July 22, 2025

The Honorable Tim Walberg
Chairman
Committee on Education and Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Robert C. Scott
Ranking Member
Committee on Education and Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jim Jordan
Chairman
Committee on Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jamie Raskin
Ranking Member
Committee on Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Brett Guthrie
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Re: Student Compensation and Opportunity through Rights and Endorsements (SCORE) Act

Dear Chairs and Ranking Members:

As Attorneys General responsible for protecting our citizens from exploitation by monopolies, we write in strong opposition to the SCORE Act. The SCORE Act is a misguided effort that will enshrine in federal law the arbitrary and biased authority of the NCAA at its worst.

We agree with the authors of the Act that, despite progress, the NCAA and its members have yet to fully ensure fair treatment for student-athletes. That is why several of us recently sued to challenge anticompetitive NCAA rules prohibiting student-athletes from discussing Name, Image, and Likeness (NIL) compensation during the recruiting process, and why we insisted on and obtained a strong permanent injunction that reforms how student-athletes may vie for and earn NIL compensation. Beneficial federal legislation often stems from such successful litigation, and so we

welcome congressional action that builds on court victories for student-athletes to resolve the continuing inequities in college sports. The SCORE Act, however, will not redress the persistent power imbalance between the NCAA and student-athletes. To the contrary, it risks enshrining in federal law the same lack of accountability—to antitrust laws, to the States, and to student-athletes themselves—that the Supreme Court and numerous lower federal courts have found to be indefensible.

Simply put, the SCORE Act consolidates too much power in the hands of the NCAA. The NCAA is a cartel that has consistently abused its monopolistic control even in the absence of a legislative blank check to do so. The Founders of our great nation recognized that the concentration of power inevitably corrupts and that only a system constrained by checks and balances and accountable to the people can endure over time. By eliminating any serious checks on NCAA authority, we expect the SCORE Act will ultimately deliver arbitrary and unaccountable enforcement by an NCAA fully empowered to be more overbearing than it has ever been before.

Antitrust enforcement and State legislation have compelled a paradigm shift in college sports. The NCAA has spent decades using its monopolistic power to impose harsh punishments for minor infractions, ignore major infractions, and rake in billions and billions of dollars on the backs of indentured student-athletes while suppressing their opportunities to share in the wealth. The organization has demonstrated time and again that it will not reform unless forced by external powers. In *National Collegiate Athletic Association v. Alston*, the Supreme Court unanimously concluded that the NCAA is a monopolist that illegally used its power to artificially cap the compensation college athletes may receive.[1] The Court explicitly rejected the NCAA's claim to special immunity, making clear that "the NCAA is not above the law."[2]

Through litigation, student-athletes, States, and courts have begun to restore balance to a system long skewed in favor of the monopolist. Over the last decade, courts have held that the NCAA's athletic-scholarship restrictions, its limitation on education-related benefits, and its ban on the use of NIL-compensation during the recruiting process violated antitrust laws.[3] The States and student-athletes have also forced major reforms through settlements in antitrust litigation with the NCAA,[4] as well as through State legislation.

The SCORE Act would reverse this progress and grant the NCAA what the courts have explicitly denied: complete control over college sports, including student-athlete compensation. There may well be a role for federal legislation that standardizes the reforms and progress student-athletes

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[1] *Nat'l Collegiate Athlet. Ass'n v. Alston*, 594 U.S. 69 (2021)

[2] *Id.* at 112 (Kavanaugh, J., concurring).

[3] *See, e.g., O'Bannon v. Nat'l Collegiate Athlet. Ass'n*, 802 F.3d 1049 (9th Cir. 2015) (affirming that NCAA compensation rules that prohibited schools from offering athletic scholarships equal to the full cost-of-attendance violated antitrust law); *Alston*, 594 U.S. 69 (2021) (affirming that the NCAA's restrictions on education-related benefits violated antitrust law); *Tennessee v. Nat'l Collegiate Athlet. Ass'n*, 718 F.Supp.3d 756 (E.D. Tenn., 2024) (enjoining the NCAA's rule banning the use of NIL compensation during the recruiting process).

[4] *See, e.g., Ohio v. Nat'l Collegiate Athlet. Ass'n*, 706 F.Supp.3d 583 (N.D. W.V., Dec. 13, 2023) (enjoining the NCAA's "Transfer Eligibility Rule").

and the States have achieved. But the SCORE Act goes irresponsibly beyond this—it rewards the NCAA's bad behavior by (i) creating a broad antitrust exemption that immunizes the NCAA from future legal accountability, (ii) preempting state law, and (iii) codifying NCAA hegemony over student-athletes and college sports.

