

**Written Testimony of Madeline “Maddie” Salamone
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“Athletes and Innovators: Analyzing NIL’s Impact on Entrepreneurial Collegiate Athletes”

Background

My name is Maddie Salamone. I am an attorney, athlete advocate, and former lacrosse athlete at Duke University. I served as Chair of the NCAA Division I Student-Athlete Advisory Committee (SAAC) from 2013-2014, having joined the committee in 2011, where I led athletes from each of the Division I conferences in advocating for athletes across the country. As chair, I served on rules working groups, legislative and leadership councils within the NCAA, and consulted with numerous groups on issues concerning college athletes. During the 2014 NCAA Convention, I delivered a speech on the convention floor demanding that athletes be granted voting power at all levels of NCAA governance, after the NCAA Steering Committee failed to include athletes in the proposed new governance structure. Those experiences taught me that true change would have to come from the outside and that the public awareness needed to be brought to the serious issues within college athletics. That is why I have continued to advocate for athletes and have become a leading voice for NCAA reform and college athletes’ rights over the years, speaking out publicly, consulting with leaders and lawmakers across the country, and providing insights into the ongoing major issues within college sports.

The Most Important Issues in College Sports are the Abuse and Mistreatment of Athletes and Mental Health and Safety of Athletes

The Committee on Small Business convened this hearing to discuss name, image, and likeness (NIL) in college sports and its impact on entrepreneurial athletes. My understanding is that members of this committee are concerned about a number of news reports and the overall impact of NIL on college athletes. Though I will also address the main topic at hand, the truth of the matter is that the constant discussion about NIL, anti-trust exemptions, and even employment status of athletes are a distraction from the most important issues that must be addressed in college sports – namely, the abuse and mistreatment of college athletes at the hands of coaches and support staff. Even in the wake of recent allegations of abuse and mistreatment that demonstrate a cultural issue within college sports, it’s incredible how quickly the focus has shifted back to some of the over sensationalized issues in college sports. ¹

This is a systemic issue impacting athletes on virtually every college campus, whereby reports of abuse and mistreatment are ignored, unaddressed, and covered up. No matter where we land with NIL, we will have failed college athletes if we continue to ignore this issue that has such a tremendous negative impacts the mental health and safety of athletes.

¹ <https://apnews.com/article/northwestern-football-hazing-fitzgerald-lawsuit-34cea8a12abbc8a52145d8d110b68e7f>; <https://www.axios.com/2023/08/05/college-sports-culture-hazing-northwestern> ; <https://www.npr.org/2023/07/28/1190330514/northwestern-university-alleged-hazing-sports-teams>

The truth of the matter that all of this discussion about regulating NIL, anti-trust exemptions – and even revenue sharing and employment status of athletes – is all a distraction from the biggest issues in college sports – namely the abuse and mistreatment of college athletes at the hands of coaches and support staff.

When athletes do summon up the courage to come forward, they put a lot on the line to do so – not the least of which is their scholarship. Coaches often become extremely vindictive, players who come forward are often shunned by their teammates (sometimes at the direction of the coach), and they lose their entire community. Former athletes risk losing their athletic network by speaking up about abuse from the past. Even in cases where an entire team has come forward – which is extremely rare – schools will rally around the coach, seek out glowing testimonials from former players, and reinstate the coach, despite overwhelming evidence of abuse.² In the last decade alone, there have been countless stories about abuse and mistreatment, and how reports of abuse have been mishandled or left unaddressed.³

There are many personal stories I could share, and countless stories I have heard from others over the years. The gravity of the issue is greater than most of the public fully understands, but the athlete population has a fairly good idea, because most of them have been affected in some way or is close with some who has.

I regularly receive calls from parents of athletes seeking advice for how to help their child who is in an abusive situation but does not want to jeopardize their child's athletic future. These parents and the athletes I speak with share the same or similar stories of abuse, as if there is a playbook passed around by abusive coaches. Far too often, I have to provide what I consider to be very unsatisfactory answers and solutions, because there is often no sense of justice in the approach that is likely to lead to the best outcome for the athlete. I have learned that often the best thing I can do for these athletes and their parents is to just listen and validate their experiences and remind them that they're not alone.

