

**ATHLETES AND INNOVATORS: ANALYZING NIL'S
IMPACT ON ENTREPRENEURIAL COLLEGIATE
ATHLETES**

HEARING
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

HEARING HELD
SEPTEMBER 20, 2023



Small Business Committee Document Number 118-026
Available via the GPO Website: www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2023

53-333

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ATHLETES AND INNOVATORS: ANALYZING NIL'S IMPACT ON ENTREPRENEURIAL COLLEGIATE ATHLETICS

WEDNESDAY, SEPTEMBER 20, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,

Washington, DC.

The Committee met, pursuant to call, at 10:01 a.m., in Room 2360, Rayburn House Office Building, Hon. Roger Williams [chairman of the Committee] presiding.

Present: Representatives Williams, Stauber, Meuser, Van Duyne, Ellzey, Molinaro, Bean, LaLota, Velázquez, Mfume, Landsman, McGarvey, Scholten, Thanedar, Davids, and Pappas.

Also Present: Representative Carey.

Chairman WILLIAMS. Before we get started today, I want to recognize Congressman Ellzey from the great State of Texas to say the Pledge of Allegiance and a short prayer.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Chairman WILLIAMS. Please bow.

Mr. ELLZEY. Heavenly Father, we thank you today for the many blessings in our lives. We thank you for the opportunity to come together and respectfully share our thoughts and ideas for this dialogue. We pray for open hearts and open minds as we listen to each other and participate in this Committee hearing. May we engage in meaningful discussion today and remember to honor your will in all that we do. We ask these things in your name. Amen.

Chairman WILLIAMS. Also, I want to say, as we go through the hearing, you are going to see people coming, you are going to see people going. We have other hearings going on today, and Members are also Members of other committees. So when they get up and leave, don't let that alarm you. All right?

Good morning. I now call the Committee on Small Business to order.

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

I now recognize myself for my opening statement.

Welcome to today's hearing which will focus on the impact of the NCAA's name, image, and likeness policy across college athletics. I would like to thank all of our witnesses here today for their time as we discuss this potential issue.

For the first 115 years of the NCAA's governance over college sports, the individual college athlete had no legal right to earn a profit from their athletic performance and was entitled to nothing beyond room and board, meals, and education.

In 2021, after a series of court cases forced the NCAA to change their policies, college athletics were allowed to monetize their name, image, and likeness overnight without affecting their playing eligibility, resulting in sanctions against their university.

While we are still in the early years of this new NIL era, I think it is necessary to take a look at the positive and negative consequences of this drastic change in policy.

To start with the obvious good, student-athletes can now profit during their time playing college sports. Of the roughly 480,000 student-athletes, fewer than 2 percent go on to play professional sports, and in the first full year of NIL, there were almost \$1 billion in deals made.

NIL has opened up fantastic new opportunities for entrepreneurial college athletes to look for different avenues to partner with big and small businesses. This not only allows these students to earn money, but also allows them valuable business lessons that they can utilize after a time playing college sports. Whether it be negotiating contracts, navigating regulations, or being exposed by paying taxes for the very first time, all of these skills are extremely valuable as we build up a new generation of entrepreneurs.

Additionally, small businesses have been able to utilize the student-athletes as a new way to market their business. While we often hear about high-profile athletes with their massive deals, this is not the norm. Many of these deals are made between small business in the community and athletes that do not have a national presence. This symbolic relationship helps strengthen the bonds that tie together many of these college towns.

Now, while a lot of good has come from these changes for athletics, it has not come without some negative repercussions. Since there is no uniform set of regulations, individual States are stepping in and passing their own rules governing their universities. This patchwork approach is putting all the causes of students who compete in different States in an awkward position of choosing to comply with the State law, NCAA guidelines, or conference regulations that might be conflicting.

I am glad that we have two athletic directors here today that understand the complexity that this is forcing their universities and students to navigate, who will be able to shine some light on what will happen if we continue that overreaching set of rules and regulations that everyone follows.

Additionally, with so much money changing hands, there has been an increased number of bad actors looking to take advantage of these high school and college athletes. NBC News conducted an investigation where they reviewed dozens of NIL contracts offered to high school athletes. They describe many of the deals as exploitive, with commissions upwards of 40 percent, along with complex fee structures meant to confuse the athlete. In one instance, the contract was put in front of the student was simply a \$100,000 loan.

