

Subcommittee on Innovation, Data, and Commerce
Hearing entitled “Taking The Buzzer Beater To The Bank: Protecting College Athletes’ NIL Dealmaking Rights”
[March 29, 2023]

Documents for the record

At the conclusion of the meeting, the Chair asked and was given unanimous consent to include the following documents into the record:

1. A letter from Kim Pate, Vice-President for Athletics at Lenoir Rhyne University, March 27, 2023, submitted by the Majority.
2. A statement for the record from Trinity Thomas, University of Florida Gymnast, March 29, 2023, submitted by the Majority.
3. A letter from Commissioner Steve Murray of the Pennsylvania State Athletic Conference, March 28, 2023, submitted by the Minority.
4. A letter from the Atlantic Coast Conference, March 28, 2023, submitted by the Minority.
5. A letter from Commissioner Matt Wilson of the Gulf South Conference, March 28, 2023, submitted by the Minority.
6. A letter from President Michael A. Discroll of Indiana University of Pennsylvania, March 28, 2023, submitted by the Minority.
7. A letter from Carrie Michaels, Senior Associate Director of Athletics at Shippensburg University, March 28, 2023, submitted by the Minority.
8. A letter from President Jere W. Morehead of the University of Georgia, March 28, 2023, submitted by the Majority.
9. A letter from Dr. Dean L. Bresciani of North Dakota State University, March 28, 2023, submitted by the Minority.
10. A letter from Dr. Jeffrey Docking, President of Adrian College, March 28, 2023, submitted by the Minority.
11. A letter from Dr. Sandra Woodley, President of The University of Texas Permian Basin, March 27, 2023, submitted by the Majority.
12. A letter from Greg Christopher, Vice President for Administration and Director of Athletics at Xavier University, March 28, 2023, submitted by the Minority.
13. A letter from Jack Langan, Vice-Chair Of Division III National SAAC, March 28, 2023, submitted by the Majority.
14. An essay published in New York Times entitled, “Even the Supreme Court Can’t Save the N.C.A.A. From Itself,” March 21, 2023, submitted by Rep. Clarke.
15. A letter from Rep. Colin Allred, Rep. August Pfluger, and Rep. Emanuel Cleaver, II, March 29, 2023, submitted by the Minority.
16. An essay published in New York Times entitled, “At Notre Dame, We Believe ‘Student’ Should Come First in ‘Student-Athlete’,” July 1, 2021, submitted by Rep. Cárdenas.

LENOIR-RHYNE UNIVERSITY

March 27, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As an NCAA Division II Vice President for Athletics, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women's and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and the Association is exploring creating much needed safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that the majority of athletic programs in the country, namely all Divisions II and III programs, do not generate ANY revenue and instead rely on student fees (from non-athletes), institutional support, and fundraising to support our athletic programs. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete at the highest level of DI deserve policy makers' equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students. Without your help, countless future students may not have the same opportunity to go to college or to gain invaluable life lessons from participating in collegiate sports.

I believe Congress is the only body positioned to stabilize college sports' legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.

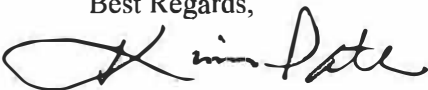
- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and will result in fewer opportunities to both compete and pursue a degree.
- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

I would not be who I am today, had it not been for the opportunity to play a collegiate sport and earn an athletic scholarship to make it affordable to go to college. I was a first generation college student and access to higher education was completely out of reach for me. I took away so much from my collegiate student-athlete experience including leadership skills, time management, discipline, and the importance of being a team player. My experience was so impactful that it inspired me to dedicate my entire professional career to helping student-athletes take away invaluable life lessons that will prepare them for success in their future careers and lives.

As a member of a Division II institution that provides twenty-three varsity sports programs while dealing with significant financial pressures, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at [REDACTED]

Best Regards,



Kim Pate,
Vice President for Athletics
Lenoir-Rhyne University

To: Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-05), Vice Chair
Rep. Jan Schakowsky (IL-09), Ranking Member
Rep. Larry Bucshon (IN-08)
Rep. Jeff Duncan (SC-03)
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Rep. Yvette Clarke (NY-09)
Rep. Frank Pallone (NJ-06)

Cc: Minority and Majority Staff Directors,
Subcommittee Members' Chiefs of Staff

STATEMENT FOR THE RECORD
House Energy and Commerce Committee
Subcommittee on Innovation, Data and Commerce

March 29, 2023

Trinity Thomas - Master's in Health Education & Behavior Student & Florida Gators Gymnast

Pre and Early NIL

When I first came to the University of Florida, prior to NIL being legal for student-athletes, I would coach camps in the summer and different things like that. I remember them wanting to advertise that I was coming, but NCAA rules prohibited the camp or myself from sharing that information. Also, myself, and other student-athletes could only get paid a certain amount due to NCAA rules.

I love working at camps and working with the kids. After it became legal for student-athletes to profit from their NIL, the camps were able to promote it, and I was able to share it on my social media. Then I wasn't getting all these questions about where I was working this summer in my 'DMs' (direct messages). That was probably one thing I looked forward to, just to have that freedom that I didn't think should have been a problem in the first place. That was something that was super exciting to me.

At first, when NIL became legal, I was honestly overwhelmed. I didn't really know what to expect or quite understand it. I watched everybody around me do things at first. I didn't really know what I was supposed to do.

Agent, Coaches and Financial Education

My now agent reached out to me. I spoke with him and we met a few times. I also met with another potential agent as well. I really was just trying to feel out the process, because with agencies, there can be good ones and bad ones, just like anything else. At first, it was hard to navigate, but I made a good choice for myself. He's been super helpful because he was in law school at the time. We've learned a lot together since he graduated.

There's not much guidance on NIL from coaches. They are excited to hear about NIL opportunities that come our way, but they can't set them up for us. What opportunities we get shouldn't affect what we do in the gym. There have been a few opportunities where I've had to be flexible with my schedule. My coaches have worked with me, as long as it wasn't conflicting with any practice times or other team events. That's been helpful.

More recently, we've spoken with leadership from The Hawkins Center (the student-athlete facility focused on professional development, tutoring, and mentorship for student-athletes at UF) about things such as financial literacy. That background knowledge helps a lot, as some student-athletes, like myself, don't get that exposure in our specific majors. It helps us develop and know how to handle ourselves as businesspeople.