Many former athletes refuse to even talk about their experience playing college sports because it is too traumatic. Many athletes barely survived college – I am one of them. In the years since graduating, I have learned of more and more athletes who had suicidal ideation as athletes – some I knew and had no idea how bad things were for them, others I've connected with over eerily similar tales of abuse and mistreatment, and experiences with injuries. Former athletes are left reeling from their college sports experiences for years with symptoms of PTSD and C-PTSD.

² <https://www.washingtonpost.com/sports/2019/08/30/complaints-against-nebraska-softball-coach-show-college-athletes-limited-options/>

³ <https://www.nj.com/rutgers/2020/06/investigation-calls-for-changes-to-rutgers-softball-program-but-no-discipline-for-coach-accused-of-abuse.html>; <https://www.newsobserver.com/sports/article228787814.html>; <https://dailytargum.com/article/2019/10/rutgers-softball-coaches-are-accused-of-committing-physical-emotional-abuse-on-players>; <https://www.usatoday.com/story/sports/ncaab/big12/2020/08/05/texas-tech-ad-meets-basketball-players-after-report-abuse/3305547001/>; [Northwestern sbnation.com/college-football/2023/7/10/23789587/northwestern-football-hazing-scandal-explained-pat-fitzgerald](https://www.northwestern.com/college-football/2023/7/10/23789587/northwestern-football-hazing-scandal-explained-pat-fitzgerald); <https://www.sportingnews.com/us/ncaa-football/news/pat-fitzgerald-northwestern-football-hazing-scandal-coach/pa95vojh5emxxcaxvzixvqmi>; <https://www.washingtonpost.com/sports/2023/08/02/northwest-hazing-scandal-lawsuit-allegations/>;

When it comes to female athletes, that abuse often takes the form of psychological abuse and can be extremely sadistic. It leads to female athletes graduating with lower confidence and self-esteem than when they entered – and that is by design for some of these coaches who are truly sadistic. Coaches pit teammates against teammates and engage in bullying that is worse than middle school or high school in many cases. The problem with reporting some of this behavior is that individual incidents don't always appear outright abusive without paint the full picture and telling a lot of backs tory. Even then, the abuse or mistreatment can be very personalized and coaches often try to dismiss it as “sour grapes” or “oversensitivity” or “not being a good fit with the culture” or as someone being a “bad teammate.” The issue is often that the coach has created such a toxic culture that players are being traumatized daily and their main focus becomes survival.

When a toxic team culture is combined with injury or any kind of crisis in an athlete's personal life, the combination can be deadly. I personally experienced mental crises of having to fight to come back from serious injuries multiple times, having torn both ACLs (anterior cruciate ligament) separately and then tearing my meniscus. I'll mention that these injuries took place on three separate turf fields, because that is another safety hazard for athletes.⁴ Each time I came back from a knee surgery, I suffered shin splints while trying to come back to play as soon as possible (and maybe before my body was fully ready), which is all too common for athletes. Athletes have a tendency to try to push through whatever negative thoughts and feelings they may be experiencing and not ask for help. Even though athletes are much more vocal these days about the mental health concerns, especially with respect to injury, it is common for athletes and others to be in denial about how depressed they truly are, until things have gotten really bad. Without supportive teammates and coaches, athletes dealing with injuries and mental health issues can end up in real danger psychologically.

For many college athletes, their collegiate athletics experience negatively impacts the trajectory of their lives, and that is a serious national crisis. It is robbing the world of tremendous leaders and contributor by robbing athletes of their bright futures. We cannot allow this to happen to any more athletes. We cannot stand by and allow another athlete to be abused when it is so preventable with the right systems in place. That leads me to one necessary part of the solution.

