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**Energy and Commerce Committee**  
**Subcommittee on Innovation, Data & Commerce**  
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Chair Bilirakis, Chair Rodgers, Vice Chair Walberg, Ranking Member Schakowsky, and distinguished members of the Subcommittee: Thank you for this opportunity to provide testimony and speak with you all.

My name is Victoria Jackson, and I am Associate Clinical Professor of History at Arizona State University. I am a former college track and field athlete and retired professional runner; I competed for the University of North Carolina at Chapel Hill as an undergraduate student and Arizona State University as a PhD student. After earning a national title in the 10,000 meters and helping my Sun Devil cross country and track and field teams earn three national team trophies in a single academic year, I signed an endorsement contract with Nike and continued my athletic career competing on national and international circuits. While pursuing my PhD in history I did not originally intend to study sports history, but found my way to the field, and now as a member of the History faculty at ASU I have built out our sports history curriculum, including a course I am teaching right now (and have been for almost a decade) on the history of American college sports.

As my students quickly come to appreciate, the institution of American college sports holds a rich history, full of contradictions and complexities. This week we are reading passages from Walter Byers's book, *Unsportsmanlike Conduct: Exploiting College Athletes*,<sup>1</sup> including the history behind the move from a long-in-place subsidization model that involved boosters being connected with athletes to pay for their college expenses to the novel model of the athletic grant-in-aid,

untethered from socioeconomic need or academic merit. Adopted in 1956, the athletic scholarship paid for by the school was understood by many at the time to be “pay for play.” This was the context in which the term “student-athlete” was coined, because scholarship athletes understood their pay to be a salary, and when injured or killed “on the job,” state industrial labor boards agreed and began to award workers’ compensation injury and death benefits. “Student-athlete” worked to place college athletes outside the category of employee and their scholarships outside the category of pay.

That the world’s athletes had to maintain and prove their amateur status to be eligible to compete in the Olympic Games certainly helped American colleges’ effort to entrench amateurism in college sports. Olympic amateurism as a global standard of athlete participation eligibility meant that American college amateurism could lean into the morality and purity rhetoric around amateur athletics coming out of the Olympic Movement. But the growth of the Olympic Games and the pressures on athletes to devote more time to training (not to mention the democratization of the Games and the diversification of the participants) led to the eventual abandonment of amateurism in the Olympic Movement by the 1980s.<sup>2</sup> (Much like big-time college sports before the NCAA lifted its restriction placed on athletes preventing them from making money from third parties, a vibrant underground economy moved money to Olympic hopefuls to support their training, travel for competition, and Olympic dreams.<sup>3</sup>) Sport by sport, international federations rewrote their eligibility rules to allow athletes to accept prize money, enter into contracts with third parties to make money, and even play for professional clubs in professional leagues, and still maintain their eligibility to compete in the Olympic Games. Despite concerns that spectators would lose interest in the Olympics and that the Games could die if they featured professionals, the Olympic Games are as popular and profitable as ever.

Why didn't U.S. colleges abandon amateurism when the world did?<sup>4</sup> The simple answer is American football.

The most popular and lucrative spectator sport in the United States is American football, and the United States is essentially the only country in the world where the game is played. This has meant that American college sports has been able to do its own thing and not have to follow along with global sports business practices and policy redesign efforts. We often hear that what makes American college sports unique in the world is the higher education bit—that the U.S. is the only place with elite, best-in-class sports leagues operating in higher education. True enough, but the question is why. And the answer is: Because we play football—our peculiar American varietal of the game born on college campuses, and went on to seed the growth and development of our industrialized athletic departments, and would become (rather improbably) the primary marketing, branding, and community-outreach vehicle for so many of our premier institutions of higher learning. If the game that Rutgers and Princeton had played in 1869 had remained a foot-centric football, and had college soccer been the sport whose popularity had exploded, mirroring developments in much of the rest of the world, the United States would have been much more integrated into the global sports community and for a much longer period of history.

College football has always been a sport apart, and football athletes – especially those at the top 60 or so football schools – have always been in environments separate and qualitatively distinctive from the rest of the sports teams at their university. Football, unlike other sports, has always served the industry of higher education as much as the industry of college sports. Schools have always cared more about football, spent more on football, poured more marketing and fan experience resources into football, hired more football personnel, paid more to football coaches and support staff, and made more on football.