Among other things, the SCORE Act attempts to shield the NCAA from accountability by precluding States from challenging how its new College Sports Commission determines what constitutes acceptable third-party NIL payments under the vague "fair market value" and "valid business purpose" standards in the new third-party NIL compensation system.[5] Foreclosing such challenges would nullify an essential term of the court-approved settlement that several of us negotiated with the NCAA just a few months ago. That is especially troubling given the initial actions of the Commission. Just one month after court approval of the *House v. NCAA* settlement, the Commission issued guidance that would prohibit nearly all NIL deals with "NIL Collectives." The guidance concluded that collectives—the entities that currently provide almost 82% of all NIL compensation to student-athletes—cannot have a "valid business purpose" and thus are barred from compensating student-athletes for use of their NIL.[6] This latest attempt to deny college athletes their actual market value—arguably in violation of the *House* settlement's terms—proves that college sports leaders have failed to evolve.

In addition to statutorily blessing the NCAA's monopolistic abuses and anticompetitive behavior, the SCORE Act would federalize the NCAA's private, non-transparent rulemaking process, giving legal imprimatur to rules drafted in the shadows by stakeholders whose primary interest is preserving control. This would freeze in place a governance structure that does not work; it has historically produced irrational policies such as the nutrition restrictions that left college athletes starving[7] and a notoriously ticky-tack enforcement regime.[8] Worse, the NCAA could continue modifying these rules behind closed doors,[9] now backed by federal preemption and beyond the reach of state reform or meaningful judicial review. The Act would subject student-athletes, schools, and even state legislatures to a rigid, top-down framework administered by an unaccountable private cartel.

With the SCORE Act, Congress would send a dangerous message: that an entrenched private actor, when challenged in courts or by the States, may seek legislative rescue and insulation from accountability. This would chisel ruinous policy into the bedrock of American law at the expense of

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[5] Some signatory states have bargained for the ability to challenge those vague standards as part of valid court orders. *See Tennessee, et al. v. Nat'l Collegiate Athet. Ass'n*, No. 3:24-cv-00033, ECF No. 92, ¶¶26e, 29, 32 (E.D. Tenn., March 21, 2025) (Consent Judgment and Permanent Injunction)

[6] *See* Eddie Pells, *Argument Over 'Valid Business Purpose' for NIL Collectives Threatens College Sports Settlement*, Associated Press: Sports (July 15, 2025), https://apnews.com/article/nil-ncaa-house-settlement-6c743730c9c3ddcc3f4e787995ddd9e5.

[7] *See* Steve Eder, *Some Dietitians Say College Athletes are Underfed*, NEW YORK TIMES (OCT. 26, 2012), https://www.nytimes.com/2012/10/26/sports/ncaafootball/dietitians-press-ncaa-to-allow-more-meals-for-athletes.html

[8] *See, e.g.*, Eamonn Brennan, *NCAA's Indiana Suspension Just Plain Silly*, ESPN: COLLEGE BASKETBALL BLOG (Nov. 7, 2012), https://www.espn.com/blog/collegebasketballnation/post/_/id/66502/ncaas-indiana-suspensions-just-plain-silly

[9] The *House* settlement permits the NCAA and Power Conferences to impose additional "anti-circumvention" rules that may be used to deny college athletes compensation. *See In re College Athlete NIL Litigation*, No. 4:20-cv-03919, ECF 980 at pp. 27 (N.D. Cal., June 6, 2025) (order granting final settlement approval).

student-athletes, institutions of higher education, fans, and States. An antitrust exemption with no accountability is a recipe for disaster. If you decide the NCAA will not be accountable to market forces, the well-being of student-athletes depends on the Association's ongoing accountability to the courts and the States.

The NCAA has already had its day in court—and lost. The Supreme Court reminded the NCAA in *Alston* that it was not above the law. Lower federal courts have done the same, both before and after *Alston*. Yet now the NCAA asks Congress to rid it of the very mechanisms of accountability that ushered in progress and forced it, grudgingly, to reform: antitrust enforcement and State law. The SCORE Act deals a get-out-of-jail-free card to an undeserving NCAA, and we urge you to reject it.

Sincerely,

Jonathan Skrmetti
Tennessee Attorney General

Brian Schwalb
District of Columbia Attorney General

James Uthmeier
Florida Attorney General

Letitia James
New York Attorney General

Dave Yost
Ohio Attorney General