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“Antitrust Law and the NCAA: Examining the Current Climate” Hearing

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Introduction

Chairman Jordan, Ranking Member Raskin, Chairman Fitzgerald, Ranking Member Nadler, and distinguished members of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust, thank you for the opportunity to testify before you today on the important topic of legislative support for college athletics.

My name is Arthur Albiero, and I am honored to testify before this committee regarding the intersection of antitrust law, the NCAA, and the current landscape of college athletics. I come before you as a long-time coach, a committed advocate for the student-athletes, and someone who believes deeply in the values that collegiate athletics can provide to young women and young men—values like education, opportunity, and the development of leadership and character.

I have had the privilege of being a college swim coach for almost 29 years. I am currently the Head Men's and Women's Swimming and Diving Coach at the University of Louisville, now on my 22nd season. I am a former collegiate swimmer and was a 2x Division 2 NCAA Champion and 18x All-American when I attended Oakland University and Cal State Bakersfield. I have been married for almost 30 years to my wife Amy, also a former collegiate swimmer, who was the 1993 NCAA D2 Swimmer of the year, and a 27-time All American Swimmer at Oakland University (Rochester Hills, MI). I am the father of three children who grew up swimming and all participated in college swimming at the University of Louisville. In fact, our youngest will be finishing her college swimming career at the NCAA Championships next week. I can attest that our children had life transforming formative experiences as student-athletes. Our oldest son Estefan was a Walk-On into the program, and he would be the first one to say his success today in the business world is highly correlated to his learned experiences as a student-athlete. Our middle son Nicolas won two NCAA Titles in 2021 in the 200yd Butterfly and 200 Medley Relay and competed in the recent 2024 Paris Olympic Games; he earned an MBA from UofL. Our daughter Gabriela won a Gold Medal for Team USA at the 2023 Pan American Games in Santiago, Chile and she is currently finishing her MBA at the UofL and her last swim meet at the NCAA Championships next week.

I have a unique perspective in college swimming, as a former student-athlete at NCAA Division 2 programs at Oakland University and Cal State Bakersfield, as a coach at a top NCAA Division 3 program, Kenyon College where my team won 6 NCAA Team Titles during my three-year tenure, and now as the coach at UofL, a consistent national high achieving NCAA Division 1 program. In fact, my team at UofL has had 2 Recent NCAA Top 4 finishes for the Women in 2019, 2023, and two recent NCAA Top 5 finishes for the Men in 2019, 2021.

My wife and I share the same passion for impacting lives through the sport of swimming. She is the owner/head coach of one of the top age group swimming programs in Kentucky that provides great opportunities for children (ages 7-18yrs old) in our community. She opened the swim school in 2018 and feels strongly that every child in Louisville should be safe around water and have the opportunity to learn to swim. Many of her students have gone on to swim at the collegiate level.

Currently, I am serving as the president of the College Swimming Coaches Association (CSCAA), but I am not here to represent the CSCAA in this hearing. I am here as a former collegiate athlete, a long-time college coach, and as a father and husband who cares deeply about the future of this sport and the opportunities for student-athletes.

As a coach at the University of Louisville, I am proud of the growth and development of the swimming and diving programs that I have built with a great staff, and great support from our university administration. We have gone from a program at the bottom of Conference USA, to a program that has consistently, in the last decade or so, produced well over 100 All-American swimmers and divers, 13 Individual NCAA Titles, 1 Relay NCAA Title, 2 Women's NCAA Top 4 finishes, 4 Women's NCAA Top 5 Finishes, 7 Women's NCAA Top 6 finishes, 2 Men's NCAA Top 5 finishes, 4 Men's NCAA Top 10 finishes, 12 Men's NCAA Top 15 finishes. We have also produced two Team USA Olympic swimmers, Zach Harting and Kelsi Worrel. Kelsi established a World Record 100m Butterfly (25m), and she also earned an Olympic Gold Medal in the 400m Medley Relay at the 2016 Rio Olympic Games.