The money in college football has further ballooned over the past decade, for a few key reasons that I explained in a 2022 policy white paper:

The story of rising college football money is part of the global story of rising live sports and media rights. The price of purchasing media rights to broadcast live sports has increased dramatically over the past ten years. With streaming companies that have disrupted traditional TV broadcast networks, sports have become the most important and popular remaining type of program people still watch live. This has raised the value of media rights for sports leagues and teams, because media companies know they will be able to sell advertising slots at high prices—those companies want to air ads during a program that will receive more eyes and one that viewers cannot skip over by fast-forwarding. Meanwhile, streaming platforms have entered the live sports scene, aggressively bidding on broadcasting rights, knowing that sports fans will sign up for the platform when it is the only place to watch their team. And traditional broadcast networks that have developed their own streaming platforms know that placing key games on them will increase subscriptions too. Once the top football schools busted the NCAA's TV monopoly (enabling schools and conferences to negotiate their own TV deals) in 1984, they have been able to grow the money and claim increasing control ever since, launching the Bowl Championship Series in 1996, and the College Football Playoff in 2014. The five most powerful conferences hold a precarious alliance. They benefit from acting together but compete with each other for talent and to maximize market reach and value. Conference realignment, such as when the Big Ten brought in Rutgers (NYC market) and Maryland (DC), is TV market expansion. College football has benefited greatly from the rising value of sports media rights. The Power 5 conferences' collective revenue, just shy of \$4 billion annually today, was only \$2.1 billion in 2014-15. Over the next six years, from 2014 until the start of the coronavirus pandemic, the Power 5 experienced a remarkable rate of growth, increasing by an average of \$252 million each year. But the story of rising college football power is explained by more than the increased value of media rights. This is also a story of the consolidation of money and power by the Power 5 conferences thanks to their 2014 autonomy move and the launch of the College Football Playoff, which enjoyed the brilliant yet coincidental timing of happening in tandem with the broadcast media disruptions that elevated the market value of sport.<sup>5</sup>

As college sports leaders like to point out, most universities do not make money on college sports. For the top 60 or schools, intercollegiate athletics is not a money-making business but a money spending business, and they have been spending more and more of it. This increased spending on football—but with schools continuing to keep athlete compensation artificially low—has resulted in escalating coaches' salaries (across the board, from head coaches all the way down, and across all sports), facilities arms races, and athletic department staff explosions.<sup>6</sup> At a recent hearing of the National Labor Relations Board, USC football player Brandon Outlaw detailed

what all that spending on other people's jobs means for the lived experience of the football athlete: being monitored and policed by many people working in a slew of jobs that likely only started to exist in the twenty-first century and in the era of bloated, irresponsible, outrageous spending.<sup>7</sup>

Since the moves in the summer of 2023 resulting in the demise of the Pac-12 Conference,<sup>8</sup> the battle among schools to gain a place at the top has only intensified. (See: Florida State University.<sup>9</sup>) I no longer use the term Power 5, but "top-of-pyramid football schools" and I no longer consider this to be conference realignment but ruthless consolidation in what is beginning to seem like a college football hunger games, and a sort of backing-our-way-into a football premier league.

The demise of the Pac-12 Conference more than any other event in the recent past shows that football policy drives college sports policy; that football money and positioning oneself within the category of football winners (right now, the Big Ten and Southeastern Conference) matters more than anything else in college sports. Obviously, Pac-12 conference competition has been a superior experience for college softball, beach volleyball, tennis and other athletes than what they will have to endure next academic year in a coast-to-coast megaconference world: travel spanning thousands of miles roundtrip and multiple time zones that will make balancing academic and athletic roles and responsibilities even more challenging than they already were...and the potential mental and physical health challenges that come with the lack of sleep and elevated stress created by these conditions.<sup>10</sup> Was these athletes' excellent, best-in-world softball league sacrificed for a better football deal, or are these athletes being promised a better experience in their new conferences next year? Did anyone ask them which conference of play they would prefer?

Addressing these issues – and the poor policy design that invites bad business practices and improperly aligned incentives – seems to matter more to the college athlete experience than establishing a uniform nationwide NIL standard, deciding whether to locate NIL collectives inside or outside of the formal athletic department, or, really, anything else NIL-related right now.

What they highlight is that American institutions of higher education have taken for granted their privileged status and their responsibility to serve as guardians of American U-23 sports.

