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ATTORNEYS AND COUNSELORS



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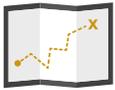
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The Major League Soccer (MLS) Superdraft is one of the many entrance mechanisms for players joining MLS. The Superdraft is a means for Amateur players, typically those who have played in college and exhausted their college eligibility, and are unaffiliated with any MLS Academy, to be assigned to a specific MLS club.

HOW DOES THE SUPERDRAFT WORK?

The MLS Superdraft has 3 rounds. It operates similar to the NFL draft: each team gets one pick per round, and the draft order is set in the reverse order of the previous season's league standings, taking post-season performance into account and giving expansion teams the first overall picks in the draft (If there are multiple expansion teams, the first overall pick is determined by a coin flip).

Teams may trade for draft picks, or trade for recently selected players. Most notably, the Philadelphia Union traded away all their draft picks in the 2019, 2020, and 2021 MLS Superdrafts. Teams may also pass on draft picks, but should they pass, they are ineligible to select players in subsequent rounds of the draft.

WHO IS ELIGIBLE?

Unlike most North American sports, there is no “declaration” process for the MLS Superdraft. MLS compiles a list of draft-eligible players in consultation with MLS clubs, scouts, and college coaches. Most players on the draft list will be College seniors who have exhausted their college eligibility.

While there has been talk of allowing clubs to draft college players prior to their eligibility expiring and to let them continue in college (ala NHL and MLB drafts), such a process is not yet in place.

Some high-level underclassmen, and (possibly) professionals who forfeit their college eligibility less than a year prior to the draft, are also eligible for the Superdraft. High-level underclassmen are signed via the Generation Adidas (GA) mechanism prior to the draft, as we will discuss below.

Although some professional players outside MLS proper might be eligible if they forego their college eligibility less than a year prior to the MLS Superdraft, most interested MLS teams will opt to leave them out of the draft-eligible player list and wait the full year to improve their likelihood of signing their targets.

Homegrown Players

While MLS academy-developed homegrown players are not normally eligible for the Superdraft, MLS clubs must offer these players contracts prior to the date of the Superdraft occurring after their NCAA eligibility runs out. If the players are not offered an MLS contract by their MLS academy club before that time the player will become Superdraft eligible.

It is unclear if MLS Next Pro (MLS's minor league) offers would constitute an “MLS offer,” but they likely would not.

If you have been at an MLS academy and have moved on to college, it is ideal to keep open communication with your club's academy director and assess what their plans are for you, if they are still interested in offering you a professional contract, and to speak with your NCAA coach if you desire to go into the draft. Having a representative that has good relationships with the league office and clubs can be a major help to understanding your status before the draft.

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Generation Adidas and Pre-Signed Seniors

In some instances, Superdraft-bound players are signed to MLS contracts prior to the draft. These players come in two categories:

- » Generation Adidas (GA) Players
- » Pre-signed college seniors (Pre-Signed Seniors)

For our purposes, the categories are basically the same. The only real distinction for our purposes is whether the player has remaining college eligibility. In most cases, if players have remaining eligibility, they're Generation Adidas players; if not, they're pre-signed seniors.

GAs are often the highest paid of the draft picks, and are generally the players that will go highest in the draft. To qualify as a GA/pre-signed senior, you must be a top (think top 5) college player, and at least one MLS team must fully commit to selecting you in the draft. MAC Hermann Trophy winners and runners up are often offered GA or pre-signed contracts.

Who receives these offers is usually determined while the draft eligible list is being compiled, in consultation with the players' college coaches, parents, and interested MLS teams. Expansion MLS sides will also likely get priority for decisions on GA and pre-draft signings.

For NCAA eligibility purposes, contract offers will only be offered after the season is over.

WHAT HAPPENS IF I AM SELECTED IN THE DRAFT?

If you are selected in the draft, and are not a GA or a pre-signed senior, you have no obligation to sign with the selecting team. On the flip-side, the club that has selected you has no obligation to offer you a playing contract, but will be the only team that has a right to sign you to an MLS contract during your "College Protected Period," which lasts through December 31 of the year you were drafted.