I'm a health major, so finance, business, and management are not my strong suits. NIL presented me with new opportunities, and I needed assistance with that aspect. I think that was probably the hardest part for me, I was just nervous because I didn't really know about any of it.

We met with Hawkins Center leadership, and one of the first things that came out of it was financial literacy programming, specifically at the Hawkins Center's NIL Summit. That event was super helpful, in my opinion, especially because it was mandatory. I would make financial literacy events mandatory.

Also, taxes on NIL opportunities are something I'm still trying to grasp. Gathering all the different tax documents is confusing when you're an independent contractor with multiple streams of income. I'm actually meeting with a CPA this Sunday.

I believe that mandatory education sessions on topics such as financial literacy and taxes, even if they become a little redundant at some point, are important because that is what we need to know. A lot of us are young and maybe didn't grow up with these opportunities. Again, I would make it mandatory, at least once a semester. Otherwise, people won't make time for it.

Also, I think it'd probably be easier if it were broken down into smaller groups, as there are a lot of student-athletes. Then everyone has room to ask questions. Breakout rooms like we had at our NIL Summit, with maybe the sessions being a little shorter, 45 minutes instead of an hour. I liked how the sessions at the NIL Summit were very specific. I don't like when they're too broad and I don't know what the session is going to be about. It's easier to focus in and ask questions when it's simply about one topic.

NIL Opportunities

As far as NIL opportunities go, I've done a bunch of different things, and I also have a bunch of new things in the works right now. One of my first was with Honey Stinger, and I also did something for a teeth whitening company. One of my favorites I've had is with Gemini Naturals (hair products). I appreciate opportunities that are unique to me and who I am. For example, I use Gemini Naturals in my hair, specifically their blue gel. I was able to get a bottle customized with my name on it for this season. So that is super fun, and I wear it every week, and have been using it for years. I'm also working on a leotard line. Both opportunities just organically make sense. I was part of H&R Block's first 'A Fair Shot' campaign and continue to be a part of this season's campaign.

When it comes to deciding on a collaboration, I think everybody has their own brand. Picking the right NIL deals really depends on your audience. For me specifically, my audience is mostly young girls, teenagers, and maybe women my age and a little older. So I tried to keep my opportunities super PG.

The wax company was probably my most risky venture. I thought long and hard about that one, but then I thought, "Okay, how are we going to keep it about gymnastics, about me, about being confident in my own skin?" That one ended up going well and was a really great deal. It's important for student-athletes to just be careful. Consider their morals and values, as well as what they want to put out there and who they want to be. It is also critical to consider the time commitment required for that opportunity.

Opportunities are brought to me, either through my agents, or I find myself. But if my agents bring something to me, and I think it's too much, I'll just tell them. We ask if the company can adjust the deliverables on my end. One problem is that sometimes you can commit to something early on, and then work attached to the opportunity piles up later; which can be hard to be flexible around, when you're already in a contract. I would advise other student-athletes to be careful. Make a schedule where you always have control over it, and try not to overextend or overcommit.

One NIL for All

When it comes to different states having different laws, and guidelines around NIL, I think it makes it super complicated for everybody involved. I think it'd be a lot easier if everybody had the same set of rules, standards, and explanations on what can and can't be done. I definitely think it'd be a lot easier for everybody.



March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce
Washington, DC
[Via email](#)

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As an NCAA Division II Commissioner, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women’s and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and the Association is exploring creating much needed safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently endorsed requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a majority of Division I programs, do not generate significant revenue and instead rely on student fees (from non-athletes) and institutional support. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete in the much talked about conferences deserve policy makers’ equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students.

I believe Congress is the only body positioned to stabilize college sports’ legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.
- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women’s sports. Without

special status, the cost of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and could result in fewer opportunities for competition.

- Safe Harbor from Select Liability Complaints: Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- Preemption of State Law: Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

As the largest athletic conference in the NCAA, the Pennsylvania State Athletic Conference's members provide over 7,000 student-athletes with the opportunity to participate in co-curricular programming while providing over \$36 million dollars in athletic grant-in-aid support. Our student-athletes graduation and retention rates exceed the general student-body's by nearly 10 percent. We are very proud of our athletic and academic successes as well as our commitment to supporting our communities through service opportunities.

The Pennsylvania State Athletic Conference and its 18-member campuses provide broad based sports programs under significant financial pressures, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at [REDACTED]

Respectfully,



Commissioner
Pennsylvania State Athletic Conference

To: Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-05), Vice Chair
Rep. Jan Schakowsky (IL-09), Ranking Member
Rep. Larry Bucshon (IN-08)
Rep. Jeff Duncan (SC-03)
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Rep. Lori Trahan (MA-03)
Rep. Yvette Clarke (NY-09)
Rep. Frank Pallone (NJ-06)
Cc: Minority and Majority Staff Directors,
Subcommittee Members' Chiefs of Staff



March 28, 2023

As student-athletes from the Atlantic Coast Conference (ACC), we continue to call upon Congress to pass federal legislation to regulate Name, Image, and Likeness (NIL) uniformly across all states. A national bill, we believe, will empower student-athletes to monetize their NIL and protect them from manipulation and exploitation. Most importantly, Congressional action is needed to preserve the collegiate athletics model to ensure equitable opportunities for all student-athletes.

Effective July 1st, 2021, student-athletes have been permitted to profit from their NIL. This is a significant milestone for collegiate athletics as we are now allowed the same entrepreneurial opportunities as our student peers on campus. In the months since then, many student-athletes have deservedly reaped huge benefits for themselves and their families. Additionally, through NIL, student-athletes have experienced the opportunity to further engage with the communities that surround them, enhance their personal network, and become exposed to the importance of financial literacy. NIL, combined with recent legislative changes to the transfer portal and NCAA Transformation Committee restructuring, truly marks the “Era of the Student-Athlete.” Never before have we – college athletics’ central and original stakeholders – held as much autonomy and influence as we do now.

In September 2021, we, on behalf of our conference’s Student-Athlete Advisory Committee (SAAC) and with signatures from all 15 ACC institutional SAAC presidents, composed a letter to Congress highlighting our concerns with unregulated NIL policies, which included competitive equity, recruiting inducements, and student-athlete status. Now, 18 months later, we are beginning to see many of these concerns come to fruition, and, as such, are petitioning Congress to help rein in an industry that has become out of control.