They have been able to do this because of the unique nature and history of American football, and they have been able to do this because American football pays for (nearly) everything else. This is not because other sports do not have value, both monetary and otherwise, but because college sports' design means that football subsidizes the other sports. This also means that football athletes' deserved share of football money contributes to the subsidization of the other sports.<sup>11</sup>

Reflecting on this history and the recent abandonment of the things that were core principles of college sports, namely geographical coherence, and local and regional competition to best serve athletes, perhaps the time has come to reevaluate the membership association structure of college sports oversight. We are at the point when it would not hurt to explore different governance models and consider whether it is in need of replacement.

Under a different organizational structure, a national body could have blocked or slowed down the events that had led to the end of the Pac-12, questioned why the Big Ten and Pac-12 were playing only football in the Fall of 2020 if those athletes were indeed the same as other athletes on campus, or actually enforced the 20-hours-per-week policy so that Brandon Outlaw and other USC football players did not have to devote nearly 60 hours per week on sport (without the pro football pay that would come with it in other sports industries).

It may come as a surprise at this point in my testimony that I am excited that Congress has identified, and the NCAA has encouraged, a needed national policy redesign conversation on college sports. This moment is a great opportunity to reimagine and get to work building what American college sports can and should be. I would be honored to have the opportunity to participate in this effort, and I hope more experts with a broader range of disciplinary expertise are invited to participate.

We must be sure that new policies do not continue to expect college football athletes to pay for the world-class academic and athletic experiences of athletes in other sports.<sup>12</sup> Schools, after revenue sharing with football athletes, for example, can devote a portion of the schools' football money to other sports.

We must give a chance to all design ideas rather than extinguishing them as nonstarters. The employee model for athletes in some sports at some levels should be explored. More innovation and creativity in experimenting with educational experiences and timelines would be refreshing and welcome too.

We must begin to tease out and optimize each of the varied sports industries operating under the umbrella of college sports. This process must be honest and clinical. I have long argued that working on policy to serve each sport in a sport-by-sport manner or in various groupings of sports not only will allow for football athletes to get the better deal that they deserve but also that women's sports and Olympic sports will be able to come out from under the shadow of football and football policy.

We must work in a manner that ensures that college sports are actively engaged with the broader American sports ecosystem. The Commission on the Status of the U.S. Olympics and Paralympics<sup>13</sup> has been hard at work to redesign the American sports ecosystem. College sports are the most important space of Olympic development in the United States, as I testified at the CSUSOP hearing in September 2023.

“For the past half-century, for most athletes in most sports, Olympic development has happened outside of the USOPC's purview and within school sports. Seventy-seven percent of U.S. Olympians (475 out of 613 athletes) in the Tokyo Summer Olympic Games spent time competing in American college sports programs....

An elite under-23 sports system has grown in higher education over the past fifty years to make American college sports the best Olympic development system in the world. The unique business model of big-time college sports is centered around college football, which subsidizes Olympic sports in American universities.

As big-time college sports has ballooned into a multibillion-dollar industry, schools have increased spending on coaches, administrative positions, training and competition

facilities, medical and academic support programs, and other benefits enjoyed by all athletes in all sports. This best-in-world sports infrastructure attracts the world's best athletes; more than 20,000 international athletes participate in NCAA sports each year. The Power 5 conferences of the Atlantic Coast Conference, Big Ten, Big XII, Pac-12, and Southeastern Conference sent 749 Olympic athletes to the 2016 Rio de Janeiro Summer Olympic Games, with 442 athletes, or 59 percent, representing any one of more than 50 countries other than Team USA. At the 2023 Women's World Cup in Australia and New Zealand, 151 athletes (20.5 percent and on 22 of the 32 national team rosters) spent time developing in American college soccer programs.