Basically, your selecting club has an exclusive period to sign you to an MLS contract for a year after the draft.

This exclusive signing window only applies to MLS clubs offering you a contract. You (and your representatives) are free to reach out to other MLS teams to see if there is interest in trading for you. Likewise, any non-MLS club is able to offer you a professional contract, including every team in the MLS reserve league (MLS Next Pro), and you (and/or your representatives) are free to seek out contracts with those teams. If you are over 18 you are also free to engage with and sign with clubs outside the US, like Mexico's Liga MX, the Canadian Premier League, or leagues in Europe and South/Central America.

If you are selected in the draft, your drafting club is required to invite you to pre-season with the first team and generally cover the costs for you to attend. Should you be released from the club after 5 weeks of pre-season, you may request to be put on waivers to be made available to the rest of the MLS clubs. If you are not selected via waivers, you will remain on the drafting club's College Protected list for the rest of the year (until December 31).

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International Players

There have been an increase in foreign players joining NCAA soccer programs over the past few years, leading to an increase of foreign players being made eligible for the MLS Superdraft. Each MLS club is limited to 8 international players on its active roster. Because of the time and difficulty it takes to obtain permanent residency status in Canada vs obtaining a green card in the US, in addition to those 8 international slots, MLS's 3 Canadian clubs may also carry up to three international players who have been under contract with MLS and registered with one or more Canadian clubs for at least one year. Teams can also trade with other teams for their international roster slots to bring on more international players.

Most players drafted that do not have US citizenship or a green card will count against the MLS international player quota for their respective teams. For MLS's 3 Canadian clubs, American Citizens, green card holders, Canadian Citizens, and individuals with Canadian permanent residency are considered domestic players for roster purposes. Certain players without US citizenship or a green card may also be able to side-step the international quota if they qualify as a domestic under the Homegrown International rule. This would most likely apply to Canadian players who have trained at certain "Canadian approved youth clubs" considering the lower likelihood of homegrown players going into the draft, as discussed earlier.



On the trade market, an international slot can be worth over \$200k in GAM (For those unaware, GAM essentially acts as tradable salary cap space). So, when deciding to sign an international from the draft, a club will likely take into account the cost of using the international slot on you, versus what you will provide to the first team. This is less of an issue if you are a GA or pre-signed senior, because a club has committed to sign you, but may factor in your being selected for a contract under those initiatives even if you are a highly-ranked draft prospect.

Considering the salaries for drafted players are quite low compared to the rest of the MLS player pool, and the fact that many of these players serve as reserve or bench players, clubs' cost-benefit calculations often fall out of international drafted players' favor.

That being said, it's not impossible or unheard of for clubs to sign non-GA internationals that are selected in the Superdraft.

Because of this increased cost to signing internationals, if you are not a US/Canadian citizen but are eligible for citizenship or are in any way green card eligible, it helps your draft and signing prospects to engage with immigration counsel and expedite your green card application process ASAP.

In the same vein, if you have already started your green card or citizenship process, you or your agent should inform the league immediately. MLS may allow you to count as a domestic player for draft purposes, or – at minimum – note that you are in the process of obtaining your green card or citizenship, depending on the circumstance. There's no guarantee here that the league will, but it is a possibility and another incentive to get the process moving sooner rather than later.

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DRAFT THE NUMBERS

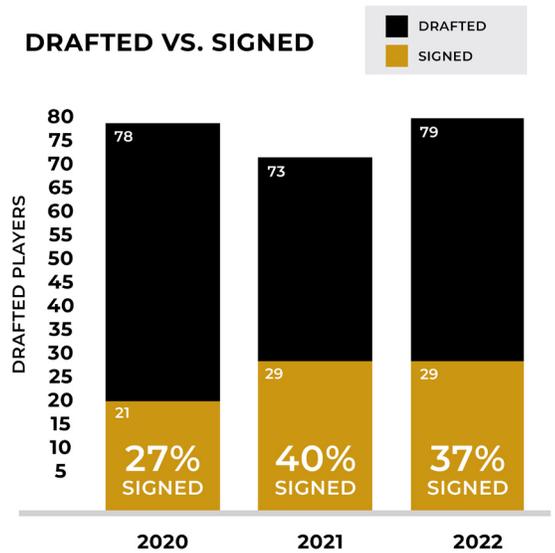
Taking a look at the draft numbers, pay for GAs has changed significantly in recent years, and MLS academies have really started to produce players who fill roster slots that would have previously been taken by drafted players. Taking that into consideration, the most relevant draft classes for understanding your prospects for the 2023 Superdraft are those from the past three years: 2022, 2021, and 2020.

