

**Hearing before the U.S. House of Representatives Committee on Small Business  
“Athletes and Innovators: Analyzing NIL’s Impact on Entrepreneurial Collegiate Athletes”**

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September 20, 2023

Chairman Williams, Ranking Member Velázquez, and distinguished members of the Committee, thank you for the opportunity to testify today. As one who has been engaged in collegiate athletics over the six past decades as an athlete, coach, and athletic director, I’m honored to be with you to provide you my insights on Name, Image, and Likeness’ impact on entrepreneurial collegiate athletes.

Collegiate athletics afforded me unique opportunities that helped me to be where I am today. I grew up in Cleveland, OH and attended the University of Notre Dame on a football scholarship. I played four years as defensive end for the Irish and was a member of their 1973 Associated Press national championship team. After graduating, I joined the Notre Dame coaching staff and coached four seasons. After some time in the private sector, I became the Athletic Director at Eastern Michigan University at the age of 29. I later served as the Athletic Director at Iowa State, Arizona State, and, for the past 18 years, The Ohio State University.

At Ohio State, we have 36 athletic programs and more than 1,000 student athletes. We’re committed to providing all our student athletes all they need to grow academically, athletically, and socially during their time at Ohio State, and graduate with skills that transfer to success in life. We’re focused on “recruitment to career,” which is evidenced in this year’s graduating seniors with over 94% of them moving right into jobs, graduate school, or professional sports.

I believe that NIL is beneficial to the student-athlete experience. NIL has been more successful for student-athletes than the media portrays. NIL is a great educational tool, and student-athletes learn about increased fiscal responsibility, income tax management, personal brand development, business/corporate objectives and how marketing matters, and interpersonal skills applied to business, along with many others.

Our mission at Ohio State related to NIL is to inspire entrepreneurial and innovative thinking which will ensure that every student-athlete has the necessary resources and knowledge to create, leverage and promote their own personal brand. This will allow them to maximize their value at Ohio State and endure through life after sport. We work to equip our student-athletes with the business skills necessary to enhance their professional capacity and to utilize NIL opportunities as a vehicle to become advocates of their own personal brand.

The lessons learned from NIL further strengthen the holistic development of a young person and fills his/her toolbox for success in life.

Not all student-athletes are on full scholarships. In fact, most Olympic sport student-athletes are on equivalency (partial) scholarships. Historically many partial scholarship student-athletes graduated with debt. NIL opportunities offer the possibility to mitigate that debt. This is one highly positive outcome of NIL that is not often noted in the media.

NIL was intended to allow student-athletes to enjoy the same privileges that other students on campus have, including the ability to monetize their personal brand or business skills. NCAA NIL guidelines currently limit institutional involvement to ensure that University dollars are not being directed to student-athletes in a “pay for play” model, or “employment” model.

Allowable NIL activities include camps, clinics, sponsorships that involve appearances or social media posts, autograph sessions, commercials, and products that student-athletes develop and ultimately sell.

At Ohio State, over 420 student-athletes have at least one NIL deal. Activities vary: 44% represent social media engagements, 24% royalty payouts, 9% public appearances, 2% autographs, 3% camps and clinics, and 18% miscellaneous. Our student-athletes have made over 2,000 NIL deals among all sports, with football and women’s volleyball attracting the most.<sup>1</sup>

However, NIL implementation has not been without challenges. When NIL was sanctioned by the NCAA, “bad actors” emerged seeking personal gain from their ability to influence a young person and/or a family regarding an institution. This has always been a challenge, but NIL has allowed this behavior to be more aggressive. In professional sports, drafts preclude this issue, but the collegiate model relies upon recruiting, not drafting.

For example, student-athletes and their parents visit campuses at the expense of those universities to evaluate where they may make a commitment. A practice of asking a school for a fee to simply visit campus has emerged; asking for \$5,000 just to visit has become common. During visits, discussions now emerge regarding how much a student-athlete can expect from NIL.

Since institutions cannot manage NIL on behalf of student-athletes, “collectives” have formed. These are largely 501c (3)’s created with the intent of soliciting funds from passionate fans and developing NIL deals with that funding, usually to have student-athletes support local charities via appearances at charitable events.

However, the IRS recently issued an interpretation stating, “Organizations that develop name, image, and likeness (NIL) opportunities for collegiate student-athletes (college NIL collectives) in many cases will not be furthering an exempt purpose under Sec. 501c (3).<sup>2</sup>

As a result of this interpretation, many collectives are now shifting to limited liability corporations (LLC’s). While some will accept individual donations, many are generating revenue via corporate investments and events. Coaches and student-athletes are allowed to participate in events that in turn, generate NIL revenue.

In many markets, the efforts of the LLC’s are in direct competition with the efforts of athletic departments to generate funds to support their overall programs through corporate sponsorship and donations. Corporations are directing marketing dollars to the LLC’s and some even make donations from their corporate foundations with a focus on charities and expect no tax deduction.

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<sup>1</sup> [OSUNIL 2023 Impact Report](#)

<sup>2</sup> Lynne A. Camillo, Deputy Associate Chief Counsel (Exempt Organizations and Employment Taxes, Employee Plans, Exempt Organizations, and Employment Taxes), May 23, 2023, Internal Revenue Service Memorandum, [Whether Operation of an NIL Collective Furthers an Exempt Purpose Under Section 501\(c\)\(3\)](#).

All these NIL efforts are beneficial to student-athletes, but athletic directors now find themselves making funding decisions based upon declining income streams, which negatively impact the holistic development programming for student-athletes.

In worst case scenarios, student-athletes have been offered lucrative NIL “promises” that have not materialized once they arrived on campus. In other cases, verbal NIL offers have been tendered to elite student-athletes to entice them to leave one institution and transfer to another based on a lucrative verbal NIL inducement.

Some of the NIL deals fall apart and families and student-athletes are left with empty promises and no recourse. Some have sought legal support.<sup>3</sup>

Many states have created legislation to support their institutions NIL activities, but there is no uniformity to these state laws. As you all know, there is no federal law regarding NIL.

NIL offers great opportunity for student-athletes to learn and grow their resources. However, protections need to be provided to ensure that student-athletes and their families are not taken advantage of especially during the recruitment process.

I believe Congress needs to enact NIL legislation as soon as possible. An effective bill, in my opinion, should include:

- A National NIL Standard so there is consistency across the country to ensure a level playing field.
- NIL Agent Registration.
- Standard NIL Contracts.
- Prohibition of Inducements.
- A NIL Public Registry that brings transparency to the marketplace, so misrepresentations of deals are not implied.
- Maintain the amateur model of athletics.
- Strong Enforcement measures.

Thank you again for the opportunity to testify, and I look forward to answering any questions you may have.

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<sup>3</sup> Mark Schlabach, ESPN Senior Writer, September 5, 2023, [“Florida legislator says Bears DT Gervon Dexter's NIL deal violated law”](#).