While the majority of outcomes from NIL thus far have been overwhelmingly positive for student-athletes, the current landscape in which they are operating is not sustainable. Now, multiple recruiting cycles into the NIL era, prospective student-athletes are often lured by collectives to institutions that are not best suited for them from an academic or athletic standpoint, which is contrary to the central values of higher education. While legally not directly tied to an athletic department, some of these collectives are nevertheless taking the lead on recruiting inducements – all without any oversight whatsoever. We believe transparency and accountability for these collectives is paramount to the continued integrity of college athletics, and we support the creation of a national NIL rule-enforcing entity that ensures compliance by institutions, student-athletes, and, most importantly, third parties.

Congressional action needs to protect athletes from exploitation and disproportionate financial and legal liability. While we encourage student-athletes to take full advantage of the opportunities that their NIL provides, we believe that helping us make informed decisions through education and supportive resources should be the primary means of protective measures. Specifically, we encourage Congress to consider mandatory annual educational sessions for student-athletes. These actions, we believe, will also encourage institutions to provide world-class legal and financial counsel to student-athletes.

We appear to be on a slippery slope towards a “pay-for-play” model for football and men’s basketball, which will have extraordinary negative consequences for all stakeholders within collegiate athletics, from the sliver of top earners down to the lowest-funded athletic programs. Only a marginal portion of student-athletes will be able to significantly benefit from their NIL during college, and an even smaller portion – less than 2% – will turn pro after college. For the great majority of athletes, even those in revenue-generating sports, the lifetime earnings of a college degree will massively outweigh the short term benefits from potential NIL deals, and we think it is extremely important that lawmakers and fans alike never lose sight of this fundamental truth.

Additionally, a “pay-for-play” model will exacerbate the disparities faced in women’s sports and historically black colleges and universities (HBCUs), as funds will have to be redirected from non revenue-generating sports almost entirely into football and men’s basketball. Even at the Power 5 level, roughly half of athletic departments run a deficit annually. Directly compensating student-athletes will further expose challenges to sustain other sports, potentially forfeiting opportunities for thousands of prospective student-athletes in years to come. In essence, the collegiate model must remain unchanged. Congress would do a disservice to student-athletes, sports culture, and American society in general if it passes a bill that diminishes educational opportunities that leave schools no choice but to reduce scholarships or cut programs due to budget reallocations.

We would be remiss not to mention the inequality that international student-athletes face when pursuing NIL opportunities. Under the current system, international student-athletes are restricted from exercising the rights to their own Name, Image, and Likeness in the United States due to the structure of their visas. On March 23, 2023, Senators Murphy and Blumenthal wrote a letter asking Secretary Alejandro Mayorkas of the Department of Homeland Security to allow international student athletes to profit in some capacity off of their Name, Image, and Likeness without fear of losing their lawful status as students studying in the United States. As representatives of hundreds of international student-athletes in our conference and thousands more across the nation, we join Senators Murphy and Blumenthal in their request.

As student-athletes from both revenue-generating and Olympic sports, representing a Power 5 conference in a multi-billion dollar industry, we truly believe these considerations will shape college athletics for the better. They will solve current problems while best setting up higher education for a future that both empowers and protects student-athletes. We feel every student-athlete stands to gain from this petition, and we will continue to use our platforms to advocate for the solutions we described.

We implore Congress to find an equilibrium that preserves what lays at the core of college athletics – competitive equity and access to education – while still allowing student-athletes the rights to their own NIL.

Signed,

DeWayne Carter
John Carter
Daphné Lavassas
Luke Phillips
Olivia Summiel

Duke Football
Boston College Cross Country / Track
Miami Cross Country / Track
Notre Dame Track and Field
Wake Forest Basketball

March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

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As an NCAA Division II Conference Commissioner, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women’s and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

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The Gulf South Conference consists of 13 member institutions in five states. Institutional missions range from regional public institutions providing higher education access in areas that still feature first generation college students to faith-based institutions with long histories of impact in their communities to literally training rocket scientist in Huntsville, Ala. These institutions provide unique opportunities and access to higher education through athletics scholarships that might not be available otherwise.

As a conference comprised of member institutions that provide broad based sports programs under significant financial pressures, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at [REDACTED]

Kind regards,

Matt Wilson
Commissioner
Gulf South Conference

To: Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-05), Vice Chair
Rep. Jan Schakowsky (IL-09), Ranking Member
Rep. Larry Bucshon (IN-08)
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Cc: Minority and Majority Staff Directors,
Subcommittee Members' Chiefs of Staff

Office of the President

Sutton Hall, Room 201
1011 South Drive
Indiana, Pennsylvania 15705-1046

P 724-357-2200

March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As the president of Indiana University of Pennsylvania (IUP) – a university with over 400 student-athletes competing in NCAA Division II sports – and as a member of the NCAA Division II Presidents Council, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women's and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and the Association is exploring creating much needed safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently endorsed requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a majority of Division I programs, do not generate significant revenue and instead rely on student fees (from non-athletes) and institutional support. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete in the much talked about conferences deserve policy makers' equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students.

I believe Congress is the only body positioned to stabilize college sports' legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.
- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost

of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and could result in fewer opportunities for competition.

- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

As a member of a Division II institution that provides broad based sports programs under significant financial pressures, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at

Kind regards,



Michael A. Driscoll
President, Indiana University of Pennsylvania

To: Congressman Guy Reschenthaler
Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-05), Vice Chair
Rep. Jan Schakowsky (IL-09), Ranking Member
Rep. Larry Bucshon (IN-08)
Rep. Jeff Duncan (SC-03)
Rep. Neal Dunn (FL-02)
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Rep. Lisa Blunt Rochester (DE- At Large)
Rep. Darren Soto (FL-09)
Rep. Lori Trahan (MA-03)
Rep. Yvette Clarke (NY-09)
Rep. Frank Pallone (NJ-06)

Cc: Minority and Majority Staff Directors,
Subcommittee Members' Chiefs of Staff



SHIPPENSBURG UNIVERSITY

1871 Old Main Drive | Shippensburg, PA 17257-2299

Office: (717) 477-1711 | Fax: (717) 477-4090

DEPARTMENT OF ATHLETICS

March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As an NCAA Division II athletics administrator at Shippensburg University, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women's and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and the Association is exploring creating much needed safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a majority of Division I programs, do not generate significant revenue and instead rely on student fees (from non-athletes) and institutional support. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete in the much talked about conferences deserve policy makers' equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students.