Our team at UofL will be competing at the 2025 Women's NCAA Championships in Seattle next week, with the men's team competing the following week.

I have also been fortunate to be a coach for Team USA in international competitions, including:

- TEAM USA HEAD COACH – 2016 Windsor SC World Championships; 2018 Tokyo Pan Pacific Championships; 2023 Dublin U23 European Championships
- TEAM USA Coaching Staff – 2015 Toronto Pan American Games; 2017 Budapest World Championships; 2019 Gwangju World Championships

The value of Non-Revenue Sports in College Athletics, and the Imminent Threats

Based on my experience, I have seen firsthand the transformative power and impact that college sports, and specifically swimming and diving, can have on young men and women. The value of being a part of an athletic team is a difference-maker in the educational process and in our program at Louisville, we see this process “NOT ABOUT swimming and diving, but THROUGH swimming and diving”. That is the power of collegiate athletics...it changes lives.

I am certainly proud of our athletes’ accomplishments in the pool, but just as proud of their accomplishments outside the pool. We have countless success stories of former swimmers who are now doctors, engineers, nurses, business-owners, CPAs, lawyers, and more. These now adults are leaders in their communities and are making a difference in this country. At Louisville, our student-athletes dedicate themselves fully to their craft, striving for excellence both in their sport and in the classroom. In fact, our Fall 2024 Swimming and Diving Team GPAs were 3.43 for our Men’s program and 3.51 for our Women’s program. Overall, our program has produced two winners of the prestigious “Fulbright Scholars Award” – Liz Halet (2010) and Clayton Coleman (2013).

I give all the credit for these success stories to the current structure of our program at the University of Louisville. We certainly do the work in the pool, but our student-athletes are also the beneficiaries of a robust benefits structure. We now have 10 mental health professionals who work with our athletic programs. We also provide comprehensive nutrition education and support, medical care and support, athletic academic support services, and recovery massage therapy. For a full scholarship athlete at UofL, this number totals over \$100,000 annually.

Unfortunately, the current structure of college sports compounded by the complexities of antitrust law, places these athletes and their sports in a precarious position. As athletic departments across the country prepare for the significant changes in the horizon for college athletics, the side effects of these changes will surely impact Olympic (Non-Revenue) Sports. While the proposed House settlement will provide a measure of structure to the NIL landscape, it also has consequences for athletics departments that by and large do not generate enough revenue to cover the expenses for all its sports. Many schools across the NCAA announced sport cuts in the last couple of years in anticipation of the challenges ahead. Other programs have completely eliminated programs and opportunities for their student-athletes.¹

¹ A few days ago, Cal Poly cut their swimming and diving programs. Their announcement explained that the cuts were effective immediately and due to the *financial realities the school is facing*. (See

As we discuss the current climate of college athletics and the intersection of antitrust law, and NCAA policies and consider how Congress can best help us preserve the opportunities afforded to thousands of students every year through college athletics, it is crucial to recognize the unique challenges facing non-revenue sports (including women's sports). Preserving and strengthening these areas within the NCAA is essential not only for the future of collegiate athletics but also for upholding fairness, equity, and the principles of Title IX. Preserving Olympic / Non-Revenue sports is crucial for our Team USA pipeline to both the Olympics and World Championships.

I have serious concerns about student-athletes potentially becoming classified as "employees." This could create a number of undesirable and unintended consequences, such as possibly being taxed on scholarships and non-monetary benefits such as apparel and complimentary admissions to sporting events; likely changes to student-athletes current medical services, given the medical services would likely need to mirror those provided to school employees; creating an unfair disadvantage in negotiating for non-revenue generating sports, namely women's sports, which are disproportionately non-revenue generating; and ultimately decreasing our Olympic pipeline. The required financial and administrative burden of treating student-athletes as employees could force institutions to make even more difficult decisions about how many sports institutions are able to offer.