While I am leery whether the federal government will be able to step in and to stop some of these bad actors, I think it is important to bring attention to this side of the issue to show that there is real damage being done to these kids when promises are being made but not kept. Without transparency surrounding these deals, it is hard to know who is truly working in the best interest of the student-athlete.

I played college athletics myself and take this issue very personally. When I was in college, I received \$10 a month that was called laundry money. I am not angry that the system has changed and think it has opened the door for many positive developments for student-athletes, but I am passionate about keeping the system functioning for generations to come so the students will be able to experience what it means to truly be a student-athlete.

There are many reasons for having this hearing, but I want to list a few. I want to know how we can inspire student-athletes to utilize the skills they learn navigating NIL to start their own small business. I want to hear about the best practices that universities are doing to teach the student-athletes everything they need to know to take advantage of the amazing opportunity that wasn't available for millions of athletes that came before them.

And I want to discuss the appropriate role for the NCAA moving forward. I want to know how collectives are helping student-athletes and allowing their schools to compete. I want to know how non-revenue generating sports will fare if all money gets funneled to the sports that make money. I want to know if Olympic and women sports are going to be negatively affected if revenue sharing models are implemented. And I want to understand how these changes are affecting graduation rates if student-athletes are constantly changing schools in search of the largest NIL deal. And I want to know how smaller market schools will fare if they are constantly having their players lured away by NIL deals. I want to know what we can do to stop predatory agents and bad actors from taking advantage of student-athletes.

And, finally, I want to know the appropriate role that the federal government should play, if at all, in all of this.

I greatly look forward to today's discussion, and I hope we will bring to light the different challenges and opportunities presented by the NIL. And it is my hope that all NIL policy changes are beneficial for student-athletes above all else.

So before I yield to the Ranking Member, I would like to submit an op-ed from Senator Cruz on this issue into the record.

Without objection, so ordered.

I also ask unanimous consent to waive on Representative Mike Carey from Ohio for the purpose of giving an opening statement.

Without objection, so ordered.

With that, I yield to the distinguished Ranking Member from New York, Ms. Velázquez, for her opening statement.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

The success of America's college students has been top of mind ever since I began teaching courses at New York's Hunter College many years ago. The NCAA's 2021 decision to allow college athletes to make a living off their own names, images, and likeness, or NIL, was welcome news.

College athletes from underserved communities, even with modest deals, could finally begin building savings on generational wealth. Many players suddenly had a way to cover rent and living costs. In recent years, the launch and growth of the multimillion dollar collegiate athletic market has raised question about the way that our society treats our college athletes.

Stakeholders from across the political spectrum have voiced concerns about gender inequity, predatory agent practices, and the patchwork of confusing regulations. I am concerned with the growing trend of booster collectives steering the largest deal to the top athletes in football and men's basketball. Booster collectives, who often closely coordinate with individual schools, can undermine the gender equity progress made by Title IX and allow the collectives to shortchange our women athletes.

The hastily drafted and inconsistent restrictions have suddenly thrown college athletes into their first business experience. To protect them, it is critical that these students are well equipped with resources, know-how, and a stable environment to succeed and build strong brands. Otherwise, we run the risk of distracting our students from their educations and endangering their financial well-being.

Today is our chance to learn more about the opportunities and risks that name, image, and likeness have created for our college athletes so we can understand how best to support them.

I look forward to hearing the testimony of the witnesses.

And with that, Mr. Chairman, I yield back.

Chairman WILLIAMS. Thank you very much.

I now recognize Representative Mike Carey from the great State of Ohio for his opening remarks.

Mr. CAREY. I want to thank the Chairman, I want to thank the Ranking Member for giving me this opportunity to make remarks. NIL is an extremely important issue, and I appreciate the Small Business Committee for holding this very important hearing.

Thank you to the witnesses for your time today. We have an impressive lineup of witnesses that includes Gene Smith, who is a good friend of mine and who has done a tremendous job leading "the" Ohio State Athletic Department over the past 18 years. As some of you know, Gene has recently announced his retirement, and although we are sorry to see you go, I would like to congratulate you on an incredible career.

Mr. SMITH. Thank you.

