Yeah.

Jeremy Martin

I believe it's four hundred seventy-five pages.

Kevin Dwan

So it's a big job, and it just got a little bit bigger, you know, adding this onto their plate as well.

Ken White

Absolutely. It's a huge job, and it sort of shifts everything, doesn't it?

Kevin Dwan

Yeah, it really does. It just adds a completely new component to what Paul and NCA compliance officers all around the country have to deal with it and have to think about. And like I mentioned, Paul's priority and our priority is making sure our student-athletes remain eligible. You know, typically rules that are broken, you know, the ones that make headlines are not the most common ones. Typically, it's inadvertent. Jeremy said 400 something pages. It's impossible for everyone to know everything that it says. So Paul's job is to make sure that he's a resource for our coaches and our student-athletes, so they don't get into in any trouble that they're not intending to get into, especially in this added a whole new area that's new to all of us.

Ken White

Jeremy, do you think there will be winners and losers in this? Big winners and big losers, is that possible?

Jeremy Martin

Yes, I wouldn't necessarily use those terms. I think it'll be a differentiator. And so, again, feels fitting to talk about markets while you're in Miller Hall. So, really, the fascinating thing to me is there's an assumption of the size of the market that exists for student-athletes name, image, likeness. And where those things really are is around. Hey, if you are a college athletics superstar in whatever sport it is, you have all of this exposure, all these things. What can you do? And the reality is that's a very small piece of the student-athlete market, talent market, so to speak. So I think it's interesting to look at student-athletes, particularly the mid-major level that William & Mary and other places, and say this is actually going to be an indicator to say, here's what your value in the marketplace is. It may not be what you thought it was. The other piece for student-athletes, frankly, NIL monetizing it, will be a third job. So you have the first job of being a student at William & Mary. The second of you're spending a lot of your time at twenty hours a week as a student-athlete. And now we're saying, okay, how many hours do you want to spend trying to build a brand for yourself? So I actually think you will have some student-athletes who say it's good to know that we could.

Ken White

Hmm-mmm.

Jeremy Martin

I'm interested in being a student and an athlete, and I'm not going to have time for anything else. But also sort of as some student-athletes find that there is value, there is value to monetize in their name, image, likeness, and their personal brand. How that balance of okay I have commitments to the classroom. I have commitments to competition and now commitments to corporate sponsors and things like that. How do I balance those and what happens when potentially you see overreach and that that sponsorship area in which it suddenly becomes, okay, I'm not actually performing as well as I was because I don't have as much time for athletics or the academics that I once did. So there definitely will be differentiators. And the markets from an institutional respect markets individually markets from an institutional perspective. Kevin and I have talked a lot about this. It's fascinating to think of are the student-athletes winning? Are the departments winning, or is there some balance that's sort of a zero-sum game we're in? And we've talked a little bit about whether sponsors view themselves as sponsors, as in I'm getting a return on what I offer or whether they're boosters. And I know you've thought a little bit more about that, Kevin.

Kevin Dwan

Yeah, and I think that there's a variety of those. I don't think everyone fits into one box, you know, so the ones who view themselves more as boosters and they want to support a school because they're part of the community. I think those are the ones that you've got to be careful as an athletic department. They're going to be very interested in working with directly with the student-athletes.

Ken White

Right.

Kevin Dwan

But the majority of the businesses that we work with want to see a return. And I think they're going to have to make a decision, a business decision, whether they see more of a return working directly with student-athletes or with the department as a whole. And I don't think there's one answer. I think it's going to be unique to each partner.

Jeremy Martin

It's also fascinating sort of in the interplay because most of the policies that you see have specific stipulations around use of institutional logos and things like that.

Ken White

Yes.

Jeremy Martin

So, for instance, can you appear in a green t-shirt? That's fine. Can you appear in a logo t-shirt? Well, you now are actually someone looking to do a licensing.

Ken White

Yes.

Jeremy Martin

As an independent NIL, you're a person you're looking to do a licensing to be able to use the logo. And that's that sort of changes the nature of the relationship as well in some ways, so we're just going to keep track of and watch as it develops.

Ken White

We'll continue our discussion with Jeremy Martin and Kevin Dwan in just a minute. Our podcast is brought to you by the William & Mary School of Business. Our post-COVID world will require new skills and new approaches. Well, those skills and approaches are taught in the William & Mary MBA program. We offer four different formats in the MBA, including the full-time, the part-time, the online, and the executive, all taught by our top-ranked MBA faculty. The William & Mary MBA will prepare you to succeed and lead in our new world. Check out the MBA program at William & Mary. Now back to our conversation with Jeremy Martin and Kevin Dwan.

Ken White

And Kevin, I think it was University of Texas, their bookstore has made some agreement with student-athletes in terms of so those are the kind of things someone like in your position be dealing with.

Kevin Dwan

Yeah, those would come across my desk as well as Paul's. And, you know, like Jeremy said, it's complicated when you write your own policy. You know, the state of Virginia hasn't issued guidance yet. So we had to make a decision how restrictive or how permissive our policy was going to be.