Independent Oversight is Required

One of the most important steps that needs to be taken towards protecting athletes is external, independent oversight of their programs and coaches. Schools have repeatedly demonstrated that they cannot be trusted to police themselves. There are countless stories of individuals who reported problematic coaches and others, whether athletes or staff, who were

⁴ Turf fields are known to increase the risk of sports injuries. https://www.hss.edu/conditions_artificial-turf-sports-injury-prevention.asp; NFLPA says new data shows turf fields still cause more injuries than natural surfaces, https://sports.yahoo.com/nflpa-says-new-data-shows-turf-fields-still-cause-more-injuries-than-natural-surfaces-171352790.html?guccounter=1&guce_referrer=aHR0cHM6Ly9kdWNrZHVja2dvLmNvbS8&guce_referrer_sig=AQAAMUUiQot8V9vys8Lp4rYHJwvCn3t_n2H-LfFzjaYH5KR2j-HnJkIn_6oKC84PVg9W6o4HqD8fgkUseXP_vFIBfD2LJ57Kno5eDSsVXr61fKgCbggN9blbdVOsK8S3l5Dq3H45p-W1vrGqtBYSgitupTdrV6Oq3QfMUZUYqJh88R7y

subsequently silenced, fired, or otherwise ignored and pushed out. It usually follows that the more powerful and successful a coach, the more people put their jobs on the line for speaking out and the more schools work to silence anyone making noise. For every one scandal that has been made public, there are many, many more that remain an open secret on campuses across the country.

Players need accessible help they can trust with roles clearly defined. There must be independent oversight of practices, team meetings, and medical care. Players need to be able confidentially speak with someone who can act as a mediator when necessary and advise players on the best course of action. Those individuals must have independent authority and power to take appropriate action with the information once they have it, including investigating reported issues and bringing issues to the attention of the administration without their job being at risk. Those individuals need to be trained to handle confidential information and exercise discretion and tact in addressing matters.

Schools also must stop protecting coaches who mistreat players and break the law. At many institutions, individuals who have raised concerns about coaches who generate a lot of money for the school. Those coaches often consider themselves “untouchable.” This perceived power often leads these coaches to mistreat players and staff. The appalling part is that the unacceptable behavior by coaches is almost always an “open secret” on campuses. Athletes talk to other athletes and trusted advisors on campus (often outside of the athletic department), and athletics personnel often witness unacceptable coaching behavior and fail to act. In fairness to those individuals, they would likely be fired for stepping in. The is why there is such a great need for independent oversight of athletics departments.

Independent oversight would be particularly useful when coupled with a chief integrity officer position, employed by member schools. That would allow for clearer delineation of roles within the school that would help athletes understand where individuals’ obligations lie. Currently, athletes are aware, or come to find out, that while those who work for the school may care very much about the athletes, the ultimate loyalty of those individuals lies with the school. However, there is great value in independent individuals being able to collaborate with designated school officials in assisting athletes with issues they may be facing.

Aside from the benefit of collaborating with external independent oversight, the schools themselves would greatly benefit from have a chair integrity officer to identify and triage potential problems at a school before they become a major scandal. As with many other things, including NIL, schools are often very short-sighted when it comes to addressing issues. There has been a growing trend in the corporate world of companies bringing in a chief integrity officer to build a culture of ethics and integrity and increase transparency⁵ – something coaches and schools often preach to their athletes, but do not practice themselves. The role of chief integrity officer can be broken down in two basic functions: “(1) handling more traditional tasks such as reporting, auditing, and investigating ethical or operational noncompliance; and (2) assessing, maintaining, and engaging in education to actively promote a culture of ethical awareness.”⁶ Though there are

⁵ <https://etinsights.et-edge.com/the-rise-and-role-of-the-chief-integrity-officer/>;

⁶ <https://www.naag.org/attorney-general-journal/ethics-corner-creating-chief-integrity-officer/>

challenges that still impact the efficacy of the position, many schools would benefit from employing an Athletics Integrity Officer.⁷

Frankly, schools should be regularly monitoring themselves and conduct investigations to identify potential risks for exposure. Even if the desire to protect its athletes is not motivation enough, schools should be conducting regular independent risk assessments to address potential areas of liability and exposure, and then take meaningful action on that information – rather than burying their proverbial heads in the sand.

Despite having seen example after example of scandals resulting from leaving issues unaddressed, schools continue to take a “not on my campus” approach to certain issues, seemingly believing they are immune from the same scrutiny. Not only would the schools themselves benefit from taking preemptive action to address problematic coaches, but it would prevent decades-long abuse and coverups that have plagued and continue to plague college sports – whether those stories are made public or not. The alternative is that these schools risk exposing themselves to greater scandal when the truth comes out, as it always does eventually (sometimes after decades of cover ups).

