

# ANTITRUST LAW AND THE NCAA: EXAMINING THE CURRENT CLIMATE

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## HEARING

BEFORE THE

SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,  
REGULATORY REFORM, AND ANTITRUST

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

TUESDAY, MARCH 11, 2025

**Serial No. 119-11**

Printed for the use of the Committee on the Judiciary



Available via: <http://judiciary.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2025

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A memo entitled, “Statutory Rights of Players at Academic Institutions (Student-Athletes) Under the National Labor Relations Act,” Sept. 29, 2021, Jennifer A. Abruzzo, General Counsel, submitted by the Honorable Jesús G. “Chuy” García, a Member the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust from the State of Illinois, for the record

## ANTITRUST LAW AND THE NCAA: EXAMINING THE CURRENT CLIMATE

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**Tuesday, March 11, 2025**

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,  
REGULATORY REFORM, AND ANTITRUST

COMMITTEE ON THE JUDICIARY

*Washington, DC*

The Subcommittee met, pursuant to notice, at 10:02 a.m., in Room 2141, Rayburn House Office Building, the Hon. Scott Fitzgerald [Chair of the Subcommittee] presiding.

*Present:* Representatives Fitzgerald, Jordan, Cline, Gooden, Hageman, Harris, Schmidt, Baumgartner, Nadler, Correa, Balint, Garcia, and Johnson.

*Also present:* Representatives Fry, Raskin, and Moskowitz.

Mr. FITZGERALD. The Subcommittee will come to order.

Without objection, the Chair is authorized to declare a recess at any time.

We welcome everyone to today's hearing on Antitrust Law and the NCAA. I'll now recognize myself for an opening statement.

Today's hearing will investigate the current landscape around antitrust liability for the NCAA, which has created issues around Name, Image, and Likeness payments, known as NIL, the transfer portal and eligibility rules in college athletics. A series of court opinions finding antitrust liability against the National Collegiate Athletic Association (NCAA), most notably the Supreme Court's 2021 *Alston* decision, calls into question the legality of any rules that limit compensation for student-athletes. Further, a patchwork of State laws has made it difficult, if not impossible, for the NCAA to regulate NIL payments to student-athletes, and additional ongoing litigation strongly suggests rules governing student-athletes transferring schools and eligibility requirements will also be found to violate the antitrust laws. College sports are rapidly heading in the direction of unlimited payments, unlimited transfers, and no rules around who is eligible to compete.

In October 2024, the U.S. District Court for the Northern District of California granted preliminary approval of a settlement agreement in *House v. NCAA*, known as the *House* settlement. That paves the way for the first revenue-sharing model in college ath-

letics. It also creates a framework to govern NIL payments from so-called, quote, “boosters,” also known as collectives, and replaces scholarship caps with roster caps.

The *House* settlement does not resolve other pending antitrust litigation against the NCAA, nor does it immunize it from many subsequent antitrust challenges. Further, the *House* settlement is the product of the NCAA conferences and the plaintiffs’ lawyers. The schools, coaches, and athletes largely did not have a seat at that table. Under the current framework, any rule that the NCAA attempts to enforce will face immediate litigation, and history suggests that the NCAA will likely lose every time.

Most people can agree that the NCAA went too far with their regulations in the past. For example, the NCAA placed rules around the exact type of snacks student-athletes could receive from their teams, prohibited transfers without penalty, and barred legitimate third-party NIL payments.

The NCAA was too late to acknowledge that some college sports are large commercial enterprises, and certain student-athletes bring great value to their schools. Now, college sports has largely lost any resemblance of the amateur sports that they used to be or collegiate spirit, even when the cost of a sport consistently and greatly exceeds any revenue from it. College sports are rife with play-for-pay schemes from boosters and schools, and the educational mission of college athletics has been eroded.

Specifically, multiple transfers hinder pathways to graduation, and a lack of eligibility rules encourage individuals to stay in college long beyond the average four-year period. Coaches are finding it difficult to manage their teams, because students can transfer at the drop of a hat. This scenario leaves coaches without a functioning roster and harms the student-athletes that value consistency in educational and sports programs.

Colleges must also shift their recruiting strategies. Recruiting high school athletes is not the focus for some coaches anymore, because getting athletes from the transfer portal is more cost effective than training the next generation of athletes from the group up. The inability of the NCAA to set rules has turned college and athletics into what would be called by some a semiprofessional endeavor focused more and more on men’s football and basketball.

The witnesses we have today are perfectly prepared to supply Members of the Committee with the required information to better inform us as we work on possible solutions to help ensure that college athletics programs remain accessible for the next generation of student-athletes. I want to thank the witnesses for appearing before us today and look forward to hearing what each of you has to say.

I also want to address, without objection, Mr. Fry and Mr. Moskowitz will be permitted to participate in today’s hearing for the purposes of questioning the witnesses if a Member yields them time for that purpose.

I now will recognize our Ranking Member, Mr. Nadler, and recognize him for his opening statement.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Chair, the business of college sports, a business that generates billions of dollars a year, has seen dramatic changes in re-

cent years, and the industry continues to evolve rapidly. College athletes have been recognized and compensated for their talents and contributions as never before, and the new models of compensation continue to develop through litigation and other competitive pressures.

Now, the NCAA, which generates nearly \$1.3 billion a year in revenue, wants to stop this progress dead in its tracks. It wants Congress to step in and protect the NCAA, its conferences and schools, from having to share a greater percentage of the money that they rake in each year with their unpaid athletes without whom there would be no revenue in the first place.

Unfortunately, instead of highlighting the need for continued reforms to the college athletic system to protect the rights of its athletes, today we are considering whether a repeat antitrust offender should get a bailout and be allowed to turn back many of these recent changes while diminishing the voice of college athletes in perpetuity.

The NCAA has lobbied Congress for years seeking exemptions from our laws to preserve their monopoly on college sports. For example, in the wake of Title IX's passage, ushering in historic opportunities for women in sports, the then all-male NCAA sought exemptions from the law. In advance of litigation with the potential to disrupt their control over broadcast rights, the NCAA sought Congressional intervention. When faced with lawsuits that could bring an end to their suppression of athletes' ability to capitalize on their personal publicity rights, also called Name, Image, and Likeness, or NIL, the NCAA asked Congress to step in. Now, the NCAA is back asking us once again to take action on their behalf, to turn back the clock on many recent changes to the collegiate system, and to render college athletes voiceless and powerless.

The only professional sport that enjoys the antitrust exemption the NCAA seeks is baseball, and for decades, this exemption suppressed professional baseball players' abilities to unionize if they needed reforms to their sport and obtain competitive salaries.

Now, many of the same Republican lawmakers who have decried Major League Baseball's antitrust exemption wants to grant the same safe harbor from our competition laws to the NCAA. We have ample evidence that antitrust exemptions generally suppress wages, block access to necessary health and safety protections, and undermine competition. There's no reason to contemplate a bailout for the NCAA, especially when it has demonstrated little regard for our competition laws while failing to protect athletes from being exploited.

While paying coaches and executives exorbitant salaries from the hundreds of millions of dollars of revenue generated by college athletes, the NCAA insists it needs help from Congress to suppress players' wages and rights to employment status.

While looking the other way on academic fraud, the NCAA insists that the current system is necessary to protect, quote, "student-athletes." The NCAA knows that athletes often miss class and cannot pursue their major of choice because of practice and travel schedules, yet they hold out the academic aspect of a college athlete's experience as all important.

While the NCAA insists it needs a bailout to ensure the survival of Olympic sports and to protect women athletes, it has failed to sufficiently promote those sports and has failed to ensure its member schools follow Title IX. We should not reward the NCAA by placing restrictions and unnecessary changes to the collegiate athletic system, changes which are notably benefiting the athletes already and which the NCAA continues to resist and decry.

It is not just college athletes who are concerned about the special protections the NCAA is seeking. The players' associations of all the major professional sports have also waited. In a joint statement they wrote, quote,

NIL legislation purporting to protect athletes should not be used as a trojan horse to nullify athletes' legal rights or status. Legislation that is meant to protect college athletes should under no circumstances eliminate or diminish their rights under contract, tort, antitrust and/or labor laws.

Similarly, in response to proposed legislation that would affirm that college athletes are employees under the National Labor Relations Act, the Players Association wrote, quote,

Collective bargaining has immeasurably benefited the workers we represent in professional sports as a whole. Athletes enjoy elevated health and safety standards, medical benefits, fair compensation, and other rights, both on and off the field. Leagues and teams can negotiate roster construction, player reserve, and other competitive regulations, and fans receive the most compelling entertainment product in the world. The same result is achievable at the top collegiate level.

Mr. Chair, college sports has the power to bring communities together and to electrify the Nation. The College Football Playoffs brought heat to a cold winter, and this month, the country will be riveted by March Madness. Perhaps the best way to fully appreciate college athletes is to watch them perform at the highest levels.

Please play the video clip.

[Video shown.]

Mr. NADLER. As you can see, NCAA college sports are compelling. They are exciting. They are electric, and people want to see them. Advertisers know this, and there's why the business of college sports is so lucrative. People are tuning in to see great athletes, and it is only fair that the athletes see a portion of the revenue generated by their performances.

College sports have also brought many nonfinancial benefits to its athletes, from life lessons about teamwork, building a strong work ethic, and gaining leadership skills, to promoting health and wellness. For some it also has the potential to set them on the path to professional glory.

For too many athletes, the current system has failed them. Important changes are underway that have begun to level the playing field, and more are being considered. We should not put our thumbs on the scale in favor of an organization that too often has placed its profits over the interests of its athletes.

I thank our witnesses for being here today, and I look forward to their testimony.

I yield back.

Mr. FITZGERALD. The gentleman yields back.



I now recognize the Chair of the Full Committee who he, himself, is a two-time national champion wrestler from the University of Wisconsin.

Chair JORDAN. You weren't supposed to say that last part.

Mr. FITZGERALD. Mr. Jordan.

Chair JORDAN. Thank you, Chair. I want to thank you for putting this hearing together, for all the good work you're doing, for our witnesses for being here. I think there are two fundamental questions: Should we get involved? If so, what should we do?

This is one of those relatively rare times in Congressional hearings where we don't have any, at least on the Republican side, any predetermined outcome about what we should be doing. We're trying to get the answers.

I do think it's interesting the clip that the Ranking Member played. My guess is that almost every single one of those programs that were in whatever respective sports was being shown, most of those programs probably lose money, probably don't make money. There's a handful of universities and athletic departments that do, and trying to figure it all out and figure out what it means to Olympic sports and everything, and all these questions we have. So, we're trying to get the answers. That's why I appreciate the experts that we've brought in today, and it's good that one of those experts is the athletic director from the school I happened to go to, and both our boys graduated from as well, the University of Wisconsin. We thank you, in particular, for being here.

We just want to learn, but I do want to thank the Chair for the hard work he has done in putting this together and helping us try to figure out if we should get involved, and if so, what we should do.

With that, I yield back.

Mr. FITZGERALD. The gentleman yields back.

Without objection, all other opening statements will be included in the record. We will now introduce today's witnesses.

Mr. Chris McIntosh. Mr. McIntosh is the Director of Athletics at the University of Wisconsin, a position he has held since July 2021. He previously served as the Deputy Athletic Director from 2017–2021, and was himself a Wisconsin student-athlete in the late 1990s when he was a consensus All-American tackle and captain on the football team. Mr. McIntosh was a first-round pick in the 2000 NFL draft by the Seattle Seahawks where he played several seasons before retiring.

Ms. Carol Smith Gilbert. Ms. Smith Gilbert is the Director of Men's and Women's track and field at the University of Georgia, a position she has held since June 2021. She previously served as the Director of Track and Field at the University of Southern California, where her teams won multiple national championships. Ms. Smith Gilbert was a three-time All-American and PAC 10 champion in the 100-meter and the 4×100 meter relay, and the 4×4 relay during the 1990s at UCLA.

Mr. Albiero is the Head Coach of the Swim and Dive program at the University of Louisville, a position he has held since 2003. His teams and athletes have earned multiple NCAA and conference championships during his tenure. He was also named to the Coaching Staff of the U.S. National Team for the 2016 Olympic Games

in Rio. He was an 18-times All-American and three-times NCAA champion swimmer at Oakland University during the 1990s.

Mr. Andrew Cooper. Mr. Cooper is the Executive Director of the United College Athletes Association, a nonprofit organization that seeks to ensure student-athletes are safe, educated, and compensated. He ran cross country at Washington State University in UC Berkeley.

We welcome our witnesses and thank them all for appearing today.

We will begin by swearing you in. Would you please rise and raise your right hand.

Do you swear or affirm, under penalty of perjury, that the testimony you are about to give is true and correct, to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that the witness has answered in the affirmative.

Thank you all. Please be seated.

Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes.

Mr. McIntosh, you may begin.

#### **STATEMENT OF CHRIS McINTOSH**

Mr. McINTOSH. Chair Fitzgerald, Ranking Member Nadler, Chair Jordan, and the distinguished Members of the Committee. Thank you for allowing me to be with you today to talk about the State of college athletics, both the life-changing opportunity that it has and continues to afford to hundreds of thousands of high potential young people, along with the many challenges posed by the numerous uncertainties that we face.

