

# OPPOSE the SCORE Act

**The so-called “Student Compensation and Opportunity through Rights and Endorsements Act,” is a cynically named power grab by the NCAA that would reinstate the exploitation of college athletes by wiping out their rights under existing laws. The rights of college athletes matter, and they deserve the same legal protections and economic freedom as every other American.**

**The SCORE Act, as drafted, is unenforceable by the very athletes it purports to protect. It wipes out students’ rights under state laws for issues far beyond NIL; when coupled with the anti-trust exemption, student athletes will never be able to enforce their “rights” in this bill or beyond. A right that is legally unenforceable is totally meaningless to those it is meant to empower.**

**The NCAA has a long history of abusing its power to suppress student athlete compensation and deny student benefits. In 2021, the Supreme Court finally addressed this issue in *NCAA v. Alston*, unanimously holding that it is illegal to limit education-related benefits of student athletes.**

- Justice Kavanaugh called out the NCAA’s anticompetitive practices, writing that the “NCAA couches its arguments for not paying student athletes in innocuous labels. But the labels cannot disguise the reality: The NCAA’s business model would be flatly illegal in almost any other industry in America.”
- Prior to the decision, the NCAA restricted education-related benefits, like laptops, student aid, and internships, and engaged in wage fixing. Schools and conferences illegally colluded to not compensate athletes. All the while, the NCAA and schools exploited the likeness of college athletes for massive profits without paying them.
- The only reason the NCAA made any changes to the rules surrounding student athlete NIL rights is because of lawsuits brought by students claiming the NCAA was violating the antitrust laws by limiting student athletes’ rights to fair compensation.
- This bill would not only override that precedent, it would forever deny students the ability to legally enforce not just their NIL rights, but it would also eliminate students’ rights under state law for a set of issues far beyond their NIL.

**The bill would give the NCAA what it has been seeking for decades—immunity from the very laws that held them accountable for their abusive behavior.**

- The SCORE Act’s antitrust exemption—something conservatives have called the “supreme evil” of antitrust for decades—would immunize NCAA member schools from legal accountability at the state and federal level when it uses its power to cap athlete earnings, block transfers, or impose other anticompetitive restrictions.
- In doing so, the bill creates the conditions for the monopolized power brokers of college athletics to reassert dominance at the expense of athletes. And it robs college athletes of the ability to protect their rights.

**The SCORE Act would provide sweeping preemption of state law for things far beyond NIL.**

- The SCORE Act eliminates student athletes' rights to challenge a school or association's actions for non-compliance with the SCORE Act itself. There is no provision for student enforcement in the act, and the broad preemption of any state law "otherwise related to this Act" would eliminate the only source of a remedy for wronged student athletes.
- The bill goes far beyond non-enforcement of the Act itself. The preemption clause in the current draft of the SCORE Act not only stops states from enacting or enforcing "laws, rules, regulations, requirements or standards," but it also allows any defendant to get lawsuits dismissed by asserting preemption. Traditional fraud, breach of contract, sexual harassment, civil assault and battery, negligent hiring and supervision (of coaches, trainers, etc.), and other claims brought by student athletes would be blocked.
- The bill preempts states from enforcing *any* law, rule, regulation, requirement, standard, or other provision "otherwise related to this Act"—effectively eliminating student athletes contract and property rights, *and* their ability to protect their legal rights related to a wide swath of issues addressed by the bill, including medical care for on the field injuries, school nutrition and conditioning programs, sexual violence prevention, and mental health support, among other requirements the bill places on institutions.
- This sweepingly broad preemption could even block future lawsuits to protect student athletes who are survivors of sexual violence. The bill requires institutions to provide comprehensive support and counseling related to sexual violence prevention, for which the NCAA has been sued multiple times.

**The SCORE Act gives broad power to the NCAA, universities, and intercollegiate conferences to limit the ability of student athletes to enter NIL agreements**

- Even if the NCAA, schools, and conferences comply with the SCORE Act, the law will allow the NCAA to restrict the rights of student athletes in ways that would be flatly illegal in almost any other industry in America.
- While purporting to grant students NIL rights, the SCORE Act's exceptions swallow the rule because, according to the bill's exceptions, institutions may limit student athletes from entering NILs if they violate the institution's code of conduct, which institutions can unilaterally modify at their discretion. For example, institutions could use the code of conduct to limit the use of school apparel in student NIL agreements.
- Additionally, according to the exceptions in the bill, institutions can limit NIL agreements if they conflict with one of the institution's contracts or agreements. This could include institutions structuring contracts with athletic apparel companies like Nike or Under Armour to limit the use of branded athletic uniforms or school apparel by student athletes for competing brands with which they may have an NIL agreement. This could also include sponsorship deals wherein a school becomes the official grocery store/car dealership/hotel chain/restaurant chain of the team.

**The SCORE Act creates a false choice between collusion and chaos.**

- Congress should pass legislation that respects the dignity of athletes without eviscerating their rights or giving a blank check to the NCAA power brokers. Instead of giving a "get out of jail free card" to the NCAA power brokers through this bill, Congress should pass legislation to ensure that student athletes can enforce their rights when they are abused, exploited, or treated unfairly.