Ken White

Right.

Kevin Dwan

And, you know, we tried to make it as permissive as possible. You know, we don't want to limit our student-athletes opportunities at all, but we do have to protect our business interests. So if we work with one car dealership and a student-athlete has a partnership

with another, we don't necessarily want that William & Mary logo on their chest when they're in a commercial, you know, with a competing car dealership? So those are the sort of things that we try to spell out in here and give a pathway to be as permissive as possible while still protecting our interests.

Ken White

One athlete in Alabama who's not been a starter yet has not, as a starting quarterback, taken a snap. We're looking at almost a million dollars in endorsements. How does that happen?

Kevin Dwan

I think people are making a bet on, you know, looking at the history of Alabama starting quarterbacks.

Ken White

Yeah.

Kevin Dwan

That's probably a pretty safe bet, to be honest with you. So, you know, there's some speculation there for sure. And I think at the outset, you know, we're so early in this. I think a lot of people are testing it, and they want to see how well it's going to work. You know, I do think things will come back down to earth a little bit in the next couple of months, maybe a couple of years. But there's no question people are out there pushing the limits and trying to find the loopholes and see everything that they can do. And some student-athletes are going to benefit from that in a big way.

Jeremy Martin

Well, the Alabama quarterback is a great example. So from, again, valuing this NIL, you're looking at the projected starting quarterback and saying, we think that you're going to be on national TV

Ken White

Absolutely.

Jeremy Martin

ten Saturdays this fall.

Ken White

Yeah.

Jeremy Martin

You know, all those sorts of things. And then it sort, again, other stuff that hasn't just been settled out. At the end of every Super Bowl, it used to be that they, you know, put a Disney camera in your face and say, oh, no, are you going to see student-athletes pulling cell phones out on the sidelines after wins. Like all of this stuff, just in terms of relation of, okay, when are you in your athletic capacity versus when are you in your individual capacity, all those sorts of things. We're going to have to go through a few cycles of these to figure some of this stuff out.

Ken White

No question. Will we see athletic departments have new positions, associate director for NIL? I mean, for example, I mean, just to handle all of this.

Jeremy Martin

You already are. Most of the new positions I'm familiar with, Ken, are actually on the compliance side.

Ken White

Oh okay.

Jeremy Martin

And also, a number of folks are outsourcing sort of, again, that third-party educator to say we want you to provide the educational component. And in the marketplace, there are few. I think it's it's actually just a handful that have we provide the education component. And we also have a marketplace in which student-athletes can meet with potential sponsors and things like that. So, yes, there will be yes. It adds work. There will be additional staff hired at a number of places. I don't know that at our level. We haven't seen the floodgates open at William & Mary. And so that our student-athletes, I actually think, are more likely to benefit from their creativity and entrepreneurship beyond their capacity as student-athletes. But the classic is we have student-athlete who was an avid fisherman and had had a podcast or had had a video blog related to that like he could now monetize that and be sponsored by fishing companies and things like that. That's unrelated to his ability as a student-athlete.

Kevin Dwan

Yeah, and I think the areas where in addition to the compliance positions that you're going to see, we're starting to see creative positions in college athletics. So even though we can create content for someone to use for their name, image, and likeness activities for a student-athlete to use. We can talk to them about how we'll grow their brand and, you know, help them to grow their social media following. And, you know, athletic

departments were already creating content, not branded content that the student-athlete monetize, but they were creating content for student-athletes to share on their own social media, you know, videos, graphics, things like that. And that's a big part of recruiting now. Student-athletes want to know how you can help me grow my individual brand so that I can then go out and monetize it. So those creative positions, I think there's really going to be a run on that one as well.

Jeremy Martin

If you think about the classic recruiting day photos where it's like, well, how did they get that recruit in the jersey? You know, I think things like, well, they did a photoshoot when they're on their visit.

Ken White

Right. There you go.

Jeremy Martin

There, you know, they were ready and creating graphics

Ken White

Yeah.

Jeremy Martin

for that individual.

Kevin Dwan

Yeah.

Ken White

What does this do for the NCAA and its future? I mean, this was one powerful organization for decades. Does this strengthen it? Weaken it? Nothing.

Jeremy Martin

Sorry, my pause is weaken is a fascinating thing. The NCAA has always been made up of its membership

Ken White

Right.

Jeremy Martin

and Mark Emmert would say that regularly.

Ken White

He's the executive director

Jeremy Martin

of the NCAA. What's really fascinating is, again, this is where the Austin case comes in, and you start to see, okay, the NCAA is effectively setting the entire market for college athletics. Likely has lost clout in terms of its ability to set that market. The institutions and the so governance wise, whereas you had the institutions of the conference, is looking to the NCAA saying, what could we do? You now likely find yourself in a scenario where the NCAA is saying we have some risk averseness of what we can do at the national level. What are you as a conference, what are you as an institution going to do? Which is really just a sort of a governance. It's a reframing of the governance relationship. And it remains to be seen. I mean, there's obviously some right now as we're filming this, you know, there's speculation about where Texas and Oklahoma ultimately will land.