My name is Chris McIntosh, and I have the privilege of serving as the Athletic Director at the University of Wisconsin–Madison. I was fortunate to play football at the University of Wisconsin. It was the experience of a lifetime. I blocked for a Heisman Trophy winner, won two Big Ten football championships and two Rose Bowls, and then went on to play a few seasons in the NFL before an injury ended my career.

As the years followed, my career continued to accumulate. A few things have become very clear to me. First, what an amazing gift it was to pursue my athletic dreams. Second, the education that I received, the multiple degrees that I have earned from a world-class university, like the University of Wisconsin–Madison, are powerful. They were made possible for me because of a sport. Third, the life lessons taught to me and the mentoring I received by top-notch Hall of Fame caliber coaches like Barry Alvarez, well, that all just changed my life.

Our college athletic system, this American system, the tethering of sport and education is truly unique. It's a system where athletes not only compete at top levels of sport, but also receive a valuable education that benefits them for the rest of their lives. It's a system that my two oldest children, my daughters, who are Division I volleyball players, are experiencing now. It's the same system that my 16-year-old son aspires to participate in, waking up every morning, working out before school.

Is it a perfect system? It is not. It has and it continues to evolve. Our system has made great strides since the days when I competed. The opportunity for young people today, for our student-athletes, is better than it's ever been. Today, we provide guaranteed scholarships for athletes, irrespective of their playing time, continuing healthcare for athletically related injuries, and funding for degree completion even after eligibility has been exhausted.

I am passionate about ensuring that our system continues to improve, and that current and future student-athletes enjoy the same life-changing experience that I and so many others have benefited from.

At Wisconsin, we support nearly 800 student-athletes competing in 23 varsity sports. We believe in education, broad-based opportunity, and competitive excellence for all our sports. At Wisconsin, and most other Autonomy Four programs, the costs of a world-class opportunity for student-athletes are funded largely by football. Eighty percent of our revenues, in one form or another, are derived from the sport of football. Most other athletic programs benefit disproportionately from revenues generated by the NCAA II Men's Basketball Tournament.

There's no doubt that college athletics is at an inflexion point where the decisions made in the near future will define the landscape for generations to come. It is critical now more than ever that Congress work together to pass meaningful legislation that stabilizes college athletics for future generations. We need your help to enhance this model of opportunity for all sports, not just for football and basketball. To achieve that, I believe we owe it to our student-athletes to ensure that student-athletes can rightfully enjoy the benefits of the pending *House* settlement and the direct sharing of revenue that, if approved, it will provide, while being permitted to continue to monetize their name, image, and likeness through market-based opportunities; that there is room for future student-athletes by allowing us to create and enforce commonsense rules that align with the educational mission of college sports and allow for a fair, competitive environment; that we can create rules that allow student-athletes to transfer to another institution but without systematically sacrificing their academic progress, while ensuring that players who do remain with their team have a better idea of who their teammates will be the following season; and that student-athletes are not considered to be employees of their respective institutions; and that we can ensure consistency across the country avoiding the State-by-State patchwork of laws intended to create a competitive advantage for in-State programs.

We look forward to working together with Congress to ensure that this uniquely American system of college athletics can be preserved, enhanced, and allowed to thrive.

Thank you for allowing me to be here today, and I look forward to answering any of your questions.

[The prepared statement of Mr. McIntosh follows:]

Testimony of Chris McIntosh  
 Director of Athletics, University of Wisconsin–Madison  
 U.S. House Committee on the Judiciary, Subcommittee on the Administrative State, Regulatory Reform,  
 and Antitrust  
 Hearing on “Antitrust Law and the NCAA: Examining the Current Climate”  
 March 11, 2025

Welcome Message and Introduction

Chairman Fitzgerald, Ranking Member Nadler, and distinguished members of the Committee, thank you for the opportunity to be with you today to talk about the state of collegiate sports and the many challenges posed by the numerous uncertainties we face.

My name is Chris McIntosh and I have the privilege of serving as the Athletic Director at the University of Wisconsin–Madison. I also was lucky enough to play football at the University of Wisconsin and go on to play for several seasons in the NFL. I am responsible for all aspects of an athletics program that supports nearly 800 student-athletes competing in 23 varsity sports, along with overseeing more than 400 full-time staff members, 13 major facilities, and an operating budget that surpasses \$171 million in FY25.

I am a native of Wisconsin and my ability to compete in sport meant not only did I receive a world-class education, but invaluable life lessons that I call upon every day as I mentor young student-athletes. Our system is truly unique in the world, a system where athletes not only compete at the top levels of sport but also receive a valuable education that benefits them long after their competitive years are over. There is no doubt that college athletics is at an inflection point where the decisions made over the next couple of years will define the landscape for the foreseeable future. It is critical now more than ever that Congress work together to pass meaningful legislation that stabilizes college athletics for future generations.

Historical Context for the Current State of College Athletics

As a uniquely American enterprise, college sports have followed the tracks of our country’s historical arc. Like our country, college sports have grown and evolved over successive generations to reflect a changing world while remaining firmly rooted in some basic but unconquerable ideals. In the case of college sports, the bedrock foundation of the mission is that participation in sport is to be embedded within and part of the overall educational experience. Consistent with that educational mission, a fundamental purpose of the American college sports system is to provide life-altering opportunities to receive college degrees to hundreds of thousands of young people each year through a broad range of sport offerings. For some of these young people, these opportunities would not exist but for their athletics ability.

Byproducts of our American college sports system include the fact that the system serves as the primary developmental pipeline for American Olympians. Another byproduct is the fact that some sports at some places (football at Wisconsin, for example), or some events in the case of NCAA Division I basketball tournaments and the College Football Playoff, have significant commercial value commensurate with the level of entertainment appeal among the public. As a result, college sports is in fact a multi-billion-dollar industry, but while acknowledging that, there are two really important points to keep in mind.

The first is that the multi-billion-dollar industry is attributable to a very small subsection of the colleges and universities and an even smaller fraction of the thousands of competitive events in which student-athletes participate each year. To put into context, Wisconsin is one of 68 institutions that comprise the four Autonomy conferences, which is a collection of institutions in which some, but not all, have athletics departments that are financially self-sufficient—many (if not all) of the other 1,100-plus institutions that comprise the NCAA rely on substantial institutional support. To illustrate further, at Wisconsin, two of our 23 sports generate positive net revenues—football and men’s basketball. The revenue from those two sports in turn funds the operational costs of the opportunities, support, care, and benefits provided to student-athletes in the other 21 varsity sports we sponsor.

To broaden the aperture on the above point, 75 percent of the approximately 190,000 Division I student-athletes nationwide play sports other than football and men’s basketball. Consequently, the vast majority of opportunities are either subsidized by revenue from one or two teams, or by that revenue in addition to substantial institutional support. Furthermore, it is noteworthy in the present context that the majority of participants in those two sports at the Division I level are men of color, some of whom come from disadvantaged socio-economic backgrounds. As the college athletics financial framework shifts to one of direct revenue sharing between institutions and student-athletes, these points are relevant to determinations on how revenue should be distributed.

The second point to keep in mind is that commercial value derived from a small number of teams and events does not preempt the bedrock educational mission of college sports. The intersection of commercialism and education may present challenges that must be addressed to protect and fortify that underlying educational mission—it has since the earliest days of college sports—but the challenges are vastly outweighed by the value of the educational opportunities, experiences, care provided, and what soon will be a reimagined economic framework that are all made possible by the commercial success of college sports.

With the above as backdrop, it is undeniable that we are in a period of incredible change in college sports, arguably the most transformative time in its history, but there have been monumental inflection points in the past. Racial integration and the growth of opportunities for women come to mind as two of the most important. Moreover, this is hardly the first economic sea change in college sports, examples of which include allowing athletic scholarships beginning in the 1950s, deregulation of NCAA restrictions on television broadcasts in the 1980s, and removing restrictions on a student-athlete’s ability to monetize their name, image, and likeness (NIL) as of 2021. If the *House* settlement (discussed in greater detail below) is approved, the ability for institutions to share revenue above and beyond scholarships and other benefits already provided will be a paradigm-shifting addition to the list.

Through the history of collegiate athletics, a steady stream of reforms have enhanced and strengthened the underlying educational mission and commitment to student-athletes. An example from the earliest days includes the requirement that participants be full-time students. More recent examples include heightened academic standards to ensure student-athletes graduate within five years and new metrics with corresponding incentives and disincentives to raise student-athlete graduation rates.

Some of the significant positive reforms and changes have been made from within, such as the advent of athletic scholarships, many academic reforms, and creation of the NCAA Student Assistance Fund, an under-publicized fund that has provided hundreds of millions of dollars to student-athletes in need since its inception nearly 20 years ago. Nevertheless, other reforms have resulted from external activity,

including litigation and Congressional intervention, perhaps most notably Title IX of the Higher Education Amendments of 1972.

#### Why the Present Moment of Change is Different and Requires Congressional Help

As the section above illustrates, change is not new to college sports. However, there is a critical difference between the inflection points of the past and the current period of transformation that calls for Congressional involvement. Unlike previous moments of significant change, the present environment threatens the foundational bedrock ideals of college athletics discussed above (having sport embedded within and part of the educational experience and opportunities for college degrees through sport).

To explain, we are transitioning to a new economic paradigm for student-athletes, the heart of which consists of two primary components. First is the ability for student-athletes to control and use (or not use) their NIL as they choose. This includes monetization of their NIL, whether by promoting their own personal brands or commercial entities or products. Opportunities range from appearing in television commercials for large multinational brands, to social media posts for a local “mom and pop” sandwich shop, to a paid appearance at an event, and everything in between.

Second is that, pending approval of the *House* settlement, institutions will be able to share revenue directly with their student-athletes. This shared revenue will be in addition to full cost-of-attendance scholarships, “Alston” payments, medical care, nutrition, and many other tangible benefits student-athletes may already receive. Each institution will have discretion as to how shared revenue will be distributed, but for the first time in the history of college sports, student-athletes will be able to receive monetary benefits that correspond to the revenue generated by the sports they play. As you will read in greater detail below, the dollar figures involved with the *House* settlement are significant.

While the changes above are exciting and many agree long overdue, the combination of litigation and state legislation has resulted in a patchwork landscape of shifting and inconsistently applied rules. Again, external forces driving reform in college sports is not a new phenomenon, but we are now experiencing a dangerous chain reaction that we have no ability to stop through changes from within. Specifically, a continuous stream of litigation has already resulted in judicial outcomes that erode the educational mission of college sports. For example, due to lawsuits brought by state attorneys general, student-athletes may transfer every year and are immediately eligible to compete. High-performing athletes face pressures and incentives to transfer between schools, potentially in search of increased playing time, better NIL opportunities, or – very soon – a bigger revenue share. Detrimental academic impacts are inevitable when student-athletes constantly move from one institution to another, imperiling a core mission of college sports. In addition, the U.S. Supreme Court’s decision in *NCAA v. Alston* provided a path to challenge all NCAA rules, so at this moment, there are numerous pending challenges to other eligibility rules. Some have been successful, some have not, and some have landed in between, but more are being filed weekly.

In addition to litigation that is eroding the educational mission, states motivated to outcompete one another use executive orders and state laws to create competitive advantages for colleges and universities in the respective states. These actions were initially focused on NIL but have evolved over time. Some states now prohibit enforcement of certain rules by the NCAA or conferences. Some states are now considering exempting NIL payments for state income tax purposes. This ever-shifting patchwork of state laws makes it impossible for there to be an enforceable uniform national regulatory

framework to serve what is otherwise a system built upon national competition played by students selected through a national recruiting process. It also makes it impossible for student-athletes navigating the recruiting process to understand the rules of the road from one school to the next.

Finally, moving the American college sports model into an employment regime where the relationship between institutions and members of varsity teams becomes an employer-employee relationship would do more harm than good, but control over that determination is also out of our hands. To illustrate just one undesirable outcome, a world in which student-athletes are employees simply by being varsity athletes would present one set of potential consequences to institutions like Wisconsin, but an entirely different set of threats to lower-resourced institutions. Those most at risk would be institutions that sponsor varsity sports as part of an institutional enrollment strategy supporting the financial viability of the institution. Requiring those institutions to pay wages and benefits would defeat the purpose of sponsoring varsity sports in the first place, and discontinued sports and possibly entire athletics departments would be sure to follow. This is not theoretical. Within the past two years there have been two NCAA institutions—one at the Division I level and one at the Division II level—that have announced the discontinuation of their entire athletics departments.

#### Settlement

As hinted above, we are on the brink of entering into a historic settlement of three significant antitrust cases. Collectively those cases are combined into *House v. NCAA*, or simply as “*House*”. If approved, possibly in late April or early May, *House* will allow student-athletes for the first time to receive a portion of the revenue they help create through the permissive licensing of that student’s NIL to their institution. Athletes are not required to enter into these licenses, but we expect the vast majority will avail themselves of the financial opportunity if presented to them.

Should the settlement be approved, schools will be able to distribute to student-athletes an amount equal to 22% of revenues generated by sponsorship, ticket sales and media revenues. No school is required to distribute the revenue, but in the Big Ten Conference all schools will be entering into revenue sharing along with the University of Wisconsin–Madison. In the 2025-2026 academic year, when these revenue sharing payments are first made, that figure will be \$20.5 million per school, with established increases during the ensuing years. Over the initial ten-year window, we expect that schools will distribute more than \$20 billion to student-athletes. Student-athletes will also be able to continue to avail themselves of market-based third-party NIL opportunities. We have been making extensive preparations to begin implementing the provisions in the settlement as soon as it is approved.

