

Written Testimony of Jason Stahl, Executive Director, College Football Players Association
U.S. House of Representatives Committee on Energy & Commerce, 29 March 2023

The problems of college athletics are not so large that they cannot be solved by those within the industry. At the College Football Players Association (CFBPA), we've developed a platform which attempts to address all these problems. Our Platform for Change is as follows:

- 1) CFBPA representatives at the bargaining table debating any changes to college football including, but not limited to, transfer portal regulations, NIL and expansion of the college football playoffs.
- 2) Guaranteed independent medical care enforced by a CFBPA-employed full-time employee representative.
- 3) Healthier practices similar to the NFL and Ivy League football enforced by a CFBPA-employed full-time employee representative.
- 4) Post-football health protections
- 5) A real off-season
- 6) A percentage of big money media rights revenue contracts for the players whose name, image and likeness are used in that media.
- 7) Competitive group NIL deals for college football players, facilitated by the CFBPA.

Today's testimony will be laid out in three parts. First, the history of the CFBPA will be delineated, paying particular attention to how our membership and leadership developed our Platform for Change. Second, each platform plank will be further explained from a problem-solution standpoint. Finally, this testimony will show how the CFBPA could and would work with other decisionmakers in college athletics to implement our Platform for Change. Throughout, this testimony will also point towards our platform's relevance to other sports within college athletics.

History of the CFBPA

During the summer of 2020, college football players, having been sent home from classes in spring semester 2020 because of the COVID-19 pandemic, were asked to return to campus to start practicing again for the 2020 season. As a result, during that summer, two movements of players formed to advocate for their rights. The #WeAreUnited and #WeWantToPlay movements eventually settled on a list of demands for returning to play including health and safety protocols and the right to opt out of playing in the 2020 season, among others. The final demand in their list included the creation of a College Football Players Association.¹ At roughly the same time, I started a newsletter to tell the realities of college athletics, particularly college football. That work quickly morphed into an effort to make real the CFBPA. I began connecting with past and present players from around the country who were interested in building a new player's association for college football players. With players and a core group of advisers, I founded the institution in July 2021. Since then, we've been building an independent, voluntary, nonpartisan, member-driven players association that brings together past, present and future college football players from all levels of play into a single institution. In spring of 2022, we formed our Leadership Committee (LC). The LC is comprised of committed Alumni Members and Current Player Members of the CFBPA. The LC acts to make sure that the CFBPA is a member-led player's association. It helps set organizational strategy; guide institutional decision making and drive our membership growth. Most importantly, the LC has guided the development of our Platform for Change. I'm proud to have two members of our LC here today. Justin Falcinelli played college football at Clemson University where he was a two-year starter, a first-team-all-ACC center and a two-time College Football Playoff National Champion. While at Clemson, Justin also won the award for Clemson's top Male Scholar Athlete.

¹ For more see Jason Stahl, "The Player Empowerment Movement: Possibilities and Pitfalls," *Jason Stahl's Newsletter*, 12 August 2020, <https://jasonstahl.substack.com/p/the-player-empowerment-movement>.

Here also from our LC is Jordan Meachum. Jordan was a running back first at Sacred Heart University where he also won numerous academic awards. Jordan finished his playing career at South Dakota State University where he was an NCAA Division I FCS National Championship runner-up.²

As we moved through 2022, the LC guided the development of our Platform for Change. Planks 2 through 4 (in the testimony summary on page 1) were released in May 2022 showcasing our organizational commitment to player health, safety and welfare. In July 2022, in the midst of a campaign to form our first-ever CFBPA chapter at Penn State University, we released, in conversation with Penn State members, planks 1, 5 and 6.³ Finally, plank 7 was unveiled in January 2023. In 2023, we have sought to expand our membership base across all levels of play in college football and to seek innovative ways to serve our members and implement our Platform for Change.

² For our full slate of Leadership Committee members, see: <https://www.cfbpa.org/leadership-committee>.

³ For more information on the CFBPA Penn State campaign, see: Richard Johnson, “How a Tweet Revealed the Difficulties of the College Athlete Unionization Push,” *Sports Illustrated*, 28 July 2022, <https://www.si.com/college/2022/07/28/college-athlete-unionization-tweet-revealed-difficulties>.