Mr. CAREY. Being from Columbus, Ohio, which is the home of the The Ohio State University, I have taken great interest in the implementation of NIL in college sports, leading me, along with my dear friend and fellow Ohioan colleague, Greg Landsman, to introduce the Student-Athlete Level Playing Field Act.

In addition to earning money to help support themselves and their families, NIL allows student-athletes to learn about personal finance, marketing, taxes, and business in general. All of the lessons learned through NIL will supplement their learning in the classroom and will help set them up for a life after college.

This is not to say that there aren't problems with the current state of the NIL. Without the proper education and guidance, there is a potential for student-athletes to be taken advantage of. And by

no means am I saying that predatory practices are commonplace in the NIL, but it would be disingenuous to say that they are non-existent.

Another problem is that numerous States have implemented conflicting NIL laws, therefore, making the landscape for the NIL hard to navigate for both the universities as well as our students.

Congress needs to pass legislation that will create a federal standard for NIL, focused on protecting the recruitment process, increasing transparency in the marketplace, and implementing through enforcement mechanisms against those bad actors. This legislation, my legislation and Greg Landsman's, this legislation would include the prohibition of inducements, a registration requirement for agents, congressional oversight, and the establishment of a clearinghouse for NIL deals to be uploaded.

And I look forward to working with my colleagues on passing legislation that would create one federal standard to even the playing field, protect our student-athletes and the future of all college athletics. I feel confident in a bipartisan way that the House will be able to pass NIL legislation this Congress.

Listen, I just want to thank you for waiving me on the Committee today and for holding this important hearing.

Mr. Chairman, Ranking Member, I yield back.

Chairman WILLIAMS. Thank you, Congressman.

I will now introduce our witnesses. Our first witness here with us today is Jeremiah Donati. Mr. Donati is the director of intercollegiate athletics at Texas Christian University located in Fort Worth, Texas. Under him, the 2022-2023 season was the most successful in TCU's 150-year history. They were the only school to make it to the College Football Playoff national title game, College World Series, and the NCAA basketball tournament in the same academic year.

While these are the most high-profile sports, TCU also saw success in a number of other sports with men's tennis, equestrian, rifle, and beach volleyball, all ranked number one in the nation over the course of the year.

Prior to being appointed as director of intercollegiate athletics at TCU, Mr. Donati served as the Horned Frogs deputy athletic director. He attended the University of Puget Sound, earning his bachelor of arts in politics and government, then attended Whittier Law School where he earned his jurisprudence in sports and entertainment.

Mr. Donati, thank you for being with us today, and we look forward to hearing from you.

Our next witness here with us today is Mr. Gene Smith from a school called "the" school. I don't understand that. But, anyway, Mr. Smith is the senior vice president and athletic director at the The Ohio State University. Mr. Smith is only the eighth athletic director in Ohio State history and has had the third largest tenure, having served in the position since 2005 and being promoted to senior vice president and Wolfe Foundation athletic director in May of 2016. Prior to his time at Ohio State, he served as athletic director at Arizona State University, Iowa State University, and Eastern Michigan University.

Mr. Smith also serves in the NCAA NIL Working Group and is on the board of directors of the National Football Foundation, among others.

Mr. Smith was a college athlete himself and attended the University of Notre Dame, where he received his bachelor's degree in business administration.

Mr. Smith, thank you for joining us today, and we look forward to the conversation ahead.

Mr. SMITH. Thank you.

Chairman WILLIAMS. Our next witness here with us today is Mr. Gino Torretta. Mr. Torretta is a Heisman Trophy winner and a two-time national champion, as well as a Member of the College Football Hall of Fame. Mr. Torretta attended the University of Miami where he played for the Miami Hurricanes football team, winning the national championship in 1989 as well as in 1991. He then went on to win the Heisman Trophy in 1992. After his time attending the University of Miami, Mr. Torretta played for several teams in the NFL, including the Minnesota Vikings, Detroit Lions, and Seattle Seahawks.

Following his time playing for the NFL, he joined Wachovia Securities as a senior financial advisor and is Chairman and CEO of Touchdown Radio. Mr. Torretta graduated from the University of Miami with a degree in business management.

Mr. Torretta, thank you for joining us today, and we look forward to discussing this important topic with you.

Mr. TORRETTA. Thank you.