I believe Congress is the only body positioned to stabilize college sports' legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.

- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and could result in fewer opportunities for competition.
- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

In my current role and through my experiences as a former Division I student-athlete, DII coach, and DIII conference commissioner, I see first-hand the benefits of participating in college athletics. Not only does sport provide a pathway to education, it offers opportunities for overall well-being and life skills development. Being a student-athlete shapes you for the rest of your life. Whether that is through leadership development, academic success, or overall mental and physical health, participation is value added for college athletes. It is imperative to maintain these overarching benefits as we modernize intercollegiate sport. While there is a **small percentage** of student-athlete participants at the Division I level who may need their unique interests addressed, we cannot lose sight of the half million other student-athletes participating at the Division I, II, and III levels. These individuals too have a unique interest and deserve a fair, equitable, inclusive, and fulfilling experience and environment.

As a member of a Division II institution that provides broad based sports programs under significant financial pressures, I urge you, as members of the Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at

Kind regards,



Carrie Michaels
Senior Associate Director of Athletics
Shippensburg University



UNIVERSITY OF
GEORGIA

Office of the President
Administration Building
220 South Jackson Street
Athens, Georgia 30602-5000
TEL 706-542-1214
president@uga.edu
www.uga.edu

March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As the Chair of the NCAA Division I Board of Directors, I recognize college sports are undergoing a significant transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women’s and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize and change. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from legitimate name, image and likeness opportunities, but I support creating much needed safeguards to support student-athletes within this emerging area. Additionally, the NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a vast majority of Division I programs, do not generate significant revenue and instead rely on student fees (from non-athletes) and institutional support to function. Even within “Autonomy 5” institutions, one or two sports provide most of the revenue to support the other Olympic and women’s sport programs. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete in revenue generating sports deserve equal attention to preserve equitable access to the benefits college athletics.

I believe Congress is the only body positioned to stabilize college sports’ legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support and Protection:** Enhance safeguards and provide resources for student-athletes to reduce the risk of bad actors in the NIL marketplace and ensure that contracts and commitments are authentic and honored. We must prevent NIL deals from being used to impermissibly recruit high school or transfer athletes. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.

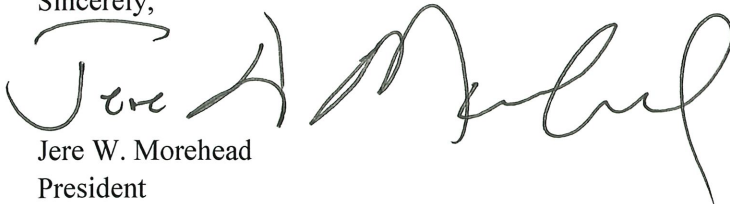
- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost of operating the current level of athletics across most of DI could become staggering and could result in fewer opportunities for competition and a reduction in sport offerings. It may also result in the removal of the current protections that student-athletes enjoy as a result of their student status (*e.g.*, student-athlete scholarships cannot be canceled or non-renewed for athletic reasons).
- **Safe Harbor from Select Liability Complaints:** Identify select areas where the colleges and universities need safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies, such as the NCAA, are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven and unworkable playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes and to ensure all institutions competing against each other are playing by the same rules.

College athletics provides irreplaceable opportunities to develop America's next generation of leaders. Our communities are filled with doctors, lawyers, educators, business people, and other civic cornerstones who attribute a portion of their success to their time as student-athletes. The University of Georgia boasts such successes as: [Dr. Leah Brown](#), former women's gymnastics student-athlete and medical innovator; [Dr. Carla Williams](#), former women's basketball student-athlete and higher education trailblazer; and [Maria Taylor](#), former women's volleyball and basketball student-athlete and national sportscaster. The sports these women played are not sponsored because of the revenue they generate but the opportunities they create. These individuals represent student-athletes—former, current, and future—for whom college athletics provides an arena critical for their development as leaders. Future generations deserve these same opportunities.

As a member of a Division I institution that provides opportunities across a wide spectrum of sports, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at [REDACTED]

Sincerely,



Jere W. Morehead
President
University of Georgia

To: Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-5), Vice Chair
Rep. Jan Schakowsky (IL-9), Ranking Member
Rep. Larry Bucshon (IN-8)
Rep. Jeff Duncan (SC-3)
Rep. Neal Dunn (FL-2)
Rep. Debbie Lesko (AZ-8)
Rep. Greg Pence (IN-6)
Rep. Kelly Armstrong (ND-At Large)
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Rep. Lisa Blunt Rochester (DE- At Large)
Rep. Darren Soto (FL-9)
Rep. Lori Trahan (MA-3)
Rep. Yvette Clarke (NY-9)
Rep. Frank Pallone (NJ-6)

Cc: Minority and Majority Staff Directors,
Subcommittee Members' Chiefs of Staff

March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

ATTN: Tim Kurth
Daniel Greene
Joe Orlando
Lacey Strahm

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29. I can assure you that my university presidential colleagues and I share that priority.

As a matter of context, I recently stepped down after 12 years as university president to a distinguished faculty role. During my 36-year career, I served in various capacities tied to Division-I athletic programs at the University of Arizona (then the Pac-10), University of North Carolina-Chapel Hill (ACC), Texas A&M University (then Big 12), and finally North Dakota State University.

As a second matter of context, I'd like to point out that the vast majority of our Division-I student athletes come to our universities first and foremost for a college education that also allows them to pursue athletic excellence. Toward the latter, they recognize that we provide physical training, sport specific coaching, practice facilities, and ultimately the fields of competition that allow them to test themselves, and to do so in venues drawing regional and national attention. In support of both their academic and student athlete success we provide various packages of scholarships, cost of attendance compensation, focused academic tutoring and support, and many other services well above and beyond what are available to students at large. Even for the relatively smaller albeit high-profile group of student athletes for which academics may not be their priority, they come to our universities knowing well the substantial cost-free advantages offered through us versus other paths to professional careers.