"LETTER FROM PRESIDENT ARMSTRONG ON BUDGET AND ORGANIZATIONAL CHANGE" (March 7, 2025), available at: <https://gopoly.com/news/2025/3/7/swimming-and-diving-cal-poly-discontinues-swimming-diving-effective-immediately.aspx>).

Cleveland State University ("CSU") recently cut *wrestling, women's golf and softball, to address budgetary shortfalls across the University. (See "CSU Board of Trustees Approves Recommendations to Reduce Athletics Budget" (January 23, 2025) available at: <https://www.csuohio.edu/news/csu-board-trustees-approves-recommendations-reduce-athletics-budget#:~:text=CSU%20has%20announced%20it%20will,into%20these%20sports%20moving%20forward.>)*

Loyola Marymount dropped six Olympic sports (*men's cross country, men's rowing, men's track and field, women's rowing, women's swimming, and women's track and field*) in 2024 in an effort to remain competitive. (See LMU Press Release (January 23, 2024), available at: <https://resources.lmu.edu/reshaping-athletics/pr/>).

Again, this is of great concern to me, as the head coach of a non-revenue generating sport.

One of the most significant issues facing college athletics today is the preservation of non-revenue sports (including women's sports, and all those outside the most popular revenue-generating sports like football and basketball). **I believe it is not an exaggeration to say that the future of college athletics hinges on how we ensure fair opportunities for all athletes in non-revenue sports.**

Non-revenue sports, many of which are the backbone of collegiate athletics, provide invaluable experiences for student-athletes. These programs can be particularly vulnerable when institutions are forced to make tough financial decisions. **The delicate balance between preserving these sports and the financial pressures placed on athletic departments is a challenge that cannot be ignored.**

Why Congress Has the Opportunity to Impact These Decisions

In this critical moment, Congress has a unique and important opportunity to address the issues facing college athletics, particularly non-revenue sports (including women's sports), through legislative action. The current climate presents a pivotal moment in which Congress can shape the future of college athletics in a way that aligns with its commitment to fairness, equity, and opportunity for all student-athletes, regardless of gender or sport. Congress has the opportunity to shape the future of college sports, ensuring a balanced and equitable landscape for all student-athletes. The NCAA, the conferences and its member schools need Congressional support. We all recognize that there are 30-40 schools that generate millions of dollars, almost exclusively from football and basketball and those athletes should receive a different level of support. However, not all football and basketball teams, even those at Division 1 schools, generate such large revenues. About 22% of NCAA athletes play football or basketball. Less than that play for a team that brings in more money than they expense. To lump all football and basketball programs into the same category as all the top Power 4 teams is not only senseless, but also harmful, yet that is what is happening.

We know that Congressional help is important to ensure student-athletes are not employees, and that NIL has some federal guidelines. I would ask that any Congressional support also includes protections for the other 78% of student-athletes who do not compete in football or basketball because, without them, our youth sports pipeline and Olympic movement will collapse. Imagine a future where Team USA can no longer compete on the world stage—not because of a lack of talent,

but because athletic departments are forced to prioritize the revenue demands of a few sports at the expense of many. That is the direction we are heading, and we must act before it's too late.

As I conclude, I want to emphasize that the decisions made in the near future will have a lasting impact on the future of college athletics. Preserving women's sports and non-revenue sports is not just about fairness—it is about upholding the very ideals that make college athletics so special. These programs provide a platform for athletes to succeed both in their sports and education, and they represent a crucial part of the college experience for thousands of young men and women across the country.

Congress has a powerful role to play in ensuring that college athletics continues to serve the needs of all student-athletes. I urge you to consider the long-term implications of some of these decisions and to act in a way that fosters fairness, equity, and opportunity for all.

Thank you for your time and consideration. I look forward to answering your questions and working together to create a brighter future for college athletics.