Chairman WILLIAMS. I now recognize the Ranking Member from New York, Ms. Velázquez, to briefly introduce our last witness appearing before us today.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

I would like to welcome Maddie Salamone, the Vice President of the College Football Players Association. Ms. Salamone is an attorney and college athlete advocate. In her college years, she played lacrosse for Duke University and entered her first year ranked number six nationwide by Inside Lacrosse. However, her college career also involved many battles with injuries, resulting in three knee surgeries. These challenges gave her a deep understanding of the physical, mental, and emotional issues that many college athletes endure.

Ms. Salamone also Chaired the NCAA's Division I Student-Athlete Advisory Committee, serving on rules, legislative, and leadership groups. Her tireless advocacy led to the granting of voting power for college athletes at all levels of NCAA's governance. As an attorney she has represented college athletes on matters related to athletic eligibility, scholarship appeals, abuse, restricted transfer, and mental health issues.

Ms. Salamone holds a bachelor's degree in public policy from Duke University and a juris doctorate from the University of North Carolina School of Law.

Welcome, and thank you.

Chairman WILLIAMS. Thank you. And we appreciate all of you being here today.

So before recognizing the witnesses, I would like to remind them that their oral testimony is restricted to 5 minutes in length. If you

see the light turn red in front of you, it means your 5 minutes have concluded and you should wrap up your time.

With that, I now recognize Mr. Donati for his 5-minute opening remarks.

STATEMENTS OF MR. JEREMIAH DONATI, DIRECTOR OF INTERCOLLEGIATE ATHLETICS, TEXAS CHRISTIAN UNIVERSITY (TCU); MR. EUGENE (GENE) SMITH, SENIOR VICE PRESIDENT & WOLFE FOUNDATION ENDOWED ATHLETIC, DIRECTOR, THE OHIO STATE UNIVERSITY (OSU); MR. GINO TORRETTA, HEISMAN TROPHY WINNER AND TWO-TIME NATIONAL CHAMPION, MEMBER OF THE COLLEGE FOOTBALL HALL OF FAME; AND MS. MADELINE (MADDIE) SALAMONE, VICE PRESIDENT (ATTORNEY & ATHLETE ADVOCATE), COLLEGE FOOTBALL PLAYERS ASSOCIATION (CFPBA)

STATEMENT OF JEREMIAH DONATI

Mr. DONATI. Chairman Williams, Ranking Member Velázquez, and distinguished Members of the Committee, thank you for allowing me to be here today.

As someone who is passionate about college athletics and the opportunity to positively impact young people's lives, it is an honor to testify before you at a time of great change in our industry. Not since the creation and implementation of Title IX over 50 years ago have we seen such changes of this magnitude. It is my hope that any experiences I can draw from may be helpful as we collectively seek solutions to very complicated issues in front of us, none larger than NIL.

I have over 15 years of experience working in college athletics, and I have been the athletics director at TCU for the past 6 years. I also have experience working in the sports agency business representing the interests of professional athletes and coaches. I believe these experiences have given me a unique perspective on many aspects of our business and especially NIL.

The concept of allowing student-athletes to receive compensation for the use of their NIL makes great sense. After all, the vast majority of college student-athletes will not play professionally, and it only seems fair that they should be able to monetize their skills and talents.

In 2021, when NIL became permissible, student-athletes could now enjoy the same rights as ordinary college students. Overnight they became entrepreneurs, and almost immediately we began seeing them signing endorsement deals with companies and products. Other NIL activities soon followed: autograph signings, personal appearances, and community services work, for example. In many cases it became apparent that they were using this additional income to better support their families. This is a reality for some many of our young people that I believe is often overlooked and is another reason why NIL has been very beneficial.

But simply putting money in the pockets of student-athletes is not the only value that NIL brings to their lives. There is a tremendous opportunity to educate and give student-athletes a set of tools more valuable than any NIL payment. Following NIL's enactment, many athletics departments, including TCU's, unveiled edu-

cational programs focused on financial literacy, contract negotiation, business formation, entrepreneurship, brand management, social media promotion, and taxation.

Like others, we saw this opportunity to further our mission and formed a partnership between the athletics department and the business school to educate student-athletes on these key aspects of entrepreneurship. To illustrate our commitment we created an endowed professorship in support of NIL education, created courses for credit, office hours of business school faculty, and also dedicated a football suite in the stadium and converted its day-to-day use for the teaching and instruction of NIL entrepreneurship.