The good news is that intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise -- often if not generally exceeding that of the student body at large. At the same time, those opportunities are under increasing legal and legislative pressures that threaten to upend college athletics. Ironically those pressures are generally catalyzed by issues in just three sports (football and men's basketball, and to a lesser extent women's basketball) within the "Power 5" grouping, and to be truthful, a much more limited number of programs within even *that* grouping.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and representatives of the Association's members have for the past years been creating many of the much-needed safeguards to support student-athletes within that emerging industry. In fact, NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide sweeping enhancement

of benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a vast majority of Division I programs, do not generate significant overall (if any) net revenue and instead rely on student fees (from non-athletes) and institutional support. While past discourse has focused on the small number of athletic programs that are financially successful, I believe that the 400,000 or more students-athletes who do not compete in revenue generating sports deserve policy makers' equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students.

From my perspective, Congress is the only body positioned to stabilize college sports' legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.
- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for most student-athletes across most athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and could if not likely would result in far fewer opportunities for competition.
- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively because of the increasing barrage of legal actions with few if any limiting parameters. That said, I would only ask that you protect the Association from litigation in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

At my institution, our very successful athletic program is the glue that brings our university community, local and regional community, and national-wide fan base together. As a member of a Division I institution that provides opportunities across a wide spectrum of sports, I urge you, as members of Subcommittee on

Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at [REDACTED]

Kind regards,

Dr. Dean L. Bresciani
Distinguished Professor | Former President
North Dakota State University

To: Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-5), Vice Chair
Rep. Jan Schakowsky (IL-9), Ranking Member
Rep. Larry Bucshon (IN-8)
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Rep. Lori Trahan (MA-3)
Rep. Yvette Clarke (NY-9)
Rep. Frank Pallone (NJ-6)

Cc: Minority and Majority Staff Directors,
Subcommittee Members' Chiefs of Staff



Adrian College
OFFICE OF THE PRESIDENT

March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As an NCAA Division III college president, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women's and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and the Association is exploring creating much needed safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a majority of Division I programs, do not generate significant revenue and instead rely on student fees (from non-athletes) and institutional support. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete in the much talked about conferences deserve policy makers' equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students.

I believe Congress is the only body positioned to stabilize college sports' legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

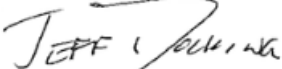
- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.
- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and could result in fewer opportunities for competition.
- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

At Adrian College, about 70% of undergraduates are student-athletes. The College fields over 50 sports teams. Growing the number of athletic teams has been a priority over the past 17 years of my presidency. The growth in athletic programs led to increased campus enrollments and to considerable campus construction. The College grew from about 800 students to 1,700. The growth in students through athletics and the growth in visitors to the town of Adrian has been an economic boon for Southeast Michigan residents with increased hiring, contracts, and business patronage.

As a member of a Division III institution that provides broad based sports programs under significant financial pressures, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at [REDACTED]

Kind regards,



Jeffrey Docking, Ph.D.

President

Adrian College

To: Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-05), Vice Chair
Rep. Jan Schakowsky (IL-09), Ranking Member
Rep. Larry Bucshon (IN-08)
Rep. Jeff Duncan (SC-03)
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Rep. Yvette Clarke (NY-09)
Rep. Frank Pallone (NJ-06)

Cc: Minority and Majority Staff Directors,
Subcommittee Members' Chiefs of Staff



Office of the President

March 27, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As a NCAA Division II President, I recognize the dramatic shift taking place across the intercollegiate athletics. The number of students participating in intercollegiate athletics grows year over year in direct correlation to the increase in graduation rates among student-athletes. However, mounting legal and legislative pressures threaten to dismantle the uniquely American avocation, especially participation opportunities in women's and Olympic sports.

Certainly, intercollegiate athletics must modernize. In particular, I stand with my colleagues across the country in full-throated support of NCAA student-athletes benefiting from their name, image and likeness along with the Association-wide safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

As policy makers, please recognize nearly every intercollegiate athletic program in the country, specifically, all NCAA Division II and III institutions along with a majority of NCAA Division I institutions rely heavily on institutional support and student fees to cover athletic department expenses. Past discourse focused on the small number of financially successful athletic programs generating enormous revenues well in excess of overall expenses.

The nearly 500,000 or more student-athletes competing outside of the largest, financially successful and much talked about conferences deserve policy makers' equal attention to preserve equitable access to the priceless benefits intercollegiate athletics affords this diverse population of students.

Further, I believe Congressional action offers the best opportunity to stabilize college sports' legal environment and provide student-athletes with a fair, inclusive and consistent experience, across all level of intercollegiate athletics. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.

- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost of operating the current levels of athletics across most of DI, all of DII and DIII could become staggering and could result in fewer opportunities for competition.
- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

The University of Texas Permian Basin's athletic programs promote school spirit and unity across our region unlike any other endeavor either on or off campus. Intercollegiate athletics serves as a conduit to access to higher education for many first-generation college students by providing scholarship opportunities.

Through participation in intercollegiate athletics our student-athletes learn valuable life skills in preparation for life beyond the University setting. Student-athletes use leadership, discipline, effective time management, teamwork and sound decision-making on a daily basis; skills businesses look for in hiring.

The connection to campus lasts well beyond graduation as student-athletes develop life-long bonds with teammates and regularly return to campus for athletic events. Again, this uniquely American aspect of higher education needs not only modernization but also stabilization in order to continue serving students from every walk of life.

As a member of a Division II institution that provides broad based sports programs under significant financial pressures, I urge you, as members of Subcommittee on Innovation, Data and Commerce to advance a uniform federal solution for NIL that provides a level playing field for all student-athletes and which also secures the future of college sports.

Please do not hesitate to contact me directly should you have any questions or require additional information as I would be happy to discuss this topic further at [REDACTED]

Kind regards,



Dr. Sandra Woodley
President



Office of the President

To: Rep. Gus Bilirakis (FL-12), Chairman
Rep. Tim Walberg (MI-05), Vice Chair
Rep. Jan Schakowsky (IL-09), Ranking Member
Rep. Larry Bucshon (IN-08)
Rep. Jeff Duncan (SC-03)
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Rep. Frank Pallone (NJ-06)

Cc: Minority and Majority Staff Directors, Subcommittee Members' Chiefs of Staff



March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As an NCAA Division I Director of Athletics, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women’s and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and the Association is exploring creating much needed safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a vast majority of Division I programs, do not generate significant revenue and instead rely on student fees (from non-athletes) and institutional support. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete in revenue generating sports deserve policy makers’ equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students.