#### Ask of Congress

In light of the foregoing, we seek comprehensive bipartisan legislation with four key elements:

- First, it is imperative that we codify the many benefits and protections that are currently offered at institutions like the University of Wisconsin–Madison. These include such benefits and protections as on-field health and safety standards, world-class health care, post-participation health care, scholarship guarantees, and lifelong degree-completion opportunities.
- Second, we also ask that Congress pass legislation that will preempt the ever-changing patchwork of state laws that make having a uniform national framework for a national intercollegiate competition system impossible.

- Third, we seek liability protection that is specific and limited in scope. I want to clarify that we are not asking for a blanket antitrust exemption from Congress. We are instead seeking a safe harbor that will give us the necessary stability and predictability to maintain a regulatory framework that serves the underlying educational mission of the collegiate sports model.
- Fourth and lastly, although recognizing that this issue falls outside the jurisdiction of the House Judiciary Committee, we ask Congress to clarify that the relationship between student-athletes and institutions is not that of an employer and employee. It is extremely important to the educators at our institutions that the focus of a student-athlete's college tenure remains based in education. Importantly, as described previously, although the University of Wisconsin–Madison may not be in this category, an employment regime for college sports would be devastating to the vast majority of the 1,200-plus member institutions of the NCAA.

#### Conclusion

In conclusion, we are in an extremely consequential time in the history of American college athletics. A national enterprise based on national competitions played by students who are recruited nationally must necessarily have an enforceable uniform national framework. Moreover, stopping and reversing the erosion of the underlying educational mission of college sports and safeguarding a model that provides opportunities through a variety of sports to hundreds of thousands of young people each year are essential to preserving the things Americans cherish most about college sports. Unfortunately, we are past the point where we can do any of those things on our own, which is why we need help from Congress. Past Congressional action in college sports, like the passage of Title IX, has been responsible for changing the future of college sports for the better. You now have another opportunity to forever benefit student-athletes. I look forward to continuing to work with all of you on these important and pressing issues.



Mr. FITZGERALD. Thank you, Mr. McIntosh.  
Ms. Smith Gilbert, you may begin.

**STATEMENT OF CARYL SMITH GILBERT**

Ms. SMITH GILBERT. Chair Fitzgerald, Ranking Member Nadler, and the distinguished Members of the Committee. Good morning. My name is Carol Smith Gilbert, and I am the Director of Men's and Women's track and field at the University of Georgia. It is an honor to testify before you today as we examine the current State of college athletics.

The track and field is one of the most diverse and accessible sports in the world, offering educational opportunities to women, underrepresented students, and international athletes. For more than 25 years, I have coached and developed student-athletes, including Olympians and national champions. Without scholarships, many of these athletes would not have the opportunity to attend college at all, and I speak from personal experience. Neither my husband nor I would have been able to afford the college education we received without an athletic scholarship. We both agree that our college athletic experience saved our lives.

The student-athletes I coach are not just competitors. They are students pursuing an education and an opportunity to build a future beyond sports. For most, scholarships are the only way they can afford a college degree, and obtaining a college degree is truly the most important thing.

To be clear, the number of athletes who are able to have a long and lucrative professional career in track and field is extremely small, so my goal is to ensure that they achieve their potential on the track and in the classroom so that they are prepared for life after college athletics. Yet, today, track and field and other nonrevenue sports are at risk. The current NIL environment without a clear uniform national standard threatens scholarships, undermines roster stability, and creates uncertainty for athletes, coaches, and programs.

Of equal importance, implementing an employment model would be devastating for nonrevenue sports. Today, our student-athletes receive critical resources: Nutritionists, athletic trainers, academic advisers at no cost, but as employees, they would have to be responsible for many of these expenses themselves. For nonrevenue sports like track and field, the student-athletes aren't making lucrative NIL deals that can support them past college. Instead of providing more opportunities, an employment model would make it harder for young athletes to compete while pursuing a degree, and a college degree provides young people with a lifetime worth of support.

My view on NIL is different from coaches in revenue-generating sports. Unlike those sports where NIL deals can be lucrative, my athletes earn little to no NIL money. Instead, they rely on scholarships, academic support, and university-provided resources to train and compete at an elite level. If I am correct in my concerns about the future of Olympic sports programs, the U.S. developmental program would be seriously damaged. I know this because in sports like track and field and swimming, college programs are the Olympic development program. It isn't theoretical. Of the 118 athletes

who competed for Team USA in track and field during the Paris Summer Olympics, 114 developed through the college system. Only four did not. That speaks about the critical role that the college athletics plays in Olympic athlete development.

My personal fear is without regulation, all money will be spent on football and the impact on nonrevenue and Olympic sports will be devastating. I'm concerned many universities will eliminate many Olympic sport programs, depriving countless students of the same opportunities I experienced, thanks to college track and field.

To ensure the future of college athletics remains strong, I urge Congress to protect universities from excessive litigation which diverts necessary money from our athletes and to prevent student-athletes from being classified as employees, as doing so will force schools to defund and ultimately eliminate nonrevenue sports.

I am grateful for the Committee's attention on this critically important issue, and I urge you to pass legislation to establish uniform rules that will minimize the chaos and maximize the opportunity for student-athletes, especially for those in nonrevenue sports, to be able to attend college, compete athletically, and graduate with a valuable college degree.

Thank you for your time and consideration. I look forward to your questions.

[The prepared statement of Ms. Smith Gilbert follows:]

HEARING BEFORE THE UNITED STATES HOUSE JUDICIARY SUBCOMMITTEE ON THE  
ADMINISTRATIVE STATE, REGULATORY REFORM, AND ANTITRUST

Tuesday, March 11, 2025

Written Testimony of Caryl Smith Gilbert

Director of Men's and Women's Track & Field, University of Georgia

Chairman Fitzgerald, Ranking Member Nadler, and Distinguished Members of the Committee,

Good morning. My name is Caryl Smith Gilbert, and I am the Director of Men's and Women's Track & Field at the University of Georgia. It is an honor to testify before you today as we examine the current state of college athletics.

Track & field is one of the most diverse and accessible sports in the world, offering educational opportunities to women, underrepresented students, and international athletes. For more than 25 years, I have coached and developed student-athletes, including Olympians and national champions. Without scholarships, many of these athletes would not have the opportunity to attend college at all. And I speak from personal experience. Neither my husband nor I would have been able to afford the college education we received without an athletic scholarship. We both agree that our college athletic experience saved our lives.

The student-athletes I coach are not just competitors—they are students pursuing an education and an opportunity to build a future beyond sports. For most, scholarships are the only way they can afford a college degree, and obtaining a college degree is truly the most important thing. To be clear, the number of athletes who are able to have a long and lucrative professional career in track and field is infinitesimally small. So, my goal is to ensure that they achieve their potential on the track and in the classroom so that they are prepared for life after college athletics.

Yet, today, track & field and other non-revenue sports are at risk. The current NIL environment—without a clear uniform national standard—threatens scholarships, undermines roster stability, and creates uncertainty for athletes, coaches, and programs. Of equal importance, implementing an employment model would be devastating for non-revenue sports. Today, our student-athletes receive critical resources—nutritionists, athletic trainers, academic advisors—at no cost. But as employees, they would be responsible for many of these expenses themselves. And for non-revenue sports like track and field, the student athletes aren't making lucrative NIL deals that can support them past college. Instead of providing more opportunities, an employment model would make it harder for young athletes to compete while pursuing a degree. And a college degree provides young people with a lifetime's worth of support.

My view on NIL is different from coaches in revenue-generating sports. Unlike those sports, where NIL deals can be lucrative, my athletes earn little to no NIL money. Instead, they rely on scholarships, academic support, and university-provided resources to train and compete at an elite level. If I am correct in my concerns about the future of college Olympic sports programs, the U.S. Olympic developmental

program will be seriously damaged. I know this because, in sports like track and field and swimming, college programs are the Olympic development program. This isn't theoretical—of the 118 athletes who competed for Team USA in track & field during the Paris Summer Olympics, 114 developed through the college system. Only four did not. That speaks to the critical role that college athletics plays in Olympic athlete development.

My personal fear is that without regulation, all money will be spent on football, and the impact on non-revenue and Olympic sports will be devastating. I am concerned many universities will eliminate many Olympic sports programs, depriving countless students of the same opportunities that I experienced thanks to college track and field.

To ensure the future of college athletics remains strong and equitable, I urge Congress to protect universities from excessive litigation which diverts necessary money from our athletes, and to prevent student athletes from being classified as employees, as doing so would force schools to defund and ultimately eliminate non-revenue sports.

I am grateful for the Committee's attention on this critically important issue and urge you to pass legislation to establish uniform rules that will minimize the chaos and maximize the opportunity for student athletes, especially for those in non-revenue sports, to be able to attend college, compete athletically and graduate with a valuable college degree.

Thank you for your time and consideration. I look forward to your questions.

Mr. FITZGERALD. Thank you, Ms. Smith Gilbert.  
Mr. ALBIERO.

#### STATEMENT OF ARTHUR ALBIERO

Mr. ALBIERO. Chair Jordan, Ranking Member Raskin, Chair Fitzgerald, Ranking Member Nadler, and the 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. 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 men and young women, 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, and I am currently in my 22nd season as the head men's and women's swimming and diving coach at the University of Louisville. I'm a former collegiate swimmer when I attended Oakland University and Cal State-Bakersfield. I've also been fortunate to be a coach for Team USA in many international competitions.

I have been married for almost 30 years to my wife, Amy, also a former collegiate swimmer, and 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 daughter will be finishing her college swimming career at the NCAA championships next week.

As a coach at the University of Louisville, I'm proud of the growth and development of the swimming and diving programs. We have gone from a program at the bottom of Conference USA to a program now that has consistently been one of the top teams in the country.

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. While I'm certainly proud of the athletes' accomplishments in the pool, I am 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, CPA's, lawyers, Fulbright scholars, and more. These now-adults are leaders in their communities, and they are making a difference in our country.

At Louisville, our student-athletes gave 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 the men's program and 3.51 for the women's program.

I give all the credit of 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 benefit structure, including mental health support, comprehensive nutrition education and support, medical care and support, athletic academic support services, including recovery and massage therapy. For a full scholarship athlete at the University of Louisville, these benefits could total over \$100,000 annually.

Unfortunately, the current structure of college sports compounded by the complexities of the antitrust law places these athletes and their sports now in a precarious situation. While the proposed *House* settlement will provide a measure of structure to the NIL landscape, it also has consequences for athletic departments that do not generate enough revenue to cover the expenses for all of its sports. Over the last few years, many schools across the NCAA have announced sports cuts, or completely eliminated programs in anticipation of the challenges ahead.

It's crucial that any action by Congress recognizes the unique challenges facing nonrevenue sports. Nonrevenue sports provide invaluable experiences for the student-athletes. These programs can be particularly vulnerable when institutions are now forced to make tough financial decisions. Preserving and strengthening these sports is essential for the future of collegiate athletics and for upholding fairness, equity, and the principles of Title IX.

I have serious concerns about student-athletes potentially becoming classified as employees. This could create a number of undesirable and unintended consequences, including taxation, changes in medical services, and the opportunity in general for nonrevenue sports. The required financial 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.

In this critical moment, Congress has a unique and important opportunity to address the issues facing college athletics, particularly nonrevenue 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.

We know Congressional help is important to ensure student-athletes are not employees and that NIL has some Federal guidelines. However, I would ask if any Congressional support also includes protection for the 78 percent of student-athletes who do not compete in football or basketball because without them, our youth sports pipeline and ultimately, Olympic movement, will collapse.

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 nonrevenue sports is not just about fairness; it's 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.

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.

[The prepared statement of Mr. Albiero follows:]

**Arthur Albiero**

***Head Men's and Women's Swimming and Diving Coach***

**University of Louisville**

**"Antitrust Law and the NCAA: Examining the Current Climate" Hearing**

**March 11, 2025**

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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 22<sup>nd</sup> 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.<sup>1</sup>

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<sup>1</sup> 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.

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"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.

Mr. FITZGERALD. Thank you, Mr. Albiero.  
Mr. Cooper, you may begin.

#### STATEMENT OF ANDREW COOPER

Mr. COOPER. Thank you, Mr. Chair, Ranking Member, and the distinguished Members of the Committee. I am a former track athlete at Washington State University and UC Berkeley, and I now serve as the Executive Director of the United College Athletes Association.

The UCAA is a nonprofit that educates college athletes and unites their voices to advocate for safety mandates, academic protections, and economic rights; ultimately, to ensure the NCAA's business model is safe, fair, and sustainable for future generations and for the players who generate the revenue.

Currently, 120 women's basketball players in the Big Ten and SEC have joined the UCAA to secure a voice in the NCAA's monopoly. When I say the NCAA is a monopoly, that is not my opinion. That is the Supreme Court's unanimous ruling in *Alston v. NCAA* where the Court found that the NCAA is a monopoly. As Justice Kavanaugh concurred, quote, "The NCAA's business model would be flatly illegal in almost any other industry in America. The NCAA is not above the law."