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

Despite the positives that have come from NIL, it has also come with a significant number of challenges. From the outset, the lack of uniformity has caused confusion amongst NCAA Members, respected donor bases, and student-athletes. NIL was implemented without the proper guardrails or mechanisms necessary to effectively manage these changes and, unfortunately, none of these shortcomings have improved, and the legal challenges facing the NCAA have made it difficult to find sustainable solutions.

Bad actors or those who break the rules and exploit student-athletes for their own personal gain, pay-to-play from third parties, recruiting and transfer portal inducements are among the unintended consequences that have largely gone unchecked to date. We now find ourselves in a wild wild west environment across college athletics with little accountability.

Sadly, there are countless stories of student-athletes and their families being exploited, deceived, and harmed for others' personal gain in these NIL pursuits. And while NIL collectives have provided universities with an efficient tool to fulfill NIL opportunities from donor support, the governance and oversight of these organizations has been inconsistent and in desperate need of uniform oversight.

The good news is that there are solutions available. Recently, we have seen progress from federal legislative bills and discussion drafts. I know I am not alone in my belief that Congress does have the power to bring uniformity, transparency, and fairness to the administration of NIL through enacting legislation that should include, one, agent oversight; two, standardized contracts; three, a national clearinghouse or registry; four, elimination of inducements and pay for play; and, five, rule enforcement mechanisms.

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

Thank you for the opportunity to testify before you today, and I am happy to answer any questions you have.

Chairman WILLIAMS. Thank you.

And I now recognize Mr. Smith for his 5-minute opening remarks.

STATEMENT OF EUGENE (GENE) SMITH

Mr. SMITH. Thank you, Chairman Williams and Ranking Member—

Mr. BEAN. Your microphone, Mr. Smith.

Mr. SMITH. Sorry.

Thank you, Chairman Williams and Ranking Member Velázquez and distinguished Members of the Committee. Thank you for the opportunity to testify today. I will try not to be repetitious. I reduced my opening comments significantly as a result of what has been said.

At Ohio State we have 36 athletic programs and more than a thousand student-athletes. We are committed to providing our athletes what they need to grow academically, athletically, and socially, and graduate with skills that transfer to success in life. We are focused on recruitment to career, which is evidenced by our over 95 percent of our graduating seniors moving right into jobs, graduate school, or professional sports.

I significantly believe that NIL is beneficial to the student-athlete experience and has been more successful than portrayed. It was intended to allow student-athletes to enjoy the same privileges that other students on our campuses have, including the ability to monetize their personal brand or business acumen.

NIL is a great educational tool, as my colleagues share. Student-athletes learn about a host of important entrepreneurial skills, such as fiscal responsibility, income tax management, personal brand development, and marketing. I believe the lessons learned from NIL further strengthen the holistic development of a young person and fills his or her toolbox for success in life.

Our mission at Ohio State related to NIL is to inspire entrepreneurial and innovative thinking and ensure that student-athletes have the resources to create, leverage, and promote their personal brand. Over 420 of our student-athletes have at least one NIL deal. They have made over 2,000 NIL deals among all sports, with football and women's volleyball attracting the most.

Not all student-athletes are on full scholarships. In fact, most Olympic sport student-athletes are on partial scholarships. Historically, many partial scholarship student-athletes graduated with debt. NIL opportunities offer the opportunity to possibly mitigate that debt.

NIL implementation hasn't been without challenges, as has already been stated, so I won't go through my speeches on that.

Since institutions cannot manage NIL on behalf of student-athletes, collectives have formed, largely 501(c)(3)s, with the intent of soliciting funds from passionate fans in developing NIL deals. As a result of an IRS interpretation, many collectives are now shifting to limited liability corporations. In many markets, the efforts of the LLCs are in direct competition with athletic departments. While these efforts for sure are beneficial to student-athletes in the short

run, athletic directors are now finding themselves making funding decisions based upon declining income streams which could in turn hurt our student-athletes in the future.

As has been stated, many States have created legislation to support their institutions' NIL activities, but there is no uniformity to these State laws. As you all know, we do not have a federal law regarding NIL.