For an organization that was established to protect the health and safety of players, the NCAA has never addressed the main issues impacting player health and safety. Instead, the NCAA completely punts the issue of monitoring of coaches and other personnel to the schools. It refers to the concept as “Institutional Control,” whereby the institution is responsible for the conduct of its athletics personnel, and the president or chancellor of the university has ultimate authority and responsibility.⁸ In the over 400-page NCAA Division I Manual (the “rulebook”), not a single rule defines what constitutes appropriate behavior from coaches towards players.⁹

Schools are required to conduct senior exit interviews with a “sample of student-athletes (as determined by the institution).”¹⁰ Athletes are not required to participate in these exit interview and the school is not required to report the results. There are no requirements as to the specific questions, except that they are generally to include “questions regarding the value of the student’s athletics experiences, the extent of the athletics time demands encountered by the student-athletes, proposed changes in intercollegiate athletics and concerns related to the administration of the student-athletes’ specific sports.” Some schools conduct verbal interviews and some send out written surveys. Assuming the written reports are even read, it is left entirely up to the schools what to do with that information. A number of senior exit interview have been obtained through public information requests in various states and a sampling of results, which are heavily redacted in some cases, are available to the public.¹¹ There are no reporting requirements, so even if there is evidence of abusive coaching it is left entirely up to the school to determine how to address the matter.

⁷ <https://www.sportico.com/leagues/college-sports/2022/penn-states-ex-athletic-integrity-czar-lauds-job-but-not-its-secrecy-1234671014/#>

⁸ NCAA Constitution, Article 6; NCAA Bylaw, Article 8; <https://web3.ncaa.org/lstdbi/reports/getReport/90008>

⁹ <https://web3.ncaa.org/lstdbi/reports/getReport/90008>

¹⁰ NCAA Bylaw 8.3, <https://web3.ncaa.org/lstdbi/reports/getReport/90008>

¹¹ The Intercollegiate, “Exit Interviews”: <https://theintercollegiate.com/library-item/exit-interviews/>

It is perfectly evident from the stories that continue to hit the news that schools cannot be trusted to monitor their own coaches effectively.¹²

Educating the Good or Well-Intended Coaches and Removing the Bad Ones

In addition to providing extra resources and oversight, there is a deeper cultural shift that is needed within college sports.¹³ This shift must begin on individual campus, with a focus on churning out better coaches. There are universities that are beginning to recognize the need for coaches to collaborate better and encourage each other to improve the way they are leading their teams and the examples they set for their players. One amazing coach on a campus who is willing to mentor and share their philosophy with other coaches can elevate everyone on campus.

The culture of a team begins from the top down. When a coach models positive behaviors, sets clear expectations, and treats others fairly and with respect, the players emulate that behavior in the way they treat teammates and others.

When the culture at a school is one of collaboration amongst coaches where they communicate about positive and effective ways of managing their teams and mentoring their players, everyone is more successful as a result. My belief is that most coaches genuinely want to be good coaches and lead their teams in a positive way, but many are ill-equipped or lack a basic level of understanding about how to get the best out of their players.

In my experience, there are three types of coaches: (1) coaches are trying to be good coaches but miss the mark at times; (2) those who are complacent and let their egos get in the way learning better ways of coaching; and (3) coaches who are actively abusing players. Most coaches fall into the first two categories, but their coaching methods can still often have the same detrimental effect on players as a coach who is actively abusing players.

That's why coaches need coaches to help them recognize their blind spots and to better understand the effect of their words and actions on their players. Most coaches use the same coaching methods that their coaches used. Certain toxic patterns of coaching have been perpetuated by generations of coaches who have been influenced by the same types of coaching. That is even clearer in certain sports, where one coach may have coached or mentored a majority of the coaches actively in coaching. The only way to break the pattern is to teach coaches better ways of coaching – and for coaches to be willing to make changes.

There must be remedial measures put in place for coaches about whom the athletic department received numerous complaints. The time for sweeping such matters under the rug is over. With respect to coaches who actively abuse players, there must be a zero-tolerance policy.