After failing in the Supreme Court, the NCAA is now begging Congress for an antitrust bailout to be above the law because they want to continue enriching themselves through this monopoly. In fact, according to the NCAA's publicly available tax returns as a 501(c)(3) nonprofit, in 2022, the NCAA paid its top 16 administrators an average salary of over \$800,000 a year.

Over the last 40 years, our antitrust laws have been the only force that have held the NCAA accountable: First, in 1984, then in 1999 when coaches sued to end NCAA's cap on their salaries, again in 2014, and most recently, in 2021.

Before granting the NCAA an antitrust bailout we should first ask ourselves a fundamental question: Can we trust the NCAA? Because history has shown that the NCAA cannot be trusted. For example, in the 2013 wrongful death suit, the NCAA confessed in court, quote, "The NCAA denies that it has a legal duty to protect college athletes."

Then in 2020, Senator Blackburn stated, quote, "The NCAA has failed when it comes to women in sports, sexual harassment, sexual abuse. How in the world are we going to be able to trust NCAA to get this right?"

Senator Blackburn was referring to the sexual assault scandal at Baylor where the NCAA's investigation ultimately concluded no rules were violated because rape is not an NCAA violation. Just last year, the Government Accountability Office found that only seven percent of colleges even comply with Title IX.

Even the NCAA's most powerful institutions now don't trust the NCAA, which is why the Power Four conferences have formed a new limited liability company to independently police NIL and revenue sharing outside of the NCAA's purview moving forward.

If the NCAA cannot be trusted by parents to keep athletes safe, and they cannot be trusted by their own conferences, how can Congress trust them with the unchecked power of antitrust bailout?

One NCAA director even anonymously admitted, quote, "Let's be honest, we're all money laundering."

Given that reality, if the NCAA gets an antitrust bailout, how do we hold them accountable when they inevitably abuse that power? Further, have we considered how Congress' actions here could permanently politicize college sports forever?

That's why Senator Kennedy told the NCAA president, quote, "You may regret asking Congress to intervene here. All of a sudden, you're going to be micromanaged."

Instead of giving the NCAA a bailout, Justice Kavanaugh proposed a solution, quote, "Colleges and college athletes could potentially engage in collective bargaining or seek some other negotiated agreement."

The solution is simple. Partner with the players and give them an independent voice in this business. That's exactly what the UCAA is doing, but the Big Ten and SEC are refusing to meet with the players. Actions speak louder than words, and the NCAA's actions prove they cannot be trusted with an exemption from the laws.

I urge this Committee to reject the NCAA's request because it would erode our country's fundamental antitrust laws, set dangerous precedent for other \$1 billion monopolies, and permanently politicize college sports.

Congress wields a big stick and using it as a sewing needle to reshape the fundamental fabric of college sports may cause much more harm permanently than good. Instead, this Committee should force the NCAA to simply follow the same laws as every other business in this country.

Thank you. I look forward to your questions.

[The prepared statement of Mr. Cooper follows:]

Opening Statement of United College Athletes Association (UCAA)

Executive Director Andrew Cooper

House Judiciary Committee

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

March 11, 2025

Thank you, Mr. Chairman, Ranking Member, and distinguished members of the committee. I am a former track athlete at Washington State University and UC Berkeley. I now serve as the executive director of the United College Athletes Association (UCAA).

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When I say the NCAA is a monopoly – that is not my opinion — that is the Supreme Court’s unanimous ruling in *Alston v NCAA* where the court found that the NCAA is a monopoly.<sup>2</sup>

As Justice Kavanaugh concurred “The NCAA’s business model would be flatly illegal in almost any other industry in America.... The NCAA is not above the law.”<sup>3</sup>

After failing in the Supreme Court, the NCAA is now begging Congress for an antitrust bailout to be above the law. Because they want to continue enriching themselves through this monopoly.<sup>4</sup> In fact, according to the NCAA’s publicly available tax-returns as a nonprofit, in 2022 the NCAA paid its top 16 administrators an average salary of over \$800 thousand dollars a year.<sup>5</sup>

Over the last 40 years, our antitrust laws are the only force that have held the NCAA to be accountable: first in 1984,<sup>6</sup> then in 1999 when coaches sued to end the NCAA’s cap on their salaries,<sup>7</sup> again in 2014,<sup>8</sup> and most recently in 2021.<sup>9</sup> Before granting the NCAA an antitrust bailout, we should first ask ourselves: can we trust the NCAA?



Because history has shown the NCAA cannot be trusted. For example, in a 2013 wrongful death suit, the NCAA confessed in court, “The NCAA denies that it has a legal duty to protect [college] athletes.”<sup>10</sup>

Then in 2020, Senator Blackburn (R-TN) stated “The NCAA has failed when it comes to women in sports, sexual harassment, sexual assault, sexual abuse... ‘how in the world are we going to be able to trust [the NCAA] to get this right?’”<sup>10</sup>

Senator Blackburn was referring to the sexual assault scandal at Baylor where the NCAA’s investigation ultimately concluded no NCAA rules were violated because rape is not an NCAA violation.<sup>12</sup> And just last year, the Government Accountability Office (GAO) found that only 7% of colleges even comply with Title IX.<sup>13</sup>

Even the NCAA’s most powerful colleges don’t trust the NCAA, which is why the Power Four conferences have formed a new LLC to independently police NIL and revenue sharing outside of the NCAA.<sup>14</sup>

If the NCAA cannot be trusted by parents to keep athletes safe and they cannot be trusted by their own conferences — how can Congress trust them with the unchecked power of an antitrust bailout?

One SEC athletic director even anonymously admitted “Let’s be honest, we’re all money laundering.”<sup>15</sup>

Given that reality, if the NCAA gets an antitrust bailout — how do we hold them accountable when they abuse that power? Furthermore, have we considered how Congress’s actions here could permanently politicize college sports forever?

That’s why Senator Kennedy (R-LA) told the NCAA President “You may regret asking Congress to intervene here. All of a sudden, you’re going to be micromanaged.”<sup>16</sup>

Instead of giving the NCAA a bailout, Justice Kavanaugh proposed a solution “colleges and student athletes could potentially engage in collective bargaining (or seek some other negotiated agreement).”<sup>17</sup>

The solution is simple: partner with the players and give them an independent voice in this business. That's exactly what the UCAA is doing — but the Big 10 and SEC are refusing to meet with the players.

Actions speak louder than words — and the NCAA's actions prove they cannot be trusted with an exemption from the laws. I urge this committee to reject the NCAA's request because it would erode our country's fundamental antitrust laws, set dangerous precedent for other billion-dollar monopolies, and permanently politicize college sports.

Instead, this committee should force the NCAA to simply follow the same laws as every other business in our country. Thank you, and I look forward to your questions.

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1. *The Washington Post*, "Women's basketball players formed an advocacy group. They can't get a meeting" (Jesse Dougherty, 2025)
  2. *NCAA v. Alston* (2021)
  3. *Harvard Law Review*, "NCAA v. Alston" (November 2021)
  4. *American Enterprise Institute*, "The NCAA Wants an Antitrust Exemption. Should They Get One?" (Nat Malkus, 2025)
  5. *NCAA IRS Form 990*, "Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees" (Department of Treasury, 2023)
  6. *NCAA v. Board of Regents of the University of Oklahoma* (1984)
  7. *Law v. NCAA* (1999)
  8. *O'Bannon v. NCAA* (2014)
  9. *NCAA v. Alston* (2021)
  10. *The Washington Times*, "In court filing, NCAA denies legal duty to protect athletes", (Nathan Fenno, 2013)

11. *U.S. Senate, Subcommittee on Manufacturing, Trade, and Consumer Protection*, "Name, Image, and Likeness: The State of Intercollegiate Athlete Compensation", Statement of Senator Marsha Blackburn (February 11, 2020)
12. *Marquette Sports Law Review*, "Step One: Solving the NCAA Sexual Assault Problem" (Aaron Hernandez, 2021)
13. *Sportico*, "College Title IX Gender Equity Compliance Is a Failure, Feds Say" (Daniel Libit, 2024)
14. *Yahoo Sports*, "Monumental Shift: Power Conferences, not NCAA, to control policing athlete compensation" (Ross Dellenger, 2025)
15. *Sports Illustrated*, "Inside the NIL Battle That Is Splintering the SEC: 'We're All Money Laundering'" (Ross Dellenger, 2023)
16. *U.S. Senate Committee on the Judiciary*, "Name, Image, and Likeness, and the Future of College Sports", Statement of Senator John Kennedy (October 17, 2023)
17. *Harvard Law Review*, "NCAA v. Alston" (November, 2021)

Mr. FITZGERALD. Thank you, Mr. Cooper.

We will now proceed under the five-minute rule with some questions, and I will start with a question for Coach Smith Gilbert.

Coach, budget constraints are not only measured in scholarships and roster spots. As you know, to have a successful track and field team, you need modern training equipment and world-class facilities. You also need support staff, like personal trainers, nutritionists, and strength and conditioning coaches.

Can you talk about how budget constraints affect these types of support services and how that can affect your ability to recruit and retain the best track and field athletes overall?

Ms. SMITH GILBERT. Yes. As anybody who runs at all knows, your body is your implement in track and field. In our sport, what you put in your body, what you eat, how you train, where you train, the type of surface you run on, all those things make a difference.

There's a lot of money we put in every year for just one student-athlete, one by one, to make sure that they are ready to be at their best at an elite level. As I said, we are the groundwork for the U.S. Olympic team. Without these resources; if resources go elsewhere and we don't get them anymore, I don't see how we're going to be able to maintain developing elite athletes without the money to do it.

Mr. FITZGERALD. Thank you.

Mr. McIntosh, competing at the Olympics is a dream for many young athletes around the country, and the United States has a long history of strong athletic performance at the Olympics. However, the sports where American athletes excel at the Olympics generally don't make money for universities. I kind of preface that with—as the Director of Athletics, how do you balance the investments at Wisconsin in nonrevenue sports against investments in revenue-generating sports, like football, as you mentioned in your testimony?

Mr. MCINTOSH. Well, thank you, Chair Fitzgerald.

First, we're very proud of the 17 Olympians that we had at the University of Wisconsin in last year's games. It's a point of pride for us.

I mentioned earlier that 80 percent of our revenues are generated by the sport of football. Football serves as the financial engine that underwrites the cost of opportunity for just about every one of our other sports. Hundreds of athletes and the opportunity that they have to pursue their dreams athletically, obtain a degree, have the type of experience that is life-changing is made possible by the revenues generated by football and, to a much lesser extent, men's basketball.

That's the model. That's the model that we embrace. That's the model that as an athlete myself when I was 20 years old, I may not have understood the benefits of the way I do today, as I mentioned having two daughters that are Division I volleyball players today.

Mr. FITZGERALD. Very good. Thank you.

Coach Albiero, with the restrictions of the transfer portal eligibility lifted as a result of several State lawsuits, and then couple that with changes to the NIL, we're seeing athletes, particularly

those who will not turn professional, extending their collegiate career beyond the traditional four-year term.

I'm just wondering, can you just talk about your experience so far with the portal and how that has affected decisions that your athletes have made?

Mr. ALBIERO. Thank you.

I think more than anything, providing some opportunity for choice, right. I'm not against that in any way, shape, or form. I think what the portal has created—in the sport of swimming, it's not like the athletes are trying to go and shop around for another opportunity. It has created academic opportunities for potential master's degrees, and so on and so forth. It's not a problem necessarily that has impacted our sport tremendously. Now, with potential changes coming up, the transfer portal could have a much bigger impact.

Mr. FITZGERALD. Very good. Thank you.

Coach Smith Gilbert, kind of along the similar lines, what's been your experience with the portal so far? Do you have this back and forth that's been going on with your athletes even in the nonrevenue setting?

Ms. SMITH GILBERT. Yes, it's affected us quite a bit in track and field and cross country. The main thing that concerns me is they're having more trouble being in majors that they actually want to be in because when they transfer, they lose a lot of credits from one school to the next.

I do think they should be able to go and transfer wherever they want, but I think the unlimited transfers have caused a problem with academic progress. In my sport, as I said earlier, "getting a degree is the main thing."

Mr. FITZGERALD. Very good. Thank you. My time has expired.

I now recognize the Ranking Member for five minutes for his series of questions.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Cooper, is it fair to say that the NCAA is a repeat antitrust offender?

Mr. COOPER. Yes.

Mr. NADLER. How many times has the NCAA lost in court on antitrust grounds?

Mr. COOPER. At least four times so far.

Mr. NADLER. The NCAA still faces antitrust violation claims today, correct?

Mr. COOPER. Yes.

Mr. NADLER. The proposed *House* settlement contains both a salary cap and a roster cap. Should these be subject to antitrust scrutiny; and, if so, why?

Mr. COOPER. Yes, because the NCAA should follow the same laws as every other business in this country.

Mr. NADLER. All of which have—

Mr. COOPER. All of which are subject to antitrust laws unless they secure an exemption through collective bargaining, like every other professional sports league in this country.

Mr. NADLER. Now, the NCAA has argued that an antitrust exemption is necessary to protect college athletics generally and is es-

pecially important to protect sports other than football and basketball.

Do you think that an antitrust exemption would be appropriate? How would such an exemption affect the athletes?

