

Hearing Before the United States House Committee on Small Business

Athletes and Innovators: Analyzing NIL's Impact on Entrepreneurial Collegiate Athletes

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Chairman Williams, Ranking Member Velazquez, and distinguished Members of the Committee, thank you for allowing me to be here today. As someone who is passionate about college athletics and the opportunity to positively impact young people's lives, it is a tremendous honor to testify before you at a time of great change in our industry. Not since the creation and implementation of Title IX in 1972 have we seen changes of this magnitude. It truly is a watershed moment in the world of college athletics and it is my hope that any insights or experiences I can draw from and help illustrate may be helpful as we collectively seek solutions to very complicated issues in front of us – none larger than Name, Image and Likeness (NIL).

I have over 15 years of experience working in college athletics at institutions such as Washington State University, Cal Poly San Luis Obispo, The University of Arizona and at TCU for the past 12 years. I have been the athletics director at TCU for the past six years. I also have experience working in the private sector in the sports agency business working with and representing the business interests of professional athletes and coaches following my time in law school. I believe these different experiences have given me a unique perspective on many aspects of our business and specifically NIL.

I believe that NIL can be very beneficial to student-athletes. The concept of allowing student-athletes to receive compensation for the use of their NIL makes great sense. After all, the vast majority of college student-athletes, regardless of the sport in which they participate, will not play professionally and it only seems fair that they should be able to monetize their skills and talent during this time in their lives.

In the summer of 2021 when NIL became permissible, it was significant for a lot of reasons but none greater than for the reason that it was finally possible for student-athletes to enjoy the same rights as ordinary college students who could always earn compensation for their unique skills and talents. Overnight, all of our student-athletes became true entrepreneurs. Almost immediately we began seeing student-athletes across the country signing endorsement deals with companies and products. Other NIL activities included: autograph signings, personal appearances, community service work and other creative approaches involving cryptocurrency and Non-Fungible Tokens (NFTs) for example.

In many cases, it became apparent that student-athletes were using this additional income to better support their families. This is a reality for so many of our athletes that I believe is overlooked and is another reason why NIL has been very beneficial.

But simply putting money in the pockets of student-athletes is not the only value that NIL brings to their lives. There is a tremendous opportunity to teach and educate and give student-athletes a new set of tools much more valuable than an NIL payment. Following the enactment of NIL many college institutions and athletics departments unveiled education programs to focus on areas such as financial literacy, contract negotiation, business formation, entrepreneurship, brand management, social media promotion, and taxation.

At TCU, our mission is to: *“educate individuals to think and act as ethical leaders in a global community through research and creative activities, scholarship, service, and programs of teaching.”* Like others, we saw this opportunity with NIL as a way in which we could further our mission and we formed a partnership between the athletics department and TCU’s Neeley School of Business – a top-ranked business school nationally. The nature of this partnership is to educate not only student-athletes but also other TCU students on these key aspects of entrepreneurship. To illustrate how intentional we were about this commitment to combine resources across campus we not only created an endowed chair professorship position in support of NIL education, we created courses for credit, and office hours with other business school faculty. We also dedicated a football suite in the stadium and converted its day-to-day use for the teaching and instruction of NIL entrepreneurship.

At TCU, we support 22 varsity sports and over 550 student-athletes. To date over half of our student-athletes have reported NIL deals. While football, basketball and baseball have dominated NIL headlines, I have been encouraged to see many other sports at TCU, especially women’s sports, participating in deals at a higher level than anticipated.

Despite the positives that have come from NIL, it has also come with a significant number of challenges. From the outset, the lack of uniformity has caused confusion amongst NCAA member institutions, their respective donor bases, and student-athletes. It is well understood that NIL was implemented without the proper guardrails or mechanisms necessary to effectively manage these changes. None of these shortcomings have improved since its inception and the increasing amount of legal challenges facing the NCAA have made it difficult to move forward to sustainable solutions.

Bad actors (those who break the rules and exploit student-athletes for their own personal gain), “pay-to-play” from third parties, recruiting and transfer portal NIL inducements among other unintended consequences have largely gone unchecked to date. We now find ourselves in a “wild-wild west” environment across college athletics - especially at the Division I level – with little accountability. Sadly, there are countless stories of student-athletes and their families being exploited, deceived and harmed for others’ personal gain in these NIL pursuits.

And while NIL “collectives”, often set up under 501 c (3) status, have provided universities with an efficient tool to fulfill NIL opportunities from donor support outside of direct institutional control, the governance and oversight of these organizations has been inconsistent in its application and in desperate need of uniform oversight.

I am positive that there are solutions available. Recently we have seen significant progress from federal legislative bills and discussion drafts with bipartisan support. I believe Congress has the power to bring uniformity, transparency and fairness to the administration of NIL through enacting legislation that should include: (1) agent oversight, (2) standardized contracts, (3) a national “clearing house” or registry, (4) elimination of inducements and “pay for play”, and (5) enforcement mechanisms.

I speak for my fellow athletics director colleagues when I say that the current model is not sustainable and that we all desire to see student-athletes competing under the same fundamental and enforceable rules. I strongly encourage this Committee and other interested members of the House to support legislation that will help provide sustainable solutions to NIL as we currently know it while preserving the student-athletes’ opportunity to financially benefit from their skills and talents during their college careers.

Thank you for this opportunity to testify before you today.