Ken White

Right.

Jeremy Martin

Some of these developments may make more likely that differentiated on market institutions are affiliating themselves differently in the future.

Ken White

Interesting. I was talking to a former student-athlete recently who a female said, I think women are really going to jump in this. I think there's some really cool opportunities because some of the female student-athletes in some college towns have incredible followings. Right. Kevin, have you seen some of these who are just absolutely. They're the leaders of their communities. They're such stars.

Kevin Dwan

Absolutely. I mean, I know there's a specific instance of twin basketball players, twin sisters, out at Fresno State University who came in with massive followings and now going to be able to take advantage of that, which I think is wonderful because, you know, previously they were going to have to make a decision. You know, they stand to make a lot of money, but they couldn't do that and play college basketball.

Ken White

Yeah.

Kevin Dwan

And now they don't have to make that decision. They can stay at Fresno State and hopefully have great careers. And so it's a huge opportunity for people like that.

Jeremy Martin

One article not that long ago, more than half of the top ten Instagram followings among college athletes were actually women's athletes

Ken White

Right.

Jeremy Martin

in various sports. But if you think about someone like Paige Bueckers at UConn, she may actually have a larger platform.

Ken White

Yeah.

Jeremy Martin

As the star player at UConn, then turning pro, which was never the case before. And if you want to make any money, you would have to change. So it is fascinating to see on my YouTube feed right after the William & Mary recruit's, you know, that always search us, and it is interesting to see, okay, the twins from Fresno State appear on my feed. Paige Bueckers might be in that kind of thing and how that works out and all of those things, by the way, whether or not you can advantage yourself in YouTube algorithms or things like it.

Ken White

Wow.

Jeremy Martin

For all these student-athletes.

Ken White

Any Jeremy, any advice to parents because they're going to play a role in this. This is affecting them. They get involved in the recruiting aspect of it. Any advice to them as their son or daughter comes through the pipeline?

Jeremy Martin
Parenting is hard.

Ken White
Yeah.

Jeremy Martin
I would I don't think the role of momager or dad managers is a great one. You know, I think you love and support your children, and you let them follow their interest. I think that I think that sometimes you run into parents who believe that, like there's naturally a scholarship for my child in the sport, whatever it is. And, you know, there's a lot of coverage to sort of recognize. Oh, well, like the percentage you actually get scholarships is really small with travel teams and all sorts of things. Now, like you find huge investments in parents from a very, very, very young age. So my advice to any parent would be and what I try hopefully doing, but that failing and Kevin I know you got love your kids, encourage them as they pursue their interests, but it's going to be a very, very slim few that are going to have, you know, multimillion-dollar value in NIL by the time they reach college or even during college. And so enjoy your kids. Love them.

Ken White
Kevin, this might be unfair but looking through your crystal ball. What do you think is coming? What should we be watching out for in terms of NIL? What are some of the bigger issues?

Kevin Dwan
Yeah, you know, I think NIL in conjunction with the transfer portal and, you know, removing restrictions, I think is, you know, creates some risk for student-athletes just in the sense, like we had talked about previously. Student-athletes chasing things, you know, trying to get to bigger markets, bigger teams, because they think that's going to be a benefit. And there are only so many opportunities in Division one. You know, you already hear horror stories about thousands of student-athletes being in the transfer portal, and they're just not being that many scholarships available. You know, so there are kids who are no doubt being left without opportunities. And I think name, image, and likeness, you know, there's some risk that that makes that a little bit worse. It gives another incentive to look to other opportunities to look to change things. But in general, I do think it's positive. You know, I think there are student-athletes who've had to make difficult decisions, you know, whether they have to go pursue a career, whether that's professional sports or other opportunities, or stay in college and be a student-athlete. And, you know, NIL kind of helps to solve that problem, you know, now, hopefully, more kids can complete their degrees, and maybe you see student-athletes sticking around longer. Playing three or four

years instead of one or two because they don't have to make those difficult decisions. So, you know, there's a lot to learn, and there's a lot we don't know yet. But in general, I think if we stay on top of it and just keep the best interest of the student-athletes in mind, it's largely positive.

Jeremy Martin

I think the Duke example, again, not that everything has to revolve around the Blue Devils, but if you think about. All right. In the classic days when players stayed for three or four years in that program, what was Christian Laettner, Bobby Hurley, Grant Hills? What were their initials worth having literally having built a following while they're in college versus the one-and-done player who comes in with a huge reputation, to begin with, but doesn't necessarily have the loyalty of a fan base immediately? And hopefully, actually, my personal opinion, I love to see it play out the way you just mentioned there, where it's like, hey, you could stay in college two or three or even four years because you're not penalized for being here in that regard. But that's my hope, at least.

Ken White

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