Mr. COOPER. An exception is not appropriate. On the notion that there's not enough money is categorically false. In the Big Ten the collective endowments of those universities alone are nearly \$95 billion, and in terms of the spending in the Power Four, the average operating revenue for a Power Four institution was \$158 million a year in 2022. Their spending on coaches' salaries was \$29 million a year per school and \$27 million a year on admin, and their average spend on medical expenses was \$1.9 million per school.

Mr. NADLER. How much does that leave for the athletes?

Mr. COOPER. How much of the spending is on athletes? On student aid, they spent \$15 million on average per school.

Mr. NADLER. OK. Why would an antitrust exemption not be appropriate? You said it wouldn't.

Mr. COOPER. An antitrust exemption wouldn't be appropriate because it would give the NCAA power to abuse the laws and force athletes to not follow the same laws as every other business in this country. They would continue enriching themselves off the backs of athletes without paying their labor force.

Mr. NADLER. If the NCAA wanted to protect Olympic sports in colleges, what are some of the things it could do?

Mr. COOPER. The NCAA has zero policies that protect Olympic sports currently. A simple thing they could do is mandating a one-year notice period where the NCAA has to give notice that they are planning—or that school is planning to cut a sport. They could also pass a policy that says if your school has over \$100 million a year in revenue, you can't cut sports because you can't justify that you don't have enough revenue to support those sports.

Mr. NADLER. Thank you.

Mr. Albiero, you noted the importance of Title IX, but the GAO found that less than seven percent of the schools comply with Title IX, and the NCAA refuses to require Title IX compliance, and even found systemic abuse to not violate their rules.

Mr. Albiero, couldn't the NCAA act to ensure women have equal opportunity and they're not abused by their coaches?

Mr. ALBIERO. Thank you for the question.

In my opinion, we strive very hard at the University of Louisville to comply with Title IX rules. Certainly, as a coach of female sports, and as a father of a daughter who happens to swim, I feel Title IX has been an amazing opportunity and created an opportunity for athletes to grow in a protection—

Mr. NADLER. Excuse me. You're saying that at your school you do that.

Mr. ALBIERO. Sure.

Mr. NADLER. The GAO found that less than seven percent of schools comply with Title IX, and the NCAA refuses to require Title IX compliance, and even found systemic abuse not to violate their rules. Why shouldn't the NCAA be required to ensure women have equal opportunity, and they're not abused by their coaches?

Mr. ALBIERO. Yes. I'm not privy of other things that are happening around the country, if I may.

Mr. NADLER. OK. Mr. McIntosh, you said in your statement that, quote, "It is extremely important to the educators at our institutions that the focus of a student-athlete's college tenure remain based on education." If that is the case, then why do athletes miss classes for sports if it is extremely important?

Mr. MCINTOSH. Thank you, Ranking Member Nadler.

I think it's important to note that 94 percent of our student-athletes graduate. That's our most recent graduation rate. While the schedule can be difficult and time constraints can be tight, our student-athletes have shown that they can be successful in over 140 diverse programs within our university.

Mr. FITZGERALD. The gentleman's time has expired.

Mr. NADLER. I yield back.

Mr. FITZGERALD. I now recognize Chair Jordan for five minutes.

Chair JORDAN. Thank you, Mr. Chair.

Mr. McIntosh, if we follow Mr. Cooper's plan, what happens?

Mr. MCINTOSH. Thank you, Chair Jordan.

I think what happens is college athletes are eventually deemed to be employees, and that's a model that I've not had a student-athlete ask to be deemed an employee.

Chair JORDAN. What happens to nonrevenue sports? What happens to the Olympics—and look, let me back up a second. I'm not a fan of the NCAA necessarily, but I am a fan of providing opportunities to young adults who want to compete while they're pursuing their degree.

Mr. Cooper says if we follow his plan—well, if we follow his plan, what's going to happen to the nonrevenue—the Olympic sports that Ms. Smith Gilbert talked about?

Mr. MCINTOSH. Yes. Chair Jordan, there will be a tremendous amount of financial pressure placed on institutions. Admittedly, at conferences like the Big Ten, we could find a way to make it work. I think it will be detrimental to Olympic sports at lower levels.

Chair JORDAN. When I had Mr. Sankey, the SEC commissioner, he said if we don't do something, he anticipates that you will lose all kinds of Olympic sports. He says you're going to go to three—now, of course, the NCAA, Division I, you have got to have, what, 16 sports?

Mr. MCINTOSH. Yes, sir.

Chairman JORDAN. Yes. So, he says everyone is going to go to 16, and it will be football, basketball, and whatever sport fits that school on the men's side, and then you will have a comparable number or a higher number of women's sports to satisfy Title IX.

Is that what you think happens if we don't do something, which is my big concern?

Mr. MCINTOSH. I think that's an accurate portrayal of what a likely result might be.

Chair JORDAN. Now, Mr. Cooper just said as long as you give notice that, Hey, we're going to drop your sport, but we're going to give you a year to get ready, or if you're an athletic department that makes, he said, "over \$100 million in revenue," then that will be enough to deal with the nonrevenue problems.

Does that work, do you think?



Mr. MCINTOSH. It's important just to let it be known, we don't have any desire to drop an Olympic sport. We have no desire to cut an Olympic sport. We have a desire to enhance the tradition that already exists within our Olympic sports. I don't know if giving one year's notice solves that problem. I think there are ways in which we can ensure that Olympic sports thrive within the *House* settlement.

Chair JORDAN. Can the University of Wisconsin—you said you had a \$171 million operating budget.

Mr. MCINTOSH. Right.

Chair JORDAN. Would you be able to, the way things are going, continue to offer the 22 sports you currently do?

Mr. MCINTOSH. That is correct.

Chair JORDAN. You can do that?

Mr. MCINTOSH. Yes, sir.

Chair JORDAN. You think you can continue to do that even if nothing changes?

Mr. MCINTOSH. Yes, sir. We'll be able to operate 23 sports. We'll be able to offer and operate 23 sports with world-class opportunity competitively, academically, made possible because of the stability provided by the *House* settlement.

Chairman JORDAN. That was my next question. The *House* settlement and the revenue sharing with the *House* settlement you think will do that?

Mr. MCINTOSH. Yes, sir. The *House* settlement allows us to be successful certainly in our revenue-sharing sports. Like I mentioned earlier, those revenue—I'm sorry—revenue-generating sports. Those sports fund the opportunity for all our student-athletes. The unstable environment that we are currently operating in is not sustainable to us. It has been a challenge, and I think it has been long overdue that we can now share revenues directly with those athletes in a fair way, in a generous way, and that will, in turn, support the entire model, the entire ecosystem, which we have been successful in the past.

Chair JORDAN. Thank you.

Ms. Smith Gilbert, comments on some of the same things I asked Mr. McIntosh, if you could. I felt like you were wanting to jump in there.

Ms. SMITH GILBERT. No, I never want to jump in, but thanks for the question.

If we're talking from an employment standpoint, I'm not an employer. I'm a teacher, a leader, and a mentor. I think if you make student-athletes follow an employment model, then it changes the relationship between the coach and the athlete. An athlete should not be put under the pressure of being employees at such a young age.

Chair JORDAN. Mr. Albiero.

Mr. ALBIERO. Yes, I wholeheartedly agree with that, and I think ultimately the impact on our sport, in the sport of swimming and diving, which has been a foundational sport for the Olympic movement, will be severely impacted.

Chair JORDAN. Yes. I know we've had the USSE in to talk with us. We've had the Women's Volleyball Association, Wrestling Coaches Association. All are very concerned about what happens

to—if we don’t do something what happens to the nonrevenue sports that are part of our—as Ms. Smith Gilbert talked about, part of our Olympic training ground. That’s a big concern I have.

With that, I yield back. I thank the Chair.

Mr. FITZGERALD. The gentleman yields back.

I now recognize the Ranking Member for unanimous consent requests.

Mr. NADLER. Mr. Chair, I have two unanimous consent requests. The first is I ask unanimous consent to enter into the record a post from *bold.org* titled, “How do college athletes get paid?” It explains that only one percent of college athletes receive full scholarships. Therefore, most pay tuition at their respective universities, meaning Olympic sports are not a con for athletic departments.

Mr. FITZGERALD. Without objection.

Mr. NADLER. Thank you. The second unanimous consent request is I ask unanimous consent to enter into the record an article in the *Washington Post* dated January 21, 2025, entitled “College football has turned pro. Let’s talk about those tax breaks,” which illustrates how top schools in the NCAA collected more than \$3 billion in revenue in 2023 without having to pay taxes because of their framing that their athletic activities further education, illustrating that the NCAA not only makes a high profit based on uncompensated labor, but also at the expense of U.S. taxpayers.

Mr. FITZGERALD. Without objection.

Mr. NADLER. Thank you.

Mr. FITZGERALD. The Ranking Member of the Full Committee, Mr. Raskin, is now recognized for five minutes.

Mr. RASKIN. Thank you kindly, Mr. Chair.

The Terps are on a roll. The men’s basketball team is piling up win after win, including Saturday night against Northwestern, and our women’s team made it to the Big Ten quarter finals.

Thanks to recent changes, these highly competitive basketball players can get some tangible benefits from their extremely lucrative play and work by monetizing their personal publicity rights. Players can now use their name, their image, their likeness revenue to invest in themselves and their families and their communities.

We’re talking about whether we should give further power to the NCAA, a nominally nonprofit organization that collects hundreds of millions of dollars a year based primarily on the athletic performance of these students. They want Federal statutory protections to enable them to roll back the positive changes that have been made for students to gain immunity from the consequences of breaking the law and to permanently prevent players from having a seat at the table.

The NCAA has repeatedly put institutional profits over players’ health and safety, academic achievement, and economic freedom. It is a repeat offender of our antitrust laws and has lobbied for decades to be wholly exempt from Title IX and law enforcement. The NCAA has had a monopoly on college sports and the revenues they generate for decades and has consistently failed to make needed changes to help the student players without outside pressure.

Consider the situation of college women basketball players. The NCAA says that academics is a key part of the college athlete expe-

rience, and yet, women players complain that their travel schedules meant they can go for a month without attending any of their courses in person. Despite claiming they care about athletes; the NCAA has allowed women basketball players to be pressured to play through their injuries. Despite claiming to care about the balance between sports and academic achievement, the NCAA has allowed schools to refuse to recognize course credits for transfer students. Despite claiming to care about the student side of the college athlete's life, the NCAA allows schools to prevent athletes from choosing the major they want if it conflicts with practice and travel schedules.

Our Division I women basketball players are commonly required to practice and play an average of 50 hours a week, and yet for many their low stipend means they're paid less than \$10 an hour and cannot afford rent.

Women college basketball makes less on their name, image, and likeness than their male counterparts. The Trump Administration recently retracted guidance that would have ensured personal publicity opportunities were distributed fairly among athletes.

The NCAA and the conference they work with want us to give them a law that would roll back recent positive changes for players, give the NCAA and conference immunity from the laws they break and keep the players voiceless forever. We have consistently undervalued and underinvested in women's sports, but now that women's college basketball is clearly a profitable business for schools, conferences, and the NCAA, it's high time that women players get a seat at the table. A collection of 120 Division I basketball players has been rejected by the commissioners of the Big Ten and the SEC.

These players are not unionizing. They're not striking. They're just asking for a seat at the table, asking for the chance to provide input for the people who control their sport and their lives on the court.

Colleagues, let's not give these repeat offenders a bailout. The NCAA only makes changes in response to Congressional pressure or lawsuits. They've done little over the decades to make any proactive, positive changes for the students. Even today, the conferences that make hundreds of millions on uncompensated college athlete labor refuse even to sit down with the players who pay their salaries.

I thank our witnesses for coming here today.

Mr. McIntosh, if I said that the NCAA earned \$1.28 billion in revenue in the 2022–2023 school year, would that sound about right to you?

Mr. MCINTOSH. Yes, sir.

Mr. RASKIN. If I said that the college football playoff series has brought in over \$500 million a season in recent years, is that correct?

Mr. MCINTOSH. That sounds right.

Mr. RASKIN. Do any of these billions of dollars of revenue make their way into players' pockets—and I'm not talking about personal publicity rights here, only about shares of broadcast revenue—does it make it to the players?

Mr. MCINTOSH. Ranking Member, that's a great question. It does make its way to the players through Alston payments, cost of attendance, and it funds the approximately \$4 billion of—

Mr. RASKIN. Just claiming my time. Just in terms of direct payment to the players?

Mr. MCINTOSH. Alston payments are direct payment to players.

Mr. RASKIN. OK. Mr. Cooper, until the *House* settlement is finalized, players who create the revenue that fuel the most competitive colleges' athletic departments pay the salaries and the operating budget of NCAA and fund the conferences, they will not get any money from these highly profitable broadcasting deals. Is that right?

Mr. COOPER. They currently do not. If the *House* settlement is approved, then schools will be allowed to share up to \$20 million a year with them. However, schools will not be required to share any of that revenue.

Mr. RASKIN. OK. Mr.—Oh, sorry.

Mr. FITZGERALD. The gentleman's time has expired.

I will now recognize the gentlewoman from Wyoming for five minutes.

Ms. HAGEMAN. Good morning and thank you for being here.