Drafted vs Signed

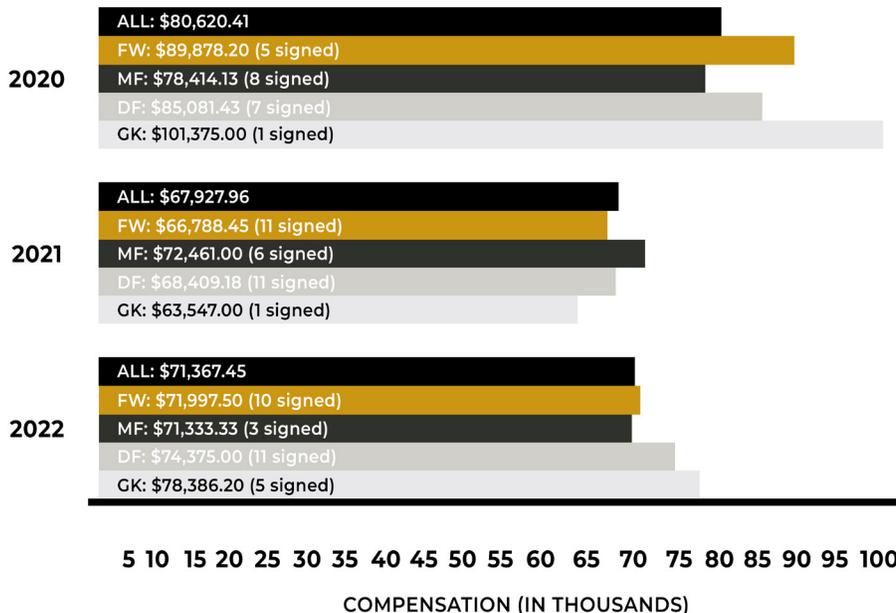
Over the past three years, an average of about 76 players have been selected in the Superdraft, resulting in about 26 players signing MLS contracts. On average, over the past three years about 34% or about 1/3 of players selected in the Superdraft are signed to MLS contracts. Year by year it breaks down as displayed in the graph to the right.

Pay Rates

Over the years, average salaries have dropped and generally track closer with senior and reserve minimum salaries as prescribed in the MLS CBA. Few players receive salaries above these minimum salaries, and even the players that do, do not receive too much over those minimum levels.



MLS PAY RATES



The tradeoff of those lower average salaries, however, is that more players are being signed to MLS deals each draft. While spending on individual players has gone down, total investment in drafted players has gone up. As far as compensation, average guaranteed compensation breaks down as displayed in the graph to the left.

All of this salary data for specific individual players can be found on the [MLS Player's Association Salary Guide](#).

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Non-MLS Deals

As we discussed, draft-eligible players are free to sign with non-MLS sides. In fact, more drafted players sign with non-MLS sides than MLS sides. On average, over the past three years, 43 drafted players signed deals outside of MLS proper: 30 with MLS reserve teams and 13 to non-MLS affiliated clubs (mostly in USL and other American lower division leagues).

Drafted players signing with non-MLS clubs breaks down year by year as displayed in the graph to the right.

OTHER DRAFT NOTES

Goal Keepers (GKs)

Many draft-eligible GKs that sign MLS deals have significant success in MLS. Dayne St. Clair, Tyler Miller, Andre Blake, Roman Celentano, and Matt Turner are all examples of top goal keepers in the league who have gone through the MLS Superdraft.