...It is worth pausing here to marvel at this improbable, kludgy scheme. College football, that most American of all pursuits, is paying for the development of Olympic talent from all corners of the globe.”<sup>14</sup>

I see great opportunity to build a new model for U.S. Olympic and Paralympic sports on college campuses, and one that is less dependent on football money. This model would invite new subsidization opportunities and revenue streams by mixed public and private funding through a combination of local, state, and federal taxes to support sports infrastructure serving both college teams (a.k.a. Olympic/Paralympic development) and grassroots community sports in shared-use facilities. It would align with higher education's public-serving mission, reinforce the concept of sports and play opportunities as a public good, and allow for schools to embrace community members and invite folks onto campus as sports participants in addition to as fans and supporters. *Sportico* invited me to write about these new policy ideas in two pieces, one that includes the moonshot of a federal tax on sports betting to subsidize Olympic development with the money running through college sports programs and another that encourages college sports leaders to join the optimistic, future-embracing American sports ecosystem redesign project happening within the CSUSOP.<sup>15</sup>

I am grateful for my experiences as a college athlete and know that I am very privileged to have been able to leverage my opportunities to “go pro” in both sport and school. I had what was very close to idyllic college sports experiences at both universities at which I attended and competed, thanks to supportive faculty and coaches;<sup>16</sup> the system I encountered worked to serve me. That said I have met too many former and current athletes hurt by policies and practices that I



know we can fix. I am inspired by a strong sense of responsibility and obligation to work to make this complex, complicated college sports enterprise better so that more athletes are able to reap benefits like those I had enjoyed. For years I have felt like I have been jumping up and down on the sidelines saying, “Put me in, Coach!” I appreciate the Subcommittee agreeing to “put me in” today, and please know that I will always say yes to working to build better sports systems in the United States.

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<sup>1</sup> Walter Byers with Charles Hammer, *Unsportsmanlike Conduct: Exploiting College Athletes*, Ann Arbor: University of Michigan Press, 1995.

<sup>2</sup> John Gleaves and Matthew P. Llewellyn, *The Rise and Fall of Olympic Amateurism*, Urbana: University of Illinois Press, 2016.

<sup>3</sup> Barbara Smit, *Sneaker Wars: The Enemy Brothers Who Founded Adidas and Puma and the Family Feud That Forever Changed The Business of Sport*, New York: Ecco, 2008.

<sup>4</sup> A joint NCAA-United States Olympic Committee Task Force recommended in 2005 that colleges should consider loosening some of the rules of amateurism for athletes in Olympic sports, including, for example that athletes in Olympic sports who earned prize money and made money from contracts with third parties before beginning their participation on a college team would be eligible to compete in college sports. Report of the USOC/NCAA Joint Task Force, September 1, 2005.

[https://ncaaorg.s3.amazonaws.com/committees/ncaa/liaison\\_oly/OSLC\\_NCAAUSOCJointTaskForceReport.pdf](https://ncaaorg.s3.amazonaws.com/committees/ncaa/liaison_oly/OSLC_NCAAUSOCJointTaskForceReport.pdf)

<sup>5</sup> Victoria Jackson, “Want College Sports Reform? Start with Paying Power 5 Football Players,” *Arnold Ventures*, March 4, 2022.

[https://craftmediabucket.s3.amazonaws.com/uploads/AVCollegeSportWhitePaper\\_NoPay\\_VictoriaJackson-v2B-1.pdf](https://craftmediabucket.s3.amazonaws.com/uploads/AVCollegeSportWhitePaper_NoPay_VictoriaJackson-v2B-1.pdf) See Note 4: Steve Berkowitz, “Power 5 Conference revenues slowed by COVID-19 pandemic, tax records show,” *USA Today*, May 20, 2021: <https://www.usatoday.com/story/sports/college/2021/05/20/power-five-college-sports-conference-revenues-slowed-covid-pandemic/5184848001/>

<sup>6</sup> Victoria Jackson, “Want College Sports Reform? Start with Paying Power 5 Football Players,” *Arnold Ventures*, March 4, 2022.

[https://craftmediabucket.s3.amazonaws.com/uploads/AVCollegeSportWhitePaper\\_NoPay\\_VictoriaJackson-v2B-1.pdf](https://craftmediabucket.s3.amazonaws.com/uploads/AVCollegeSportWhitePaper_NoPay_VictoriaJackson-v2B-1.pdf) See Notes 7, 8, and 9: USA Today College Football Coaches Salary Database, <https://sports.usatoday.com/ncaa/salaries/football/coach>; USA Today College Football Strength Coaches Salary Database, <https://sports.usatoday.com/ncaa/salaries/football/strength>; Steve Berkowitz, Dan Wolken and Tess DeMeyer, “NCAA’s Power 5 schools see steep raise in pay for nonrevenue coaches,” *USA Today*, August 12, 2019: <https://www.usatoday.com/story/sports/2019/08/12/ncaa-power-5-schools-steeply-raising-pay-non-revenue-sport-coaches/1946843001/>; “The Facilities Arms Race: Starting and never ending with the Power 5,” *Front Office Sports*, April 11, 2017: <https://frontofficesports.com/the-facilities-arms-race-starting-and-never-ending-with-the-power-five/>; Will Hobson and Steven Rich, “Playing in the Red,” *The Washington Post*, November 23, 2015: <https://www.washingtonpost.com/sf/sports/wp/2015/11/23/running-up-the-bills/>