Mr. McIntosh, your testimony touches on the outside forces that are driving changes in collegiate sports. As for negative changes, you have identified those to the transfer portal, which allows athletes to now transfer every year and face no ineligibility. Changes such as those are of great concern to me, representing a less populated State with smaller schools in Wyoming, which is a member of the Mountain West Conference, which must compete for recruits and players with the power five conferences and all other Division I schools.

How have these changes incentivized or pressured student-athletes to use the transfer portal more frequently?

Mr. MCINTOSH. Thank you, Congresswoman. I think it is a great question. I think the combination of third-party NIL and permissibility of unlimited transfers has put our coaches in a real tough position. It's caused our student-athletes—it's harmed their academic progress. It's created roster instability, which I think is not fair to teammates on those teams. In short, it's put us in extremely unstable environment. This is an area in which we need help, we need help from Congress to be able to create commonsense rules that would allow student-athletes to transfer for the right reasons but also preserve their academic progress toward a degree.

Ms. HAGEMAN. What are some of the recommendations that you would make in that regard?

Mr. MCINTOSH. There have been many discussions and explorations of possibilities. Concepts like one transfer permissible in a period of time. Like these are areas that we would explore. There is a need for a student-athlete, or a student-athlete's voice in that discussion. These are the things that we talk to with our student-athletes.

Ms. HAGEMAN. One of the things I see, again, especially coming from a State like Wyoming where we don't have professional sports. Our only sports are the University of Wyoming. It's incredibly important to the people of Wyoming that we maintain a com-

petitive basketball team, football team, but we also have wrestling. We have a rodeo. That's something that I don't think people have talked much about, the impact on rodeo teams of what you're discussing today.

I can see a circumstance where we might recruit somebody. Josh Allen went to the University of Wyoming. One of the greatest football players of all time. I can see where why we would recruit someone to be cornerstone of a team only to have that person lured away by another school, which would essentially, or could essentially, destroy the entire program, at least for that year, if not for a longer period of time.

That this is a very significant issue that does need to be addressed. I want to protect the athletes as well. One of the things that we've always done when we look at college athletics is this gives students an opportunity to be part of a team after high school, to be part of a track and field team, to be part of a swim team, to have that experience, while at the same time, going to college and getting a degree that is so necessary for their long-term well-being.

Ms. Smith Gilbert, when we have these kinds of transfer situations, what does that do to a student's ultimate academic record and their ability to get the degree so that they have the successes long-term? Because I would assume—I don't know the percentage—but I would assume it's a very small percentage of people who actually go on to make this a career to become professional athletes. Providing that education is highly important. What is the ease of transfer due to the ability to provide that academic experience they need?

Ms. SMITH GILBERT. In the sport of track and field, that's a really good question, Congresswoman. What I'm finding is unlimited transfers—and you have to understand in track and field, we may have four or five windows of the transfer portal per year. Cross country has a window, indoor has a window, and outdoor has a window. It is never stable. You may have someone running this week at Nationals who may get in the portal on Monday and leave, but they have to go to school and finish classes, but it's in the middle of the semester.

They're looking around in the middle of the season to try to see where they can go, where their credits will transfer, where they'll be accepted to the next school. What I'm finding is, as much as I push them to get a master's degree, a lot of times depending on when they transfer, it's not a viable option because maybe admissions isn't accepting graduate degrees at that time, or you're off track.

They end up taking undergraduate classes all for nothing, just anything to just be at the new school. That's very detrimental when they could have had a master's degree.

Ms. HAGEMAN. I think it is, too. One other issue, and I'm almost out of time, but we also need to talk about the regulation associated with agents and their access to students, and make sure that we are protecting the students from what I would consider to be predators almost in the way that they treat our athletes. I don't have time to go into that, but I very much appreciate you being

here and addressing this complicated subject. With that I yield back.

Mr. FITZGERALD. The gentlewoman yields back.

I now recognize Ranking Member Raskin for a unanimous consent request.

Mr. RASKIN. Thank you, Mr. Chair. This one is from the *New York Post* entitled, "Ex-Wisconsin Women's Basketball Player Makes Disturbing Abuse Allegations Against Head Coach." The other is from a press release from the University of Wisconsin Badgers titled, "Moseley resigns from Wisconsin Women's Basketball."

Mr. FITZGERALD. Without objection.

The gentleman from California is now recognized for five minutes. Mr. Correa.

Mr. CORREA. Thank you, Mr. Chair. First, I'd like to start with asking unanimous consent to submit documents for the record.

Mr. FITZGERALD. Without objection.

Mr. CORREA. Information sheet from *Chapman University* entitled, "Athletics NCAA Division III Fact Sheet for Congressional Districts 40 and 46"; a letter dated March 10th of this year from Cal State Fullerton, Department of Intercollegiate Athletics.

Both of these letters address the issue of college athletes becoming employees and ask Congress to address national landscape related to NIL and other matters. A third letter from student-athlete Advisory Committees Divisions I, II, and III. An article from the *Daily Breeze*, titled, "Loyola Marymount Made a Tough Choice to Drop Six Sports—Will Other Universities Follow?" Finally, *Bloomberg Law* article entitled, "College Unions Raise Specter of Scholarship Tax Hit."

Mr. FITZGERALD. Without objection.

Mr. CORREA. I want to start out by thanking the NCAA for making a total mess—sports, college sports. Given that track record, we find ourselves today where NCAA is asking for an antitrust exemption in perpetuity given that sports, college sports are still evolving. It's a very interesting question. I just ask, Mr. Chair, that we do have additional hearings to address these issues here.

All of us are college sports fans, whether it be football or basketball. Personally, I love college wrestling. To think the amount of money that's involved in college sports. Just USC recently signed \$110 million contract, 10-year contract with our head coach, the football.

On the other hand, let me show you something.

[Displays football helmet.]

Mr. CORREA. This is the last football helmet from my alma mater, Cal State Fullerton, the second largest school in California with 42,000 athletes. In 1992, because of budget reasons—what did I say.

Mr. RASKIN. Athletes.

Mr. CORREA. With 42,000 athletes' students. Students. Mostly blue-collar working families, my neighbors, cut football in 1992 because of budgetary reasons. In 2010, they cut the wrestling team because of budgetary reasons. This was especially painful to me because a lot of the kids in my neighborhood are street kids. If it wasn't for wrestling, God knows where they would be. More impor-

tantly, wrestling gave them a taste of success that has changed their lives.

Now, local athletic programs don't offer college wrestling. It limits their educational opportunities because most of them don't have scholarships. They live in the neighborhood. They have got to go to a place where they can live at home and wrestle.

Mr. Chair, there are college athletes in 1,000-plus schools, D-II and D-III. They're not football or basketball powerhouses. My issue, my question today is, how will these changes affect those blue-collar middle class families, students that are trying to get their college education?

My question to all of you, beginning with Mr. Cooper, is how will allowing athletes to become employees help or harm these thousands of students that are trying to get a college education? Mr. Cooper? Let's start talking about becoming employees. Go ahead.

Mr. COOPER. There's clearly a difference between the D-I, D-II, and D-III institutions, which is why the NCAA has those distinctions. A similar distinction will inevitably will be drawn between the power five and the rest of D-I. Because there's 32 conferences in D-I, and the lower resource institutions in D-I and Wisconsin and—

Mr. CORREA. Good? Bad?

Mr. COOPER. What do you mean?

Mr. CORREA. Do you have an employee that can hurt—

Mr. COOPER. Well, the same rules don't need to be imposed on every athlete. The D-I and D-II rules are not the same.

Mr. CORREA. —a little bit more than is what you're saying? The solution isn't clear yet.

Mr. COOPER. There isn't a simple solution that can be summarized in 30 seconds that applies to all athletes.

Mr. CORREA. Mr. Cooper, I have eight seconds left. Mr. Albiero.

Mr. ALBIERO. Yes, my concern again from a standpoint of swimming and diving, an Olympic, sport, nonrevenue sport, the employee model would be extremely detrimental to us. Simple as starting with the level of services that we provide for mental health support, nutrition, athletic training, medical support, all of the sudden, those things could be taxed, it creates a nightmare scenario.

Mr. CORREA. Thank you very much. Ms. Smith Gilbert.

Ms. SMITH GILBERT. The employee model will affect us in track and field because I have majority student-athletes from underserved communities, and they're not going to have the money to pay for these resources. They have no other way—

Mr. CORREA. They could negotiate a collective bargaining contract to pay for those resources.

Ms. SMITH GILBERT. I don't know about that. I'm a track coach. Maybe.

Mr. CORREA. Mr. McIntosh.

Mr. MCINTOSH. Congressman, what I would say is I participated as a professional athlete as an employee. I was injured in my second year, and I was terminated after my third year. That's a system that is more adverse to an athlete than the system we live in today in, which other student-athletes have guaranteed scholarships regardless of injury.

Mr. CORREA. Thank you, Mr. Chair. I am out of time. Like you said, I do hope to have further hearings on this issue.

Mr. FITZGERALD. The gentleman's time has expired. I now recognize the gentleman from Washington, Mr. Baumgartner.

Mr. BAUMGARTNER. Well, thank you, Mr. Chair. I am delighted the Committee is having this hearing. This is a very important issue to me.

I came to Congress in part to work specifically on this issue. In the Washington State legislature, I was the Chair of the Commerce, Labor, and Sports Committee. I worked a lot on higher education issues. Here I have helped found the Bipartisan College Sports Caucus.

This is a very important issue to me, and I campaigned on this issue. I spent a considerable amount of time talking to my voters because we care quite a bit about this issue.

College sports is very, very important to the American public. It contributes to social cohesion, it contributes to opportunities for young people, and also is vitally important for our economies in our region. These are highly subsidized public goods. Highly subsidized public goods that we're dealing with in college education.

While I am delighted that we have two members from the Big Ten in the FCC here, and I very much want to work with you on these issues, it is difficult for me to sit here as someone from the Pack 12, knowing that the greed of ESPN and the football programs at the Big Ten, and the FCC have contributed to the breakdown in the traditional model in college athletics. That's very tough for me.

Mr. McIntosh, I do I want to work on this issue. Can you, in good faith, tell me that it is in the best interest of student-athletes for volleyball players or Olympic athletes to travel across the country on a weekly basis? Does a national sports league in college athletics make any sense when it comes to student-athlete welfare?

Mr. MCINTOSH. Well, Congresswoman, thank you for your question. First, I'd like to say, I'm empathetic to your position on breaking up with the Pack 12. It was a tragic situation in the landscape of college athletics.

I would say this to your question, sir, our student-athletes already play a national schedule. Our student-athletes travel all over the country, whether they're in revenue-generating sports or Olympic sports to play all over the country and to play the best teams.

Mr. BAUMGARTNER. Well, I would disagree. When I talk to most taxpayers, they think it is absurd that the volleyball team from Oregon or the University of Washington is traveling across the country to play the schools like Maryland. In fact, if you look at the frequent comments by coaches like the basketball coach at UCLA, he's also talked about the strain this year that it's putting on student-athletes that travel across the country.

For the good of taxpayers, I think for when we hopefully put the genie back in the bottle here, we do have to seriously have to look at the student-athlete welfare on this issue.

Mr. Cooper, in college athletics, football makes a ton of money—there's a ton of money, particularly in Power 5 football. The current model tries to pay for everything else with that football money, but in the era of unfettered free agency, and the era of NIL where



there's no salary caps, we have this uncontrolled arms race in football that allows coaches to make considerable sums of money. It is now the Olympic sports that have a lot of value that are at risk.

In your model, how would athletes be treated if they were treated with—if you were to be successful, would Shedeur Sanders, or someone that is a very high-profile athlete, would he receive more in payments than a college wrestler? Or how does your group envision payments working if you are to be successful?

Mr. COOPER. Yes, so as you emphasize, these are highly subsidized public goods, and that is an important fact to remember here. Because they have not been operating under the antitrust laws, they have been inefficiently allocating these funds. They conceal how much money they're spending on their own salaries, frankly.

In terms of whether athletes should all be paid equally; I think most folks would agree that the funds generated by a sport should go to that sport. How those decisions are made should not be made unilaterally by the administrators in closed doors. They should be held accountable by taxpayers to spend that money efficiently both in how they're compensating coaches and administrators, but also how they're compensating athletes.

Mr. BAUMGARTNER. Well, if we were to do that, football is the one that makes all the money. Under that model then, all the money stays with football players, and it is the Olympic athletes that would continue to suffer. That you need to think through exactly what that would mean to how we save Olympics sports. I would say just in closing, I have five kids, two of them participate in track and field and two of them were all-Americans in junior athletics. I would love them to be runners someday either at West Point or for Washington State University. I just really believe that the current model is—that it is too broken.

If this Congress does not do something to step forward to save on the big sports, that my kids, your kids, and every kid are not going to have that opportunity, because it's all going to in football with the FCC and the Big Ten, and ESPN, and Fox Sports, and a bunch of backroom deals of TV execs instead elected, accountable officials who are responsible to the taxpayers.

We got to sort this out. This has to get fixed in this Congress. I showed up here with a lot of people talking about this issue, but we really need to fix this. It can't be the typical, nonunion demonization schools, NCAA evil. We really have to work on this issue and come to a solution. Thank you.

Mr. FITZGERALD. The gentleman yields back.

I recognize the Ranking Member for a unanimous consent request.