Top Draft Picks

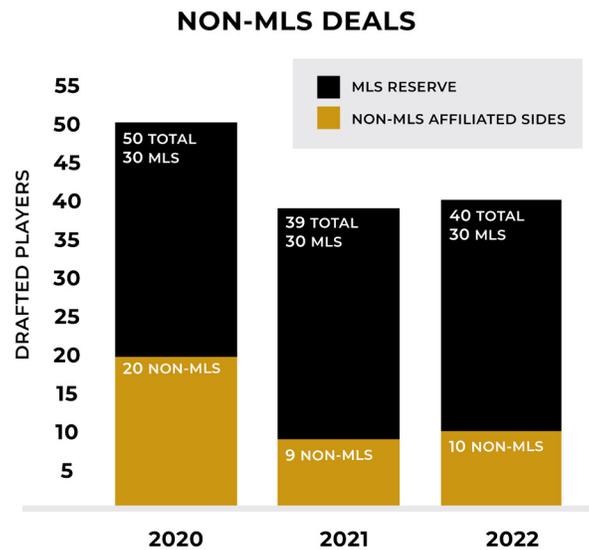
Top picks don't necessarily have the best professional careers. Matt Turner, arguably the best American MLS GK in recent memory went unselected in the 2016 Superdraft. Daryl Dike was picked 7th overall, was passed up by Inter Miami twice and was later sent to the EFL championship in England thanks to his performance during his first professional season with Orlando City SC. Tajon Buchannon was selected 9th overall in the 2019 Superdraft, was named to the 2021 MLS best XI, and transferred to Club Brugge in Belgium.

Reserve Teams

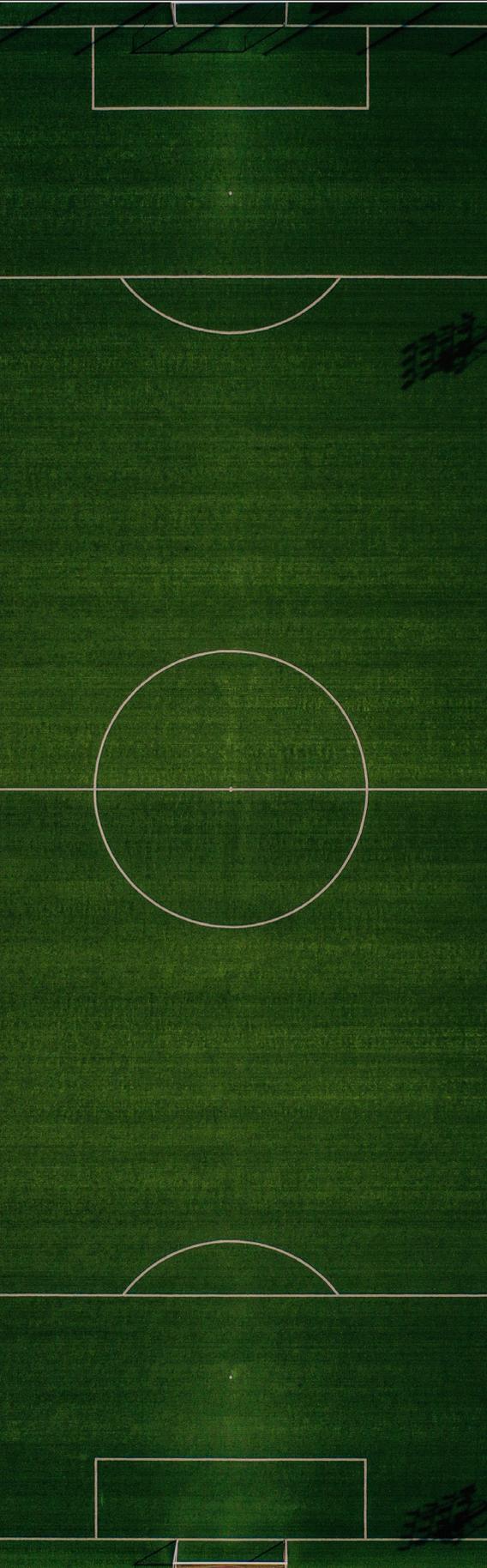
Many drafted and signed players will not get regular first team minutes and will find competitive minutes with the reserve team. Don't be disheartened if you are offered a reserve team deal, as it can still lead to a first-team offer later on, and may be a better route for your long-term career.