I believe Congress is the only body positioned to stabilize college sports’ legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.

- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in Olympic and women's sports. Without special status, the cost of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and could result in fewer opportunities for competition.
- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
- **Preemption of State Law:** Codify that federal law preempts state law in certain areas, such as name, image, and likeness. The current patchwork of more than 30 disparate state NIL laws creates an uneven playing field for all college athletes. Unifying federal legislation on topics such as NIL will both empower student-athletes to monetize their NIL and maintain the current collegiate athletics model to ensure competitive equity for all student-athletes.

As a member of a Division I institution that provides opportunities across a wide spectrum of sports, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me at [REDACTED]

Kind regards,



Greg Christopher
Vice President for Administration and Director of Athletics

March 28, 2023

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Innovation, Data and Commerce

Dear Distinguished Members of the Subcommittee on Innovation, Data and Commerce:

Thank you for prioritizing the important issue of student-athlete name, image and likeness (NIL) at your upcoming hearing on March 29.

As an NCAA Division III student-athlete, I recognize college sports are undergoing a massive transformation. On one hand, intercollegiate athletics is thriving. The number of students participating in college sports continues to set records while graduation rates among student-athletes continue to rise. At the same time, these opportunities – particularly those for student-athletes participating in women's and Olympic sports – are under increasing legal and legislative pressures that threaten to upend college sports.

I want to be clear, leaders like myself recognize and agree that college sports must modernize. The colleges and universities that make up the NCAA believe student-athletes deserve to benefit from their name, image and likeness and the Association is exploring creating much needed safeguards to support student-athletes within this emerging industry. Additionally, the NCAA Division I Board of Directors recently [endorsed](#) requirements for schools to provide enhanced benefits for degree completion, scholarship protections and post-participation medical coverage for all Division I student-athletes.

Still, it is essential that policy makers recognize that nearly every athletic program in the country, namely all Divisions II and III and a majority of Division I programs, do not generate significant revenue and instead rely on student fees (from non-athletes) and institutional support. While past discourse has focused on the small number of athletic programs that are financially successful, I believe the 400,000 or more students-athletes who do not compete in the much talked about conferences deserve policy makers' equal attention to preserve equitable access to the benefits college athletics affords this diverse population of students.

I believe Congress is the only body positioned to stabilize college sports' legal environment and provide student-athletes with a fair, inclusive and consistent experience. To do this, I urge the Subcommittee members and all Members of Congress to adopt legislation that addresses the following critically important elements:

- **Student-Athlete Support:** Enhance safeguards and provide resources for student-athletes to mitigate the risk of bad actors in the NIL market and ensure that contracts and commitments are honored. Through increased deal transparency, an NIL registry and agent requirements, student-athletes will be able to maximize their NIL opportunities.
- **Special Status of Student-Athletes:** Affirm the current and unique relationship between universities and student-athletes, rather than student-athletes as employees of an institution. Legal and legislative pressures to classify student-athletes as employees would forever alter the student-athlete experience, risking opportunities for student-athletes across athletic programs, especially those competing in

Olympic and women's sports. Without special status, the cost of operating the current level of athletics across most of DI, all of DII and DIII could become staggering and could result in fewer opportunities for competition.

- **Safe Harbor from Select Liability Complaints:** Identify select areas where the NCAA membership needs safe harbor from legal complaints to effectively oversee college sports nationally. Governing bodies such as the NCAA are best positioned to enforce or adjust many of the provisions of this proposal but lack the ability to do so effectively. Protect the Association from endless litigation only in matters essential to the carrying out the provisions above so a non-government entity can continue to administer college athletics in line with the direction provided by Congress.
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College sports have allowed me to develop and hone skill sets that will serve me throughout life, both personally and professionally. The opportunity to participate in collegiate sports has helped me to manage my time, work better in a team environment, and overcome adversity. The most important skill I've learned is how to compete. It is important to be competitive as a professional, the competitive aspect of collegiate sports teaches you a work ethic and discipline to succeed. College athletics have been the best extracurricular and professional development experience in my life. The experiences I've had have given me the confidence to pursue interests off the field. The traits honed by participating in collegiate athletics provide me a roadmap to succeed in any endeavor I choose to pursue.

As a member of a Division III institution that provides broad based sports programs under significant financial pressures, I urge you, as members of Subcommittee on Innovation, Data and Commerce, to advance a uniform, federal solution for NIL that provides a level playing field for all student-athletes and that secures the future of college sports.

I would be happy to discuss this topic further or provide additional information. Do not hesitate to contact me directly at [REDACTED]

Kind regards,

Jack Langan
Vice-Chair Of Division III National SAAC
NCAA

Even the Supreme Court Can't Save the N.C.A.A. From Itself

March 21, 2023

By Bomani Jones

Mr. Jones is the host of “Game Theory With Bomani Jones” on HBO.

The N.C.A.A. is the easiest target in sports, and that's entirely its own fault. Decades of defending a system premised on the unpaid labor of its athletes — a system that Walter Byers, one of its architects, later regretfully compared to a “[neo-plantation](#)” — has whittled the N.C.A.A.'s credibility to near nonexistence.

The latest debacle is the market for names, images and likenesses, known as N.I.L. New rules allow players to earn money for endorsements and appearances, and some of the biggest basketball stars in this year's March Madness tournament, from Oscar Tshiebwe of Kentucky to Drew Timme of Gonzaga, have already cashed in on lucrative deals.

But the N.I.L. market, which was supposed to empower players, is raging out of control. The N.C.A.A. had years to prepare for this new day but chose not to. Now it's hoping that state and federal legislators will do the regulating for it. All of the N.C.A.A.'s kicking and screaming — first to prevent N.I.L. payments, now for Congress to step in — has been to prevent even outside third parties from paying its workers. That falls somewhere between cruelty and outright hatred.