Mr. RASKIN. Thank you, Mr. Chair. This is from the *Athens Banner-Herald*, titled, "Details on What University of Georgia is Paying New Track Coach Raises for Tennis Coach and Group Assistance."

Mr. FITZGERALD. Without objection. I now recognize the gentleman from Vermont.

Ms. BALINT. Thank you, Mr. Chair.

College sports are unique in that they unite, and they inspire parts of our country that may not have a professional team. We

saw that firsthand in Vermont as our Catamounts electrified the entire State on the way to winning the Division I 2024 men's soccer national championship. Go Cats.

College sports are exciting. They inspire us. They also pose a dilemma, particularly when we talk about big-time football and basketball.

Is it right that a multibillion-dollar industry does not pay its workers? I want to appreciate that you're all here today giving your valuable time. I want to direct that question to Mr. Cooper. What's your perspective on that intense contradiction?

Mr. COOPER. No, it is fundamentally wrong that they do not pay their workers.

Ms. BALINT. One of the things that I want to lift up right now, Mr. Cooper, is that you're also somebody who has spoken in the past about the mental health impact on college athletes. I just want to give you a few minutes to talk about that. It's something that's very important to me.

Mr. COOPER. Thank you, and for me as well. That's why I got into this. When I was a student at Washington State University, our quarterback, Tyler Hilinski, my classmate, died by suicide. That is what compelled me to work with his family, to advocate for mental health. Through that, I was elected the SAC president, the student-athlete Advisory President at Washington State. The more I pushed for mental health policies at the school and in the conference, the more pushback I got, and they refused to do anything or to listen to our concerns.

The reality is, this business is so lucrative that there is so much money being thrown at coaches, they put that pressure on athletes, and there is nothing the NCAA has a rule that says you can only spend 20 hours a week on sports. A Pack 12 study found that athletes are working 50 hours a week. There's nothing stopping them from doing 60–70. There's no accountability in the system as a whole, and so that is—

Ms. BALINT. It's tied up in this issue, isn't it?

Mr. COOPER. Yes, so from a mental health standpoint, if you were working 50 hours a week, 60 hours a week, and you also have to go to class, it is ripe for abuse, and athletes' mental health is suffering. College athlete suicide rate has doubled over the last 20 years. That is largely in part due to the fact that there are no enforceable safety mandates in this business. There are only guidelines and recommendations. When a coach actually breaks the rules, there's no accountability whatsoever, and there's no mechanism for athletes to hold them accountable.

Ms. BALINT. I really, really appreciate what you have just said here because it's important for us to focus on who we should be looking out for? We should be looking out for those student-athletes. So, thank you so much.

It does seem unfair to me and many folks here in this Committee hearing that young athletes put their bodies and their minds on the line for mass entertainment, and yet they're not paid directly for their work.

Now, I've heard some good discussion here today on what is, in fact, a pretty complex topic. There's a lot to consider regarding NIL

deals, looking at NCAA antitrust exemption, and whether we ought to consider those athletes as employees under labor law.

I know that it's important for us to ask who is best equipped to handle these complicated questions? I would argue that the experts at the agencies that Congress have empowered to handle employment issues and enforcement of antitrust laws are the ones best equipped. I'm talking about the National Labor Relations Board. I'm talking about the Federal Trade Commission. I'm talking about the Department of Justice.

The courts have a role here, too. As we've heard, we may have a settlement this year providing for the payment of college athletes. Now, it would be great for Americans if we had these institutions ready to help us sort out these issues, but we don't, because we have an administration right now who is partnering with Elon Musk to dismantle some of these agencies. We should be talking about whether we owe college athletes additional compensation.

We should also be talking about the agencies that the Trump Administration is illegally dismantling, the ones that Congress has empowered to solve problems, like college athlete compensation.

We don't have an independent board in charge of determining whether these athletes can collectively bargain. Why not? Because the President illegally fired a board member, and the entire board is now deadlocked. At the FTC, we've seen antitrust division staff terminated. For some odd reason, they're forced to move to the USAID building. That agency is also deadlocked and in chaos, because of this administration's actions.

I don't even have enough time because I see I'm running short here on the abuses happening at the Department of Justice. My point is this: Let's keep the main thing the main thing. We have agencies that can help us to look at these complex issues. Right now we were not funding those agencies to do their jobs. I yield back.

Mr. FITZGERALD. The gentlewoman yields back.

The gentleman from Virginia is now recognized for five minutes.

Mr. CLINE. I thank the Chair for holding this hearing. I thank our witnesses for being here as well. I want to echo what the gentlelady said. This is about the student-athletes, and we need to keep that in mind, first and foremost, keeping in mind that they are student-athletes, and we should do no harm so that they do not unintentionally, through government destruction of the sports industry, become only students, and don't have the opportunity to become student-athletes.

I was a student-athlete at a very small school. I swam Division III because I wasn't fast enough to swim Division I. It was a great program, Mr. Albiero, if student-athletes become employees, which they are not now, Division I schools like James Madison University in my district, other Division III programs in Virginia—Washington and Lee, Bridgewater—they may struggle to afford salaries and benefits. Would this force schools to cut sports like swimming, or reduce participation?

Mr. ALBIERO. Thank you. Unquestionably. I think we're already seeing some of those changes right now and some of the pressures in programs dropping. Specifically, Cal Poly recently dropped men's and women's swimming. It's a travesty. Small school, phenomenal

academic environment. To your point, those opportunities are now gone.

We are very concerned about this model and the pressures that we put on Olympic sports, specifically, nonrevenue sports.

Mr. CLINE. Do you think that schools in Division II, Division III, do you think they should be exempt from athlete employment rules if those are set up due to financial constraints, or would that complicate the situation even worse?

Mr. ALBIERO. Well, there were three different divisions and they have different priorities in each one of those. I'm not sure how that would apply unilaterally, but certainly an important topic.

Mr. CLINE. So many students in Division III schools in my district and across the country play sports as a passion rather than as a career path. That was my goal. If college athletes are classified as employees, could this discourage student participation at schools without major financial backing?

Mr. ALBIERO. A hundred percent. There's a very strong responsibility.

Mr. CLINE. If there is some kind of tiered-employment model where only power four athletes are treated as employees—again, you indicated that this might be a solution, but it might be just adding complicating factors to the situation?

Mr. ALBIERO. I would agree with that. Again, back to ultimately the impact in all sports nonrevenue sports would be devastating.

Mr. CLINE. If student-athletes become employees, would schools need to provide healthcare, worker's comp, and retirement benefits?

Mr. ALBIERO. It comes with the employee, right? That's something that's really important. To a point earlier, in terms of mental health support, it's something that for us is really important at the University of Louisville where we invested seriously in that area with the tune of 10 professionals that now work with our programs.

Mr. CLINE. Would smaller programs be able to afford this? Would that potentially lead to program cuts?

Mr. ALBIERO. It's possible to think that way clearly.

Mr. CLINE. Mr. McIntosh, employee status could mean that scholarships and benefits are taxable income for athletes. Should Congress provide tax exemptions for scholarships of athletes who are reclassified as employees?

Mr. MCINTOSH. Thank you, Congressman. The idea of classifying student-athletes as employees even at the autonomy 4 level is one that we need to be careful and examine closely. Wisconsin, we have 23 sports. Six of those sports generate revenue. Two of those sports turn a profit. It's those profits that fund the opportunity for everyone else. To grant an exemption for employees in Olympic sports, I would just tell you that the detriment to those student-athletes, the tax consequence that they would face given the benefits that they already receive, the guarantees that they are already benefiting from—guaranteed scholarships would be put at risk.

Mr. CLINE. Could tax burdens discourage athletes from enrolling in certain States with higher income taxes? That could be a factor as well. You look at States—I don't know about Wisconsin. I don't know that they have—how their tax rates are. I know Vermont's are pretty high, but Virginias are too high. What would you say to that?

Mr. MCINTOSH. It should be a priority of ours to allow the academic and athletic reputation of our institutions stand alone and be what helps a young person decide what school they're going to go to. I'm not sure that State-by-State tax law or—

Mr. CLINE. Not the tax rates.

Mr. MCINTOSH. I'm not sure that's where we want to compete.

Mr. CLINE. I appreciate that. I yield back.

Mr. FITZGERALD. The gentleman yields back.

I now recognize the gentle—

Ms. BALINT. I have a unanimous consent request.

Mr. FITZGERALD. The gentlewoman is recognized.

Ms. BALINT. I ask unanimous consent to enter into the record an article from the *Milwaukee Journal Sentinel*, titled, "The Pressure on student-athletes Keeps Mounting."

Mr. FITZGERALD. With objection. The gentleman from Illinois is now recognized for five minutes.

Mr. GARCIA. Thank you, Chair Fitzgerald, and to the witnesses here today. We're here today to discuss whether the NCAA, a non-profit organization that makes over \$1 billion a year off of uncompensated college athlete labor, safe harbor from antitrust laws. In some ways, this is a complex and nuance legal issue, but for me, it's a pretty simple question. It's whether or not people have rights, labor rights at that.

Let me be clear, I'm a strong supporter of college athletics, but I'm also proud that Illinois enacted a law led by State Representative Kam Buckner and others allowing college athletes to be paid for the use of their name, image, and likeness.

It's because of my strong support for college athletics that I strongly oppose legislation that grants the NCAA and antitrust exemption and prohibits athletes from being recognized as employees.

Let's talk about the facts. The fact is that athletes are controlled by their institutions, and many of them spend more than 50 hours a week on their sport while in season. The fact is that the entire college athlete system is designed to suppress the compensation and labor rights of players.

The fact is that income NCAA is big business. In the 2023 school year, it earned \$1.28 billion of revenue from the labor of players who received none of that revenue. The fact there's coaches and athletic directors profit handsomely from this system.

In 2023, the highest paid State official in 43 States was a college coach. Here in the room we have an athletic director that makes \$1.45 million per year and oversees a program that spends nearly \$200 million per year.

I just don't buy the argument that there isn't enough money to pay athletes. I don't believe that Congress should forever prevent athletes from exercising their labor rights, whether we like it or not—we like the term or not.

Let me ask you, Mr. Cooper, if players cannot be recognized and employees, what other avenues do they have to see critical changes to the system that controls their lives, their sport, and their compensation?

Mr. COOPER. None. They would have to go through Congress or file lawsuits. Both of which are incredibly difficult processes, they

wouldn't have any way to hold the NCAA accountable in the same way they have no way now.

Mr. GARCIA. Thank you. I want to quickly touch on an important point here about our Federal agencies. College athletes are fighting right now for the right to be recognized as an employee under the National Labor Relations Act. I strongly support their efforts. Even if they win their fight, they will have limited recourse to enforce their rights because of Donald Trump and Elon Musk in their efforts to gut the NLRB. That's why I've spoken out against the illegal attempts to fire Gwen Wilcox, who was reinstated in a blistering court opinion last week. It's why I continue to fight against dismantling of agencies that uphold critical rights, like the Department of Education, which enforces Title IX as you have testified.

Let's be clear, the reason why Republicans are doing this is because these agencies fight for workers, and Republicans fight for billionaires. I'll continue to fight really hard on behalf of all Americans, not just the rich and powerful.

Mr. Chair, before I yield back, I ask unanimous consent—

Mr. FITZGERALD. Sure.

I recognize the gentleman's unanimous consent request.

Ms. GARCIA. Thank you. I have the unanimous consent. Its request is to add to the record, a memorandum written by the NLRB General Counsel Jennifer Abruzzo to all regional directors and officers in charge, dated September 20, 2021, titled, "Statutory Rights of Players and Academic Institutions," student-athletes under the National Labor Relations Act, which proves through the case at Northwestern University that college athletes must be considered employees under Section 2C of the NLRA, and that leading them to believe that they do not have a statutory protection is a violation of Section 881 of the Act.

Mr. FITZGERALD. Without objection. The gentleman's time has expired.

I now recognize the gentleman from North Carolina.

Mr. HARRIS. Thank you, Mr. Chair. I thank all of you on the panel that are here. I appreciate your testimonies. I have had an opportunity to read them through as well as what you have shared today.

I'll be brief. Director McIntosh, are you facing pressures internally to make your student-athletes employees?

Mr. MCINTOSH. No, sir. My student-athletes are not asking to become employees.

Mr. HARRIS. You're saying your student-athletes don't want to be employees?

Mr. MCINTOSH. That is correct.

Mr. HARRIS. OK. Well, I have serious concerns that classifying student-athletes as employees would ruin college sports as we know it. In fact, if student-athletes unionized, it could alleviate antitrust scrutiny, but more likely, employee status would have the effect of increasing antitrust scrutiny among a host of other problems.

So, Mr. McIntosh, as we consider ways for Congress to act to protect the relationship between student-athletes and universities, what problems do you think might arise if we fail to act?

Mr. MCINTOSH. Well, Congressman, we're in a world right now, an environment right now that is not sustainable, that is not stable, and we need Congress' help to create some stability so that we can ensure that the mission of college athletics, (1) the education; (2) broad-based opportunity; and (3) the competitive equity can be delivered on.

I fear right now given the environment and the direction that we're going that we will not be able to do that in the future. I fear that rules meant to create stability for college athletics are being challenged every day in the courts. This is an area in which we need your help.