Delineation of the CFBPA Platform for Change

Plank #1:

In July 2021, coinciding with the founding of the CFBPA, college athletes for the first time had access to the free market to monetize their name, image and likeness (NIL). This basic economic freedom, enjoyed by every other American, had been denied to college athletes by the NCAA. In fact, over the twenty-first century, the NCAA spent many millions of dollars in legal and public relations fees seeking to deny college athletes this basic right, thus making them second-class citizens. College athletes fought back in the courts and in state legislatures to secure access to this free market for the first time. With the writing on the wall, the NCAA finally dropped their restrictions on athletes monetizing their NIL nationwide. Thus, since July 2021, we have new evidence of the impact of athletes monetizing their NIL. The vast majority of that evidence suggests that the impact has been overwhelmingly positive. College athletes have secured new wealth for themselves and their families. This NIL wealth has come largely in two different forms. First, athletes have made different deals with brands and companies to promote products and services using the power of their social media. Secondly, a much smaller portion of college athletes have been paid largely for their athletic skills through so-called independent “collectives” on some university campuses. It is the position of the CFBPA that both forms of NIL are net-positive and welcome.

To the extent that there are problems in the NIL free market that call for new “consumer protections,” they are extraordinarily manageable by industry stakeholders including players through their independent players associations. It is the position of the CFBPA that the federal government should stay out of the NIL free market as they would stay out of the NIL free market for every other American citizen. At the CFBPA, we believe that there should be no federal government legislative roll-back of the gains college athletes have made in the NIL free market. If new rules and

regulations are needed for athletes monetizing their NIL, administrators at the NCAA and in the conferences should sit down with the players through their independent players associations to discuss and come to agreement around such changes. Once an agreement was made, the CFBPA could assist with enforcement and with screening attorneys and agents to protect the interests of the players. Platform plank #1 is designed to give college athletes a real collective voice in the decision-making within college athletics. Whether it is changes to NIL guidelines and their enforcement; transfer portal changes; college football playoff expansion; or any other changes to college football the NCAA, conferences and College Football Playoff administrators need to end the paternalism of the past. They should come to the table and bargain with the players as equals regarding the conditions of their workplace.

Plank #2:

Lack of independent medical care is a massive problem for all college athletes, but particularly for college football players given the violence of the sport. From our members, we've heard countless stories of compromised medical care offered at the institutional level. Within a football program, an uncaring coach has virtual free reign to exert undue pressure upon training and medical staff to push a player to return to play before a brain or body injury has properly healed. Given that the NCAA has shown unwillingness to address this well-known problem, we at the CFBPA believe that new solutions are needed. We believe that at least part of the solution to this systemic problem is independent medical care ensured by a CFBPA-employed full-time player employee representative. This representative would be an on-the-ground advocate for players on a team to ensure they were getting proper independent medical care including a guaranteed second opinion on an injury from non-university-affiliated medical staff. The rep would be employed by the CFBPA to ensure independence and would likely be drawn from our pool of Alumni Members

given their familiarity with the realities of the game and with the realities of what it means to play, and be injured in, college football.

Plank #3:

The CFBPA full-time employee representatives described in plank #2 would also make interventions in the practice environment in college football. The practice environment, particularly the off-season practice environment, needs reigning in. Injury rates, especially concussion injury rates, remain extraordinarily high in off-season practices. Tragically, player deaths are present as well. The well-known death of Jordan McNair in a University of Maryland football practice in May 2018 is likely the first to come to mind, but this was not a one-off event. Between 2000 and 2016, 33 NCAA football players died playing the game. Six of these were caused by traumatic injuries (severe collisions) while the remaining 27 were caused by intense exercise. Overall, 32 of the 33 deaths occurred during the offseason.⁴

The shocking thing about all of this is it doesn't have to be this way. Practices remain controlled situations where coaches have almost complete authority over the risks taken by players. Additionally, the NFL and Ivy League football have shown a different path. Over the past decade, the NFLPA has bargained for more sane practice environments which have reduced contact and thus reduced injuries. For instance, once study showed that while 72 percent of concussions occur during practices in college football, the number in the NFL is only 7 percent.⁵ Likewise, the Ivy League has also dialed back contact in football practice with excellent results. Dartmouth College has been at the forefront of this movement by employing new technology designed to eliminate

⁴ For more on the practice environments of college football, especially in the off-season, see Jason Stahl, "The Off-Season Black Box," *Jason Stahl's Newsletter*, 9 February 2021, <https://jasonstahl.substack.com/p/the-off-season-black-box>.

⁵ For a summary of the study and a link to its findings, see: Alan Blinder, "[Football Practices Pose More Concussion Risk Than Games, Study Suggests](#)," *New York Times*, 1 February 2021.

players on the same team hitting one another entirely in practice.⁶ These NFLPA and Ivy League reforms could be replicated across college football and enforced by the CFBPA rep.