The discussion around these new revenue opportunities only diverts attention from the N.C.A.A.'s original sin: its refusal to share its profits directly with the players most responsible for generating those profits. N.I.L. doesn't fix that. In fact, it highlights just how negligent the N.C.A.A. has been.

The N.I.L. market exists thanks to a 2021 Supreme Court [decision](#) in the case of N.C.A.A. v. Alston, which declared that previous rules limiting athlete compensation violated antitrust laws. So N.I.L. was born: a system that allows players not to be paid for playing but to be paid instead for sponsorships, endorsement deals and appearances. What resulted was perhaps the N.C.A.A.'s biggest nightmare: a world where its players weren't completely broke and powerless.

While N.I.L. grabs the headlines, the N.C.A.A. is also [lobbying Congress](#) against reforms that would ensure that players are recognized as employees of the schools they play for. This recognition would benefit *all* players, not simply those famous enough to sell products using their names. It would be a step toward future health care for student-athletes. It would be the first true recognition of what these players provide their schools: hard work.

Meanwhile, the N.I.L. doomsayers who swore paying athletes would lead to chaos have had their fever dreams realized. The once clandestine practice of funneling payments to players through shady middlemen has been replaced by donor collectives — groups organized by college boosters to seek opportunities for players to monetize their N.I.L. rights. Which is to say, they comprise middlemen with business cards.

Take the case of [Jaden Rashada](#). A highly touted high school quarterback recruit from California, Rashada committed first to the University of Miami in June 2022. He would receive, reportedly, an N.I.L. package that would pay him \$9 million.

Then the University of Florida offered him a package worth a reported \$13.85 million, and he changed his allegiance.

That money — from the Gator Collective, a group of donors who support the team — was supposedly for N.I.L. licensing, but it would have offered him A-list Hollywood compensation for doing as little as send a tweet. But as it turns out, the point is moot.

The Gator Collective reneged on its offer. The reasons were unclear. What was clear was that, just days before National Signing Day and after most schools had chosen quarterbacks for that recruiting cycle, Rashada's options were slim.

Rashada eventually signed to play at Arizona State, and his N.I.L. valuation has sunk to [about \\$400,000](#).

That outcome is utter madness, but by no means unique.

This is a reminder that, as always, the players are the most vulnerable parties in college sports. The players have no lobbying group to combat the N.C.A.A. in Congress. And while the N.C.A.A. is waiting on someone else to fix the problem, the players are merely pawns in a big business that's looking for more help from big government.

Once asked where its bylaws addressed the rights of its athletes, an N.C.A.A. compliance officer at the University of North Carolina [could reply](#) only, "That's a good question."

While the N.C.A.A. stalls and the players wait, we cannot lose sight of the real problem: The N.C.A.A.'s model is so fraught that the Supreme Court ruled against it in a 9-0 decision — so it's the rare thing that Brett Kavanaugh, Neil Gorsuch and Sonia Sotomayor all find noxious.

N.I.L. reform is a start. But even though the N.C.A.A. has lost that fight in the courts, the players remain outgunned. The N.C.A.A. is still legalized exploitation.

And that won't change because a few athletes get to do a couple of commercials.

Congress of the United States

Washington, DC 20515

March 29, 2023

Dear Chairman Bilirakis, Ranking Member Schakowsky, and Members of the Subcommittee,

As members of Congress and former college athletes, we write to first and foremost thank the House Energy and Commerce Subcommittee on Innovation, Data, and Commerce for choosing to hold this important hearing on Collegiate Athlete Name, Image, and Likeness (NIL). We especially appreciate the opportunity to follow up on a productive hearing and conversation on this topic from the last Congress. We hope this represents a first step in taking action at the federal level to protect our nation's student athletes and ensure they have the freedom to utilize their name, image and likeness, just like any other citizen.

We can personally attest that for too long student athletes have dedicated substantial time and energy contributing to athletic programs, yet still struggled affording basic necessities. All the while, these individuals have been denied the ability to exercise the same rights as every other American to profit from the use of the things most closely associated with who we are -- our names and images. Today's student athletes will now be afforded freedom and financial opportunity that so many others have been denied. This is a critical step in the fight to protect student athletes, and we hope to see this momentum carried forward.

Over the last several years, we have seen numerous state laws enacted to extend NIL rights to athletes across the country. This has been a long-fought battle to correct an egregious injustice, but the work is not done. As state laws come into effect, we've found ourselves at a point where some student athletes are able to access their rights, and the protections that come along with ensuring those rights, while others in states without NIL laws do not have those protections explicitly codified in law.

This makes it clear that the larger conversation about creating a federal standard for NIL, one that provides clarity and certainty for our student athletes and institutions alike, is not over.

These state laws have led to a patchwork of laws that has the potential to create a climate of confusing or contradictory policies. Already, we have heard from institutions in our states, including from Baylor University, whose president has previously offered her testimony to this subcommittee, that they are looking for clear guidance in order to best serve their student athletes. The only way to ensure this is through a federal standard. We know that various degrees of protection that already exist among the different state laws could potentially lead to student athletes not being fully able to capitalize on their NIL rights. Furthermore, rights that are not codified in law are likely to be protected inconsistently when they are protected at all.

While we might debate the pros and cons of various proposals, or even suggest new ones, the continued lack of a federal NIL bill means there is still no such federal protection at all. We welcome a continued conversation on the path forward, but a lack of any approach at all is the worst-case scenario for our ultimate shared goal of protecting both student athletes and institutions of higher education.

We recognize that there are many paths forward towards a shared goal of offering certainty and protection to our student athletes. We also recognize that there are other reforms for college athletics that Members of Congress would like to see addressed, just as we would. However, we believe, as we did two years ago, that there is widespread, bipartisan recognition of the need to pass a federal NIL standard. Failure to do so soon will only ensure we continue to operate under the current patchwork of state laws and institutional regulations, and do a disservice to student athletes by creating differing standards in different states. This only serves to make it all the more difficult for student athletes and schools to adapt when a federal approach finally does come about, as we believe it eventually will and must.

Even after Congress passes meaningful NIL legislation, we look forward to the opportunity to continue deliberating and debating with our colleagues on both sides of the aisle as to what other reforms are needed to protect student athletes.

As we recognized two years ago, this is one of very few issues facing us today where all sides recognize the need for federal intervention, and we hope that this hearing today is a step towards recognizing the time is now to pass a federal NIL standard. We look forward to working with this Subcommittee and the larger Committee, as well as our colleagues in the general Chamber, to ensure we do right by our student athletes.