Pre-Signed Deal Salaries

At this moment, most GAs and Pre-Signed Seniors salary offers are not much more than senior minimum. Many agents may promise otherwise, but it is unlikely. Often, lower initial salaries from a draft lends itself to a longer career in MLS, because teams are more likely to pick up options and re-sign players outside their GA period when those numbers are low, which will improve a player's long-term professional development.



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2023 SUPERDRAFT

The 2023 MLS Superdraft will take place on December 21, 2022. The natural draft order without trades as of publishing is as follows:

1. St. Louis CITY SC
2. D.C. United
3. Toronto FC
4. San Jose Earthquakes
5. Houston Dynamo
6. Chicago Fire
7. Atlanta United
8. Sporting Kansas City
9. Seattle Sounders
10. New England Revolution
11. Charlotte FC
12. Colorado Rapids
13. Vancouver Whitecaps
14. Columbus Crew
15. Portland Timbers
16. Real Salt Lake
17. Orlando City
18. Inter Miami
19. Minnesota United
20. Nashville SC
21. New York Red Bulls
22. FC Cincinnati
23. LA Galaxy
24. FC Dallas
25. CF Montréal
26. New York City FC
27. Austin FC
28. Philadelphia Union
29. Los Angeles FC

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MLS CONTRACTS AND CBA

Unlike the other major American sports leagues, and most soccer clubs globally, MLS players are employed by the league, not individual teams. This means you will sign a contract with the league, not the team. Like most of the other major American sports leagues, MLS players' employment is governed by a collective bargaining agreement that sets out minimum salaries as well as minimum benefits and rights afforded to players employed by the league.

The Collective Bargaining Agreement (CBA) in force at the moment is not published, but many non-financial terms and benefits from the [previous CBA](#) likely carried over to the current version.

As discussed, Superdraft-signed players' salaries are trending towards the league's minimum salaries. The minimum salaries for the 2023 season are:

- » Senior Minimum: \$85,444
- » Reserve Minimum: \$67,360

There are numerous salary benefits afforded to MLS players through their memberships with the MLS Players Association, and outlined in the CBA. You should review the CBA carefully to best understand what benefits and compensation you are entitled to while under contract at MLS.

AGENT QUESTIONS

When you are approached by the league for a GA deal or pre-draft deal, or by a club after you are selected, two of the first questions they will ask are:

1. Do you have an agent?
2. Who is your agent?

Signing with an agent is one of the biggest decisions you will make in your sporting career.

When can I sign with an agent?

For College athletes, the question of when to sign with an agent is a major concern. Because of the recent changes in rules related to college athletes being able to profit from their name, image and likeness (NIL), a lot of these agent questions have required increasingly nuanced answers and will be determined on a state-by-state basis. You should consider speaking with an attorney before making any major decision that could affect your college eligibility.

NIL Representation

For NIL matters, as discussed, it depends on the state, but college athletes can often sign with agents to represent them in NIL matters without affecting their eligibility. That means, in many cases, you may sign with a NIL agent and continue playing in college.

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Professional Athlete Contracts

For employment matters, like signing an MLS contract, in almost every case, the earliest you can sign with an agent without affecting your eligibility is after your season (and possibly academic semester) has ended.

In many cases, if you have signed a NIL representation agreement with an agent, you may also later sign a pro athlete contract representation agreement with the agent as well, but unless your NIL representation agreement says otherwise (which may itself be a breach of your state's NIL law), you have no obligation to do so.

[Vela Wood](#) has a strong Name Image and Likeness advisory practice and can help you address these eligibility questions directly, should you need the support.

How much should I pay my agent?

Agents are generally paid via commission based on a percentage of your income received from the contracts they have negotiated for you and are set out in your representation contract.