Plank #4:

At the CFBPA, we have many Alumni Members from across the country—these are players who have played the game in the past and want to support our efforts building an independent players association. This platform plank was written with them specifically in mind. Quite simply, there are many, many, many men across the United States who continue to suffer in silence with their playing days injuries to their brain and body. Many lack adequate medical care and have family members who care for them without the necessary resources to do so. We welcome NCAA and conference administrators sitting down at the bargaining table with CFBPA representatives and figuring out the best way to provide post-football health protections to these suffering ex-athletes. We are open to all solutions to this problem and think particularly that access to university hospitals and clinics, free of charge, needs to be on the table when considering the care that is needed for individuals suffering with injuries from their playing days.

Plank #5:

College football players, and college athletes generally, are massively overworked. It is well-known among college athletes that the 20-hour limit of countable “athletically-related activities” in-season and the 8-hour limit out of season are broken as a matter of routine. The NCAA used to have clear PDF charts online which athletes could download to understand the 20/8 limits, but even

⁶ For more on Dartmouth, see Leana S. Wen, “[Here’s One Way to Make Football Safer](#),” *Washington Post*, 28 November 2022.

those were recently removed.⁷ Representatives of independent players associations need to be involved in establishing clear work hours limitations that are then enforced by representatives from these associations. Quite simply, the NCAA and the conferences have shown no interest in real enforcement. Any coach who wants to break the limits knows he/she is free to. In addition, college football players, and college athletes generally, need to have an enforced and clearly demarcated off-season to be with their families and friends. When we attempted to organize our first CFBPA chapter at Penn State University in July 2022, one of our members there told us that the off season was effectively whittled down to just two weeks. This is unacceptable.

Plank #6:

Media rights contracts for Power Five football conferences and the College Football Playoff Championship (CFP) have exploded in recent years and will continue to do so in the future—particularly with the CFP expanding from 4 teams to 12 in 2024. In the coming years, FBS football – particularly at the Power Five level – will be awash in many billions more of new dollars. The players that generate this wealth deserve to share in it. The CFBPA, and independent players associations representing other televised sports that are part of these media rights deals, should sit down at the bargaining table and hammer out revenue sharing agreements. There will be plenty of new money in the system to share for all athletes whose name, image and likeness are used in media broadcasts without impairing overall operations of athletics departments. Moreover, with CFP expansion, direct NIL compensation for athletes who make the tournament is certainly now possible. Such a prize pool of money available to the players on the teams which make the tournament would improve the overall tournament for all involved, especially the players and fans. Unfortunately, as it pertains to

⁷ The charts used to be available in a link at this page, but the link is now dead: <https://www.ncaa.org/sports/2013/11/19/division-i-20-8-hour-rule-materials.aspx>.

athletic departments and conferences, the NCAA has recently declared that they are not allowed to make direct NIL payments to athletes for their appearance in media broadcasts. Lifting this barrier would be a good first step to open up competition between conferences and individual football programs for player talent. If such a change is not made, the money will continue to go only to the coaches, administrators and increasingly absurd facilities upgrades. Finally, to the extent that players are being taken advantage of by collectives and other third-party entities, direct payment by departments and conferences—done with full transparency—is a way to help solve this problem. Rather than relying on third-party collectives to pay players, conferences and NCAA member institutions should simply pay the players themselves for use of their NIL in media broadcasts.

Plank #7

Briefly, our final plank addresses the need for group NIL opportunities which can best be done by an independent players association. With membership expansion, we hope to enact this plank which would distribute NIL opportunities more broadly and likely disempower bad actors in the NIL market. Being able to openly and transparently facilitate NIL deals for the players will reduce fraud.

Implementation of the CFBPA Platform for Change

Change is here in college athletics and it is time for administrators in the NCAA, conferences and member institutions to embrace this change. Player empowerment is only going to grow and there can be no return to the paternalism of the past through federal legislation or other measures. At the CFBPA, we are ready to sit down at the table with administrators who are interested in moving ahead into the future. Along these lines, we seek to use any means at our disposal to implement our Platform for Change. If you look closely at our platform and the way that it is worded, you'll see that there are any number of ways we could work to implement its planks. Some of the planks could be worked towards directly by the CFBPA independently of the NCAA, the conferences or individual programs. With all of the planks, we could work directly with any program, coach or conference at voluntary implementation. Finally, and most obviously, we could work with any player at any team to unionize their team and/or conference to implement the platform. In this final case, we'd work to write the platform into a legally-binding and enforceable collective bargaining agreement. In whatever way we implement our Platform for Change, the goal is always the same: to improve the lives of college football players past, present and future. For administrators who are interested in doing the same, our door is open to you.