We want to thank Chairman Bilirakis, Ranking Member Schakowsky, Chairwoman McMorris-Rodgers, and Ranking Member Pallone again for prioritizing a continued conversation around ensuring NIL rights for our student athletes. We would like to thank the witnesses on this panel for offering their time, experience, and expertise. We look forward to continuing the conversations and taking action to finally offer student athletes the right to capitalize on their talents and abilities, as all other Americans have the right to do.

Sincerely,



Rep. Colin Allred
Member of Congress



Rep. Emanuel Cleaver, II
Member of Congress



Rep. August Pfluger
Member of Congress

GUEST ESSAY

At Notre Dame, We Believe 'Student' Should Come First in 'Student-Athlete'

July 1, 2021 5 MIN READ

By John I. Jenkins

Father Jenkins is the president of the University of Notre Dame.

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We college presidents have learned to tread lightly when it comes to the passions of alumni and other fans for our athletic teams, whether it is one competing for a national championship or a less heralded group playing a rivalry game.

Recently, though, we have seen passions aroused in other quarters, as state legislatures have passed bills enabling our student-athletes to profit from the use of their name, image and likeness (often referred to as "N.I.L."). Now, the N.C.A.A. has approved a historic change to allow student-athletes to be compensated for use of their N.I.L., with schools and conferences allowed to adopt their own additional policies. The Supreme Court recently issued a ruling against N.C.A.A. regulations limiting education-related funds a school can provide to its student-athletes. Such developments will undoubtedly, in the short term at least, create disruption and uncertainty for college sports.

Rather than treading lightly around this situation, we should seize the opportunity for reform and improvement. As we consider the shape of such reform, I propose the following as a guiding principle: Any changes adopted should support and strengthen the educational purpose central to our institutions, and enhance the educational outcomes for our student-athletes.

In an interview with The Times six years ago, I expressed support for relaxing prohibitions against student-athletes profiting from use of their own names, images and likenesses for one simple reason — other students are allowed to do so. For example, a student writing a popular fashion blog may earn money by endorsing a product, or another in a rock band may try to profit from a poster with his or her image. We should allow our student-athletes similar opportunities. Certainly, there is potential for abuse here. Institutions or their boosters may offer what are actually recruiting or other enticements under the guise of payments for the use of N.I.L. We must fashion regulations to prevent such abuses, while still allowing student-athletes to earn fair market value for the use of their N.I.L. I believe that regulations currently under consideration by the Senate Committee on Commerce, Science and Transportation are on the right track.

There are other steps the N.C.A.A. and its member institutions should take to enhance the educational experience for and well-being of our students who play on athletic teams.

A disturbing disparity exists in the graduation rates from sport to sport, and too often the sports with lower graduation rates are those, such as football and basketball, with a high number of Black student-athletes. The most regrettable exploitation occurs when a student plays her or his sport for the full extent of eligibility and then leaves the institution without a college degree. We must take all reasonable steps to ensure that student-athletes, at the end of their college career, leave with a degree.

To that end I believe — and our practices at Notre Dame reflect this — that once a scholarship is granted, it should stay with the student through graduation, regardless of injuries or performance on the field. Furthermore, if grant-in-aid student-athletes in good standing interrupt their education to go professional or for other reasons, we will cover their tuition at any time should they return to college to complete their degrees. Such guarantee of educational benefits should be standard at all of the N.C.A.A.'s colleges and universities. Doing so would keep the education of our student-athletes front and center.

Additionally, a national policy should be established to limit the number of days during any academic term in which an institution may require its students to be away from campus for athletic purposes. This is necessary because there are schools where classes are made available online for student-athletes, or class schedules are arranged so that a student-athlete attends classes, for example, only two days a week. In-person engagement with faculty members and fellow students on a regular basis is an essential part of the college experience. Competition schedules and off-campus practice trips that make students miss much of the academic term cheat those young people of a genuine college experience.

For similar reasons, universities should be prohibited from concentrating student-athletes in so-called athletic dorms (which the N.C.A.A. banned in the 1990s but still endure in various forms at some schools) and instead include them in the general student housing population. If students' interactions and relationships are predominantly defined by their athletic programs, they are not receiving the educational experience they deserve.

For the well-being of our student-athletes, health care coverage for athletic injuries should be extended. Currently, the N.C.A.A. requires universities to extend health care coverage for any injuries to student-athletes for two years after they exhaust their eligibility. At Notre Dame, we provide coverage for 10 years after the injuries occur. We should extend the provision of coverage for athletic injuries to student-athletes across the nation, and find ways for schools with more limited resources to cover these added costs.

Some have called for compensating student-athletes for their athletic performance in college — sometimes called the “pay-for-play” model. I oppose this course. If we take it, our relationship to these young people will be that of an employer to an employee paid for services rendered, rather than to a student for whose education we, the institution, are responsible. There can be no doubt that our student-athletes — whether the star quarterback on our football team or the backup goalie on our women's soccer team — receive something extremely valuable. They have their tuition, room and board underwritten, giving them the chance to earn a bachelor's degree, which economists estimate is worth about \$1 million in average earnings over the course of a lifetime. More than that, they can enjoy the many ways in which education can enhance one's life that are not measured by greater earning power.

Of course, talented athletes who want to play professionally should not be forced to go to college to develop their talents in their sport. Every professional sport should create a minor or development league open to athletes with high potential. Professional baseball, hockey, basketball and many Olympic sports have systems in place that allow athletes to become professional while forgoing the opportunity to participate in intercollegiate athletics. Perhaps it is time for football to develop one as well. Young athletes would then have a choice: They could either sign up with a development league, or they could attend college and pursue a degree, while playing the sport they love.

Cynicism about college athletics is abundant and perhaps understandable, because some of its practices have given observers good reasons to be cynical. Still, I have spoken to many alumni who say the challenge of competing in their sport at a high level while attending college taught them invaluable lessons for their personal and professional lives. There is still reason to pursue that ideal of college sports, without making them into a semi-pro league.

Let's seize the opportunity for reform, while focusing on the work that is at the heart of our mission: the education of young people.

John I. Jenkins is the president of the University of Notre Dame.

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