COMMENTS ON EHRLICH TRANSFER PORTAL PODCAST

**Stephen Ross, Professor of Law:**

Danny Ehrlich’s engaging podcast on the “transfer portal,” which excepts a large number of student-athletes from NCAA restrictions precluding their participation in intercollegiate athletics for one year after transferring schools, aptly summarizes and largely nails the major issues.   The result is nowhere near optimal, but as a reaction to the status quo seems to be an improvement.

Prior to this innovation, students faced significant obstacles in responding to legitimate changes they encountered.  Most notably, a topic I’ve addressed in my own work [https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2720356], coaches demand contracts that effectively allow them to leave a program at their own choosing, often leaving their recruited players in the lurch.

There are a number of ways in which the problems identified with the transfer portal could be remedied.   As I have argued, athletes who choose a school for a particular coach (just as some grad students choose a school for a particular mentor) could secure a binding promise that the coach will not voluntary leave during their matriculation.  On the flip side, coaches like Nick Saban (referenced in the podcast), who do not want to invest time and energy in training players who will then leave, should be free to condition their scholarship offer on a student-athlete’s promise not to take advantage of the transfer portal as long as the coach remains.  (To be clear, this must be a unilateral decision by each program; if Coach Saban wants to insist on such a condition, then a recruit would be free to instead head 90 minutes west on US 82 to enroll at Mississippi State if Coach Moorhead did not impose such a restriction.)

Other coaches, including Coach Franklin, have suggested another problem: athletes make poor decisions based on short-term frustrations.  This, however, is part of a larger problem about how athletes make decisions and who advises them.  Coach Franklin’s concerns are real, but the solution is not a singular restriction on athletes’ rights.

**Jack Selzer, Paterno Family Liberal Arts Professor Emeritus of Literature**

Danny Ehrlich’s podcast on the “transfer portal” overviews the issues effectively.

 But the podcast largely identifies the player’ point of view. What are the reasons why an institution would resist changes to the transfer rules? One reason is mentioned by John Nichols at the end of the podcast: universities for good reason are reluctant to treat athletes as employees (as opposed to students). But another reason is something which builds on Steve Ross’ comments: that is, when a scholarship athlete enrolls, he or she signs what is in effect a contract—on the one hand, the university (in most cases, including the Big Ten) promises to provide four or five years of full scholarship support (as well as a modest stipend), provided that the student maintains appropriate academic progress (even if the student turns out to be an awful player); on the other hand, the player agrees to stay for four years OR transfer only with the stipulation that he or she sit out a year. How is this unfair? As Professor Ross indicates, if the player is not agreeable with the terms, he or she can propose adjustments that the university may or may not wish to honor. Or how about this: the player can turn down the scholarship, enroll at the university, play as a “walk on,” and transfer without penalty anytime.

By the way, though I admire the professionalism of the podcast, it also does remind me of a pet peeve of mine: Journalists seem to think—maybe they are taught this, maybe not—that “doing research” means doing interviews. “Talking to people.” But newspaper and magazine stories (and their online equivalents) IMHO should also regularly read extensively in the course of doing their research, and that research-reading should be cited as frequently as are interviews.

If you wish to post additional comments, please send them to Steve Ross at sfr10@psu.edu, with “Transfer Portal Podcast comment” in the subject line.