History of Name, Image, Likeness

¹² sbnation.com/college-football/2023/7/10/23789587/northwestern-football-hazing-scandal-explained-pat-fitzgerald

¹³ Culture in Sports Roundtable Discussion, August 30, 2023: https://www.youtube.com/watch?v=p_FZIAJSsbA

There is so much discussion these days about the latest flashy endorsement deal and which athlete brands are worth the most that we've actually lost sight of what NIL was really about. NIL was really about restoring rights to athletes that every other student and citizen has. NIL was about so much more than endorsement deals and that is because of the scope of what the NCAA's compensation rules prohibited, and the fact that the rules prevented far more than athletes signing endorsement deals.¹⁴

Previous generations of athletes risked losing their eligibility if they used their "athletics reputation" to promote their own business, even if it had nothing to do with athletics.¹⁵ This had a chilling effect on any entrepreneurial-minded athletes, and athletes had to choose between pursuing opportunities they created, like a successful YouTube Channel, and playing a sport they loved.¹⁶ Athletes could not even advertise coaching lessons, even though they were allowed to offer them off-campus.¹⁷ Meanwhile, any other student could make full use of their talents and skills to create a business.

Even though, athletes have only recently been allowed to take advantage of NIL rights, NIL is not a new concept. NIL is really just the right of publicity, which is another way of describing a person's right to control the commercial use of their identity and image. Professional athletes, models, actors, artists, and others have for years used their names, images, and likenesses to promote and endorse products and services, or to raise awareness about an issue. The NCAA rules were simply preventing athletes from exercising rights available to everyone else. As mentioned, the NCAA rules limiting compensation to athletes went beyond the right of publicity, but nothing about this area of the law is new, except as it applies to college athletes.

It's also worth mentioning that there is no federal right of publicity. The right of publicity is largely recognized by state common law or by statute, with about half of the states having some form of right of publicity statute. It is hardly unprecedented to have laws that vary by state on this very issue. In other words, NIL is not that complicated.

The issue of NIL was not about paying athletes; it was about allowing athletes to make full use of their bodies of work and their platform as athletes – platforms they earned through own hard work, long before college – in order to continue growing their brand and creating opportunities for their future. It is also enabling athletes to support charitable causes and promote awareness of societal issues. Previous generations of athletes were prevented from taking advantage of the expanding opportunities in social media, from being an influencer to creating a YouTube channel to marketing personal merchandise (related or unrelated to athletics) to being a spokesperson for a brand to advertising coaching lessons.

¹⁴ "Name, Image, and Likeness (NIL): NCAA Rules Control Rights of College Athletes," published January 9, 2019, <https://www.youtube.com/watch?v=zc2nAXIWK3I&t=16s>

¹⁵ NCAA Bylaw 12.4.4

¹⁶ Article about FCU kicker, Donald De La Haye, who lost his eligibility for refusing to give up the monetization of his YouTube Channel: <https://www.orlandosentinel.com/sports/ucf-knights/knights-notepad/os-sp-ucf-kicker-ineligible-20170731-story.html>

¹⁷ NCAA Bylaw 12.4.3

With collective and NIL marketing companies controlling the narrative, the focus has become about putting cash in the hands of athletes. That's not to say those entities aren't doing good things for athletes, but the whole point of NIL was to restore rights that were denied to athletes by virtue of their participation in collegiate athletics, so that they can now benefit from their hard work in the same ways as every other student on campus.

There is a great value in the expertise athletes have developed as students of their sports, as leaders in their communities, and as individuals with interests that extend far beyond sports. We have only seen the beginning of what these athletes will create. I often wonder what we missed out on from athletes of my generation who did not have the same opportunities available to athletes now, when their brands and access to people who can help make their creations a reality are at their highest.

As I discussed in advocating for these rules changes prior to the NIL laws going into effect, it has been incredible to see athletes being able to unleash their full talents and creativity.¹⁸ What continues to excite me the most about NIL are the entrepreneurial opportunities available to athletes now and what they have been able to create with access to so many resources.