Mr. HARRIS. What might happen if some States or schools classified student-athletes as employees while others did not? What do you see in that scenario?

Mr. MCINTOSH. Well, Congressman, I don't think that's a great scenario. It raises issues of competitive equity and fairness that are pretty dire.

Mr. HARRIS. Thank you, sir.

Mr. Chair, I'd like to yield the balance of my time to Mr. Jordan.

Chair JORDAN. I thank the gentleman for yielding.

Mr. McIntosh, the other side, the previous speaker talked about—I think the term he used is uncompensated labor of college athletics. What's a full grant made scholarship over five years? What's that for a college athlete?

Mr. MCINTOSH. In total, sir, \$125,000.

Chair JORDAN. Room, board, books, tuition, everything you get is \$125,000 a year or—

Mr. MCINTOSH. Oh, I'm sorry, I thought you meant—that was tuition, sir.

Chair JORDAN. Just tuition?

Mr. MCINTOSH. Yes.

Chair JORDAN. When you add it all up—books, board, the clothing they get, the food they get, the meal plan, the tutors—what's it over five years with most athletes register the year, they go five years, what's that total.

Mr. MCINTOSH. Sir, on a per-average basis, it's an investment of hundreds of thousands of dollars per athlete.

Chair JORDAN. OK. Now the *House's* decision is going to say: We got 20 million bucks coming to the university that you can then divvy up for the athletes as well—is that right? On top of what you described?

Mr. MCINTOSH. That's correct.

Chair JORDAN. Then there's also, for some athletes, particularly some of the best football, basketball players, whatever, they're going to get NIL money from some businessperson who wants them to advertise at the car dealership or whatever. There's that revenue for the athlete; that is income for the athlete as well?

Mr. MCINTOSH. That is correct. Market-based NIL.

Chair JORDAN. Then, we have at the big places, the big universities, the collective which is out raising money to also get athletes to come—typically football players—I don't know what your collective is. I know at Ohio State it's a lot of money. My guess is that the University of Wisconsin is a lot of money too. That also gets given to certain athletes. Is that right?

Mr. MCINTOSH. That is correct.

Chair JORDAN. It's far from uncompensated labor. In fact, they're getting maybe over \$1 million, a couple million dollars, maybe more. I know in the sport of wrestling, an all-American that goes to the portal and transfers somewhere—they're getting \$200,000—\$300,000 in the sport of wrestling. The quarterback's got to be getting millions of dollars.

This idea that there's uncompensated labor is just false. What we want is a system where all these student-athletes get an opportunity to continue to do what they do, participate in sports, not hurt our Olympic mood. That's what we're trying to get. Again, I'm not sure what the answer is, but we're trying to figure it out.

Mr. MCINTOSH. That's absolutely correct, Chair Jordan. Right now, our student-athletes have been benefiting from opportunities that exist outside of our ecosystem and outside of our department. We look forward to the pending settlement of the *House* case that will allow us for the first time to contribute directly, revenues directly to our student-athletes.

Chair JORDAN. Right.

Mr. MCINTOSH. It's been a long time coming and it's long overdue. We're embracing it, and we're excited about it.

Chair JORDAN. All right. I thank the gentleman for yielding.

I yield back to the Chair.

Mr. FITZGERALD. The gentleman yields back.

The gentleman from Georgia is now recognized for five minutes.

Mr. JOHNSON. Thank you, Mr. Chair.

Mr. Cooper, do you believe that urban and suburban athletes recruited to play football and basketball, which are the net positive revenue-generating sports, do you think it's fair that those players in those sports subsidize the Olympic aspirations of those who are looking to make it to the Olympics in archery—

Mr. COOPER. The football or—

Mr. JOHNSON. —rowing, fencing, water polo, beach volleyball, sailing, or canoeing, things that those urban students and suburban students who are playing football and basketball, they or their classmates in high school, they have no opportunity to do those—but should they—is it fair that they subsidize the Olympics aspirations of the country club set?

Mr. COOPER. The predominantly Black football and basketball players who generate the vast majority of the revenue, they should have rights, worker rights, and be entitled to a share of the revenue that they generate. From an Olympic sport standpoint, the Olympic sports could easily be subsidized by university endowments, or through State and Federal funding. This country is one of the only—we're one of the only countries in the world that does not federally fund Olympic sport developments.

Mr. JOHNSON. Well, gosh, I am troubled here by the fact that the Chair of the Committee talks about how \$125,000 a year in scholarship and room and board, and that kind of thing over five years, and doing that for a number of athletes in football and in basketball is a lot of money that the school is giving those players. While at the same time, we got a guy like Jimbo Fisher being paid \$77.5 million in a contract buyout when he lost his coaching job.



Can you explain to me how we could pay one man \$77.5 million for a contract buyout, while at the same time really nickeling-and-diming those athletes on whose labor, that money is being paid out to the coach? How could you justify that?

Mr. COOPER. You can't. Those same administrators, testified that there is not enough money to fund Olympic sports. If they were forced to follow the same laws as every other business in this country, they would be forced to become more fiscally responsible than they currently are, and spend less on their own salaries and more on worker-athlete or college-athlete compensation packages.

Mr. JOHNSON. The NCAA is crying out for an antitrust exemption, telling us that forcing them to compete for talent on a level playing field would lead to the death of college sports. I find that hard to believe that an organization earning \$1.3 billion a year doesn't have enough money to go around. That's not even including the revenue these schools get from the football playoff and bowl games, which are operated separately from the NCAA.

Mr. McIntosh, what is the median salary for a head football coach at a Division I school?

It's about \$3.5 million, isn't it, plus bonuses. Isn't that correct?

Mr. MCINTOSH. I won't disagree.

Mr. JOHNSON. Are you suggesting that the Black men who are playing football and basketball are interested in supporting your lobbying efforts to stifle their economic opportunities in playing college sports?

Mr. MCINTOSH. Absolutely not, Congressman. In fact, you and I are in agreement that it's time for those athletes, specifically in college football and college basketball, to benefit from the revenues that they're creating. The *House* settlement allows for that, a 22 percent of those revenues that would go then to support them. The success from their sport profits from the sports then—

Mr. JOHNSON. Why do you need an antitrust exemption?

Mr. MCINTOSH. Excuse me, sir?

Mr. JOHNSON. Why do you need an antitrust exemption?

Mr. MCINTOSH. We need your help to ensure that those same athletes that I'm talking about, those football players, basketball players, and the Olympic—all those in the Olympic sports—one area where we need your help is so that they're not considered to be employees.

Mr. FITZGERALD. The gentleman's time has expired.

Mr. JOHNSON. Mr. Chair, I have a unanimous consent request.

Mr. FITZGERALD. Go ahead.

Mr. JOHNSON. I ask unanimous consent to enter into the record a report authored by Craig Garthwaite and others for the *National Bureau of Economic Research* titled, "Who profits from Amateurism? Rent-Sharing and Modern College Sports."

It explains how money is generated by predominantly Black lower-income athletes and shifted into the benefit of predominantly White Olympic athletes from higher-income backgrounds.

Mr. FITZGERALD. Without objection. The Ranking Member Raskin is now recognized for a UC request.

Mr. RASKIN. Thank you, Mr. Chair. This one is from the *National Library of Medicine* dated February 2017, "On Average, Two NCAA Football Players Die Per Season."

Mr. FITZGERALD. Without objection. The gentleman from Kansas is now recognized for five minutes.

Mr. SCHMIDT. Thank you, Mr. Chair. I yield to my colleague from South Carolina, Mr. Fry.

Mr. FITZGERALD. The gentleman is recognized.

Mr. FRY. Thank you. I thank the gentleman for yielding.

What's interesting to me in this whole debate is, this is the disconnect from Washington, DC, with the rest of the world, right? That we're talking about Federalization on the other side of college athletes with commissions and regs and all this stuff. That is the disconnect, right? When you cross the Potomac, somehow these things cropped up last week in the Energy and Commerce Committee, we heard from student-athletes. They resoundingly said, "We don't want the employee model." We hear that on the other side that this is where we should go. We hear from the coaches today who are very talented. They don't want the employee model because it changes the face of a student-athlete.

So, Director McIntosh, you're on the hot seat for a little bit. I want to walk through some of the implications. That if Congress were to adopt what others on the other side are saying, an employee model, what does that do? First, if they're employees, you have an employer, employee relationship, which presumably means that they could get fired if they're injured. Is that correct?

Mr. MCINTOSH. That is correct, sir.

Mr. FRY. You also have additional taxes that the university would pay on their behalf to student-athletes' behalf. Is that correct?

Mr. MCINTOSH. That's correct.

Mr. FRY. Of course, they would be paying taxes now as well on any revenue that they receive, right?

Mr. MCINTOSH. I think it's actually worse than that, Congressman. I think they would be taxed on revenue that they receive and taxed on benefits that they currently receive in which they're not paying taxes on.

Mr. FRY. Right, so mental wellness coaches, tutors, room and board, food, and swag that they get, these will all be taxable under existing law. Is that correct?

Mr. MCINTOSH. Potentially.

Mr. FRY. OK. What about what happens in the event that an athlete is injured?

Mr. MCINTOSH. I think that's the problem. One of the benefits that our student-athletes have right now is they have guaranteed scholarships for four years, even if they are injured. I lived this myself as an employee in the sports organization in the NFL as a player. I was injured in the second year of my contract, and I was terminated after the third year.

Mr. FRY. All right. How many student-athletes are at the University of Wisconsin?

Mr. MCINTOSH. Approximately, 800, sir.

Mr. FRY. So, 800. If you go to an employee model, you have just hired 800 additional employees at the university, correct?

Mr. MCINTOSH. Theoretically, yes.

Mr. FRY. What does that do to your budget?

Mr. MCINTOSH. It puts tremendous pressure on our budget. I am trying to envision our H.R. department processing 800—posting 800 positions, posting a position for a wide receiver on our football team. It seems impractical, sir.

Mr. FRY. Right, and to be fair, you might, as the University of Wisconsin, be able to absorb it better than other schools, correct? Smaller schools would be really on the chopping block?

Mr. MCINTOSH. I think that is true. I think we would have a better chance. I think it would be detrimental to programs at lower levels.

Mr. FRY. If we decide to go to an employee model, which I think is a mistake, you are now paying more money. What happens naturally when you've got to pay more money, but there's a finite amount of money that you are budgeted every year, you have to make cuts elsewhere. Is that correct?

Mr. MCINTOSH. We would be forced to find the money through growing revenue or cutting of expenses.

Mr. FRY. OK. Cutting of expenses probably means cutting of sports, correct?

Mr. MCINTOSH. We would take every step necessary to avoid that. That would be the rest resort.

Mr. FRY. Is it a reality that this could happen?

Mr. MCINTOSH. That would be a reality for many programs at lower levels.

Mr. FRY. Also, what happens, too—this has not been discussed at all. If you're injured as a college athlete, and you are considered an employee at the university when you're injured, does that also trigger worker's compensation laws within the State?

Mr. MCINTOSH. Presumably.

Mr. FRY. What does that do to the State budgets that are impacted?

Mr. MCINTOSH. It's not good for them.

Mr. FRY. Basically, all the schools, including—and we did a liability safe harbor bill last year that was supported by big schools, small schools, historically Black colleges, student-athlete organizations, and entities because they need the oxygen in which to come up with their framework.

If we go to this model, that's the rub is that when somebody is injured, which injuries happen in college sports, you are now blowing wide open a State budget from a worker's compensation perspective. Because student-athletes do get hurt. They recover, but they do get hurt. Is that correct?

Mr. MCINTOSH. That's correct, sir. I just think it's important that we remind ourselves this is not what our student-athletes are asking for.

Mr. FRY. Let's take it just briefly in my last remaining seconds. The NCAA and other entities—I'm not going to apologize for prior actions of the NCAA—but they can't even enforce the rules right now without being sued. I understand that y'all are—I say collectively—that college sports are seeking a liability safe harbor that would kind of go along with any Federal legislation. How important is that liability shield to help preserve college athletics in the future?

Mr. MCINTOSH. Yes, thank you, Congressman. It's extremely important. It's important to distinguish that we are not asking for a blanket antitrust exemption. We are looking for a limited safe harbor in areas in which we need to be allowed to make rules like around eligibility that could preserve the opportunity for future student-athletes in the future. I don't think we want 12–13-year college athletes. Those are the types of rules right now that are being determined by the courts.

Mr. FRY. Like the basketball player that was just granted his eighth year of eligibility, right? I'm not going to call him out by name. We're institutionalizing the Van Wilders of college sport if we go down that model.

Mr. MCINTOSH. That's the risk that's out there right now.

Mr. FRY. Thank you, Mr. Chair, I yield back.

Mr. FITZGERALD. The gentleman yields back.

That concludes today's hearing. We thank our witnesses for appearing before the Committee today. Without—oh.

Mr. RASKIN. Thanks, Mr. Chair. Two quick UC requests. One about football concussions in *The New York Times*, dated February 1, 2021.

Mr. FITZGERALD. Without objection.

Mr. RASKIN. This one is an interview with Mr. McIntosh on the Trust website describing the health benefits he had by virtue of being in the NFL with the Players Association.

Mr. FITZGERALD. Without objection.

All members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record. Without objection, the hearing is adjourned.

[Whereupon, at 11:56 a.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=117995>.