<sup>7</sup> Brandon Outlaw’s NLRB hearing testimony as described in Billy Witz, “At What Point Should College Athletes Be Considered Employees?” *New York Times*, December 23, 2023.

<https://www.nytimes.com/2023/12/23/us/college-athletes-employees-nlr-b-hearing.html>

<sup>8</sup> Ralph Russo, “Realignment, stunning demise of Pac-12 usher in super conference era,” *AP Sports*, December 18, 2023. <https://apnews.com/article/conference-realignment-e0356caa1c9cf5ba2630e7b23a1a06ed>; J. Brady McCollough, “Inside the Pac-12 Collapse: Four Surprising

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Moments That Crushed the Conference,” *Los Angeles Times*, August 16, 2023.

<https://www.latimes.com/sports/story/2023-08-16/pac-12-collapse-decisions-realignment-ucla-oregon>

<sup>9</sup> Amanda Christovich, “Seminole Moment: FSU Wants to Leave ACC, Will Take it to Court,” *Front Office Sports*, December 22, 2023. <https://frontofficesports.com/seminole-moment-fsu-wants-to-leave-acc-will-take-it-to-court/>

<sup>10</sup> Victoria Jackson, “The Pac-12 is the ‘Conference of Champions.’ Don’t Let it Disappear,” *Los Angeles Times*, October 14, 2023. <https://www.latimes.com/opinion/story/2023-10-14/pac-12-ucla-usc-football-olympics-sports>

<sup>11</sup> Uniform policies (in the sense of what athletes receive and how they are treated) help the college sports enterprise continue as an education nonprofit. Schools have long refused to admit the reality of the business that they operate: one made up of many sports industries operating within the umbrella of college sports, serving different business ends and athlete goals, and holding different missions. Their notion of collegiate amateurism—and their careful reading of the U.S. tax code that enables them and donors to not pay taxes—becomes vulnerable when they do.

<sup>12</sup> I wrote about this for *The Athletic* on the eve of the Tokyo Olympic Games. Victoria Jackson, “We’re all complicit to an extent’: How Team USA uses college football and basketball as funding sources,” *The Athletic*, July 22, 2021. <https://theathletic.com/2696130/2021/07/22/were-all-complicit-to-an-extent-how-team-usa-uses-college-football-and-basketball-as-funding-sources/>

<sup>13</sup> Commission on the State of the U.S. Olympics and Paralympics. <https://www.csusop.org/>

<sup>14</sup> Victoria Jackson, “Testimony at the Public Hearing of the Commission on the State of the U.S. Olympics and Paralympics,” September 8, 2023. <https://www.c-span.org/video/?530206-1/state-us-olympics-paralympics-part-1> If the soon-to-be-shuttered Pac-12 Conference – the Conference of Champions, thanks to its Olympic sports – were a country, it would have placed 5<sup>th</sup> in the medal count at both the Tokyo 2021 and Rio 2016 Olympic Games. In Tokyo, 236 athletes with Pac-12 ties represented 57 different countries.

<sup>15</sup> Victoria Jackson, “The NCAA Must Go Bigger to Hold the Attention of Congress,” *Sportico*, February 1, 2023. <https://www.sportico.com/leagues/college-sports/2023/ncaa-redesign-1234707816/>; Victoria Jackson, “College and Olympic Sports Need Rebuilds. Why Does Only One Get It?” *Sportico*, November 29, 2023. <https://www.sportico.com/leagues/college-sports/2023/ncaa-crossroads-college-olympic-sports-1234747966/>

<sup>16</sup> I am taking this opportunity to shout out and thank coaches Michael Whittlesey and Louie Quintana, and professors Theda Perdue, Michael Green, Peter Iverson, and Brooks Simpson.