The Benefits of NIL

In addition to the nearly limitless entrepreneurial opportunities athletes can now pursue, NIL has tremendous educational value. Athletes are developing skills that are directly applicable to the modern job market – content creation, direct sales, promotions, contract negotiation, brand development, social media, digital collaborations, and building connections. Athletes, more than ever, are being encouraged to think about what they want to do after their playing days are over and to start setting themselves up for the future they want while they're in school. Previous generations of athletes had nowhere near the same opportunities to gain real world experience as current athletes. With all of the opportunities in the NIL era, athletes are no longer at the same disadvantage compared to other students who previously had internship and other experiential opportunities that athletes were unable to do in most cases. With the right resources at their disposal, athletes have the opportunity “fail,” so to speak, in a controlled environment where they are able to try out different ideas and learn how to build businesses and do taxes.

It is important to bear in mind that while NIL has opened up a world of opportunities, it was never a given that everyone would benefit. That is perfectly acceptable. NIL success is correlated with the amount of effort an athlete is willing to put in, and there is no requirement that an athlete participate. That message gets lost when numbers come out about the averages deals and how many athletes are not taking advantage of NIL opportunities, but there is nothing wrong with some athletes benefiting more than others. The reality is that every athlete's brand is not worth the same.

NIL has been a great equalizer for athletes in many respects, despite the fact that one of the main arguments against NIL was that it would lead to the certain decimation of women's sports.

¹⁸ University of Arizona Panel: “Name, Image, & Likeness in College Athletics, December 2, 2019: <https://media.azpm.org/master/doc/ua/abor/name-image-likeness.html>; <https://www.youtube.com/watch?v=jLwrlS3buHM>

As I predicted then, the NIL era has instead empowered female athletes and allowed them to expand their platforms and boost the profile of women's sports. In allowing female athletes to promote themselves more than their schools ever had, it has helped women grow their fan bases and demonstrate the demand that exists for women's sports, which had been downplayed and denied for years.

In turn, the NIL era has led to all athletes, especially female athletes, better understanding their value and realizing their worth and the power of their voice compared to previous generations of athlete. Female athletes have shifted from almost apologizing for their existence and accepting being treated as second class citizens (like athletes of my generation) to demanding their worth and being validated by the attention and interest they receive from the public that now has better access to women's sports. One of the biggest barriers to women's sports being considered valuable was access and familiarity with specific female athletes due to a lack of promotion compared to male athletes. With more fans able to see more content from female athletes and connect through social media, fans have become more engaged with the individual players, which makes them more inclined to follow the individual players and teams. We are seeing record numbers of fans attending women's sporting events, and that is a trend we can expect to continue.

While the positives of NIL far outweigh the negatives, there are some areas for improvement that are worth mentioning.

Areas for Improvement in the NIL Space

It's been my belief that it would take a number of years to see exactly how NIL will eventually shake out and what adjustments would be made along the way. We're only two years in, and the dust is still far from settled on how the NIL landscape will eventually look. That does not mean we're in a terrible place with NIL, or that it is the "wild west" that some media reporting would have you believe. Personally, I would like to see NIL play out for longer before there is another massive change in the college sports world – like athletes being deemed employees – because I think NIL has the potential to serve as an even greater equalizer for athletes over time.

That said, there are certainly areas that need more attention – though they differ from the issues so often tossed around in the media. The biggest issues in the NIL space continue to be education and access to resources (e.g., attorneys to review contracts). Fortunately for the athletes, they are attending educational institutions that are absolutely equipped to educate athletes about preparing taxes, financial literacy, entrepreneurship, basics in contracts and negotiations, and other life skills. It's worth mentioning that these are areas that all students would benefit from, and universities should be better preparing their students for the real world.

Many of the NIL laws prohibit schools from assisting athletes in certain ways that would be beneficial to athletes, especially given the tremendous resources and expertise schools have at their disposal across various department and extending to graduate programs. That has forced schools to outsource certain things to third parties that could be more effectively accomplished in-house. For instance, law students and athletes alike can benefit from having legal clinics that provide pro bono contract review. The educational opportunities that would open up for athletes and other students would be invaluable.