Employment Contracts

Unlike the other major sports leagues, there are no caps on agent commissions arising from employment contracts in global soccer or MLS. Likewise, while FIFA has proposed a cap on agent commissions, no mandatory cap is currently in force, and if FIFA's proposals are implemented, they will likely be subject to significant legal challenges. Various national associations have limited agent compensation, although the USSF and Canada Soccer have not.

That being said, MLS generally does not allow commissions of more than 10% of a player's gross compensation in its employment contracts. The general industry practice is a 5% commission, but many MLS deals contain agent fees as high as 10%. If your MLS contract does not provide for an agent commission you may have to pay the agent directly out of your salary. However, if your agent's commission is included in your employment agreement, it will be paid in addition to your base salary and other compensation.

For tax purposes, MLS treats any agent payments sent to agents per an MLS contract as a benefit for the player that is redirected to the player's agent. These payments are therefore considered income to the player, and subject to relevant tax withholdings. However, those withholdings are taken out of the sum paid to the agent, not from the player's base pay.

Other Income Secured by Agents

For NIL, sponsorship, and other income sources in addition to a player's professional contract an agent secures for you in addition to your employment, industry standard generally allows for a commission of 10%-20% of gross compensation from those opportunities. That being said, there is usually no commission levied on in-kind benefits, like free clothes, gear, or products received from a sponsor.

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What makes a good agent?

The major factors that make good agents are trust, their commitment to you, their ability to secure contracts on your behalf, and their reputation in the industry. A key question for choosing an agent revolves around the cost/benefit calculation of prominent agents at big agencies with large player rosters, versus smaller agents with fewer clients.

Bigger agents will have more connections around the league, more player pitches readily considered by clubs, more negotiation leverage with clubs, and a proven track record with securing clients lucrative contracts. However, those bigger agencies may be less likely to give you the priority, care, and hands-on approach that smaller agents/agencies with less clients will, and you are more likely to be lost in the pile of large agencies if you are not a top-tier talent at the time you need them to get a deal done. Many smaller agencies have extremely strong relationships around the league to secure deals and will give you focus and priority that major agencies only save for their top clients. However, those smaller agents also have risks, as they come with less resources behind them, less negotiation leverage from their player pool, and less of a rapport with club personnel if they are newer to the industry.

Many agents may promise things like a GA deal, high selection in the draft, a specific high salary, or signing with a specific club. Often, however these promises cannot be met, as many of these factors are outside the agents' control. Any promise of this nature should be checked against the realities of the Superdraft process, industry standards, and are a good gauge of the agent's trustworthiness moving forward. Often the best agent is the one that offers candor, honesty, and hard truths, not lofty promises.

Another big question is whether to go with a foreign or domestic-based agent. There are a number of international soccer agencies that do not maintain significant business in the US. While they may have a strong track record with major clubs abroad, when considering these agencies you should also make sure they have someone, or access to someone, with a strong understanding of soccer in the US, its eccentricities, and are well connected to clubs around MLS and the lower leagues. Otherwise, it may be difficult for them to navigate the space and secure a contract for you.

No matter what, it is always worthwhile to consult an outside neutral advisor before signing with an agent. You are always free to seek outside advice through the agent selection process, and you should consult with an attorney to review and provide advice on any representation agreement an agent may offer. Vela Wood's sports law group has attorneys that have advised numerous athletes through the agent signing process and are extremely equipped to support you through your journey as a professional athlete.

FINAL THOUGHTS

While the Superdraft is not as glamorous of a springboard into the professional sport as the other major leagues in the US, it is the main path for top college soccer players to enter the professional game in the US. While only about 1/3 of drafted players sign MLS contracts, being selected outside the top 5 picks (or not being selected at all) does not rule out a successful professional soccer career.

All that being said, the Superdraft and the agent selection process for negotiating your MLS contracts can be difficult to navigate. However, you are not alone, and at any point you are free to seek professional and legal support to understand how the process works, what rights you have, what you should expect, and how to make the best decisions in one of the most pivotal points in your professional sports career.



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LET'S GET TO WORK.

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