Relatedly, there is a lack of transparency around collectives, what they are contracting with athletes to do, and what they are actually paying athletes. The belief of many within the space is that the numbers being reported in the media are inflated compared to what is actually being provided to athletes who sign with certain collectives. Additionally, as the relationships between the schools and the collectives become increasingly intertwined, with coaches and administrators directing donors to funnel money through the collectives, there is a stronger argument that Title IX should apply to those funds. The way that many collectives are disproportionately using funds to benefit male athletes is allowing some schools to circumvent Title IX requirements related to spending on publicity, promotions, and recruiting.¹⁹ Removing barriers around schools providing assistance and moving some of the work of collectives in-house could go a long way towards fixing some of these issues.

There also needs to be greater monitoring of agents and attorneys in the NIL space and greater transparency about their commission on deals. That goes for collectives that are not always transparent with how they are handling donor money. There continue to be concerns related to tax-exempt status of some of the collectives formed as non-profits.²⁰

Additionally, there are legitimate concerns that athletes are feeling pressure to do things that are not authentic to them all in an effort to buy into influencer culture. Increasingly, I see branding advisors and marketing professional telling athletes how to be athletes. Athletes are being told how crucial it is to create content and shoot day in the life videos and b-roll. I see very little counterbalance to that tremendous pressure. This is certainly not a reason to limit NIL; rather, it's indicative of a need for better messaging around the responsible use of social media and reminders that not everyone has to participate in NIL or take advantage of the opportunities it has opened in the same way. That's why the reminder of what NIL is really about is so important.

I think for those athletes who enjoy content creation and sharing what they do throughout the day, then power to them. But, some of the messaging has implied that athletes have to do all the things branding professionals preach, or they will somehow be missing the boat. It's worth remembering that in order to take advantage of the opportunities NIL has opened up, it was always going to mean hard work in addition to the incredibly difficult job of being an athlete already and showing up for teammates and for life. There has not been enough emphasis on the fact that NIL money is not a given; rather, that it allows enterprising college athletes to take advantage of the work they are willing to put in.

That said, one of the realities of this generation of athletes is that they are glued to their phones more than any generation before them. That raises concerns, but the answer is not to limit NIL. Instead, it requires better education and messaging around responsible use. They have grown up inundated with social media and it can result in unhealthy constant comparison and striving for perfection, which athletes are already prone to doing as individuals who set tremendously high expectations for themselves. The fact that this generation of athletes has social media to contend with as an added pressure, in addition to pressure to achieve perfection in their sport, in the

¹⁹ <https://www.on3.com/nil/news/title-ix-concerns-mount-as-more-schools-work-closely-with-nil-collectives-the-drake-group/>

²⁰ <https://www.taxpayeradvocate.irs.gov/get-help/general/nil/nil-collectives/>

classroom, and perfection when it comes to their bodies, means that they need extra support, guidance, and an extra strong dose of perspective to stay grounded and healthy. The basic principles that make an athlete successful at their sports and good teammates have remained the same and that needs to remain the focus.

With an estimated \$1.4 billion additional revenue expected to come from the expanded 12-team College Football Playoff format, schools have no excuse not to devote more money to crucial resources for athletes.²¹ Out of control spending will continue on coaches and in other areas that do not benefit athletes, unless schools are forced to devote certain funds to specific resources that athletes need, including funding independent oversight, health and safety resources, health insurance, and more. It's no longer acceptable for the money generated in college sports to go to everyone but the athletes, especially when athletes are struggling from their days in college.

Conclusion

It is time to focus on the most important issues in college sports, which relate to the health, safety, and well-being of athletes. While there are adjustments to be made to NIL, those are relatively under control – especially compared to the lack of institutional control where coaches are concerned. We cannot allow any more athletes to be negatively impacted by issues that are so preventable with the right oversight. Schools must be required to direct spending towards resources that will actually benefit athletes, rather than spending obscene amounts on coaches, buyouts, and related areas. With the influx of revenue from the CFP in addition to the revenue pouring in from massive media rights deals, schools have no excuse not to devote more resources to the athletes and being correcting the issues that have been plaguing college sports for decades.

²¹ https://www.knightcommission.org/wp-content/uploads/2023/09/cla_financial_projections_report_2023.pdf