NIL offers tremendous opportunities for student-athletes to learn and grow their resources; however, protections need to be put in place. Like my colleague, I believe Congress needs to enact NIL legislation as soon as possible.

An effective bill, in my opinion, should include: A national NIL standard. NIL agent registration. You commented on the bad actors. There are great agents out there, but there are some unscrupulous characters who are taking advantage of young people.

Standard NIL contracts. Prohibition of inducements. The difference between athletics at our level and the pro sports is we recruit. We do not draft. Draft makes it impossible for the bad actors to enter that space like they do in our space.

An NIL public registry to bring transparency to the marketplace. No other industry doesn't have a marketplace where you can actually evaluate the marketplace and make good decisions as you move forward in your business.

And strong enforcement measures.

Thank you so much for the opportunity to testify. I appreciate it. Thank you.

Chairman WILLIAMS. Thank you very much.

And now I recognize Mr. Torretta for his 5-minute opening remarks.

STATEMENT OF GINO TORRETTA

Mr. TORRETTA. Chairman Williams, Ranking Member Velázquez, and distinguished Members of the Committee, thank you for the opportunity to testify today.

As one who has been engaged in college athletics since 1988, as an athlete and broadcaster, I am honored to provide you my insights on NIL and the impact on entrepreneurial athletes.

Collegiate athletics afforded me unique opportunities to help me be where I am today. I grew up in a small town, Pinole, California. At 17 years old I decided to leave California and go to the University of Miami for a chance to compete for a national championship and earn a degree.

I spent 5 years there, was a Member of two national championship teams. After my senior season in 1992, won the Maxwell Trophy, the Johnny Unitas Golden Arm Award, the Walter Camp Player of the Year, Toyota Leadership Award, NCAA Top 6 Award, and every award that I could win or you could win as a offensive player in collegiate football. Spent 5 years in the National Football League.

But during my time as a Miami Hurricane, the NCAA had rules in place regarding transfers, and there was no ability to monetize name, image, and likeness. With the passage of NIL and the creation of the transfer portal, athletes are able to work, monetize their success in their sports, essentially allowing all athletes to cre-

ate their own small business and capitalize on their time competing in college.

This NIL window provides athletes with a head start in earning and saving before graduation and entrance into their chosen professional field, which for the majority will not be in professional sports. These experiences will be beneficial in their lives going forward.

In college athletics, one can always find examples of a player and/or institution not following the rules. When these rules have been broken in the past, it led to an athlete losing eligibility, schools being placed on probation, fines, bowl bans, et cetera. With the current NIL system, there is no standard set of rules. The NCAA lacks the enforcement teeth, and they only place guidelines on schools, and they are following State laws that are essentially different.

Coaches in any sport do not devise game plans within a different set of rules. They create game plans to follow the rules, one set of rules that are set for all of them to follow. And because the NCAA has failed to issue one set of rules for these schools to follow, I believe it is important that Congress needs to step forward and give a level of the playing field across the board with all universities amongst all sports, male, female, football, basketball, baseball, gymnastics, whatever sport it is.

And I think that is really why we are here today, to hear the testimony. And I, again, thank you for the opportunity, and I look forward to answering any questions you may have.

Chairman WILLIAMS. Thank you very much.

And I now recognize Ms. Salamone for her 5-minute opening remarks.

STATEMENT OF MADELINE (MADDIE) SALAMONE

Ms. SALAMONE. Chairman Williams, Ranking Member Velázquez, and Members of the House committee, thank you for having me here today.

Our other vice president, Justin Falcinelli, is also in the audience today, and I just want to recognize him as well.

My time as Chair of the Division I Student-Athlete Advisory Committee taught me that the only time there is real change was when the NCAA felt public pressure after media coverage revealed the truth of what was going on in college sports. This is the reason I continue to advocate for athletes, and I have become a leading voice for NCAA reform and college athletes' rights over the years, speaking out publicly, consulting with leaders and lawmakers across the country, and providing insight into the ongoing major issues within college sports.

The Committee convened this hearing to discuss name, image, and likeness in college sports and its impact on entrepreneurial athletes. My understanding is that Members of this Committee are concerned about a number of news reports and the overall impact of NIL. Though I will also address the main topic at hand, the truth of the matter is that the continual discussion about NIL, antitrust exemptions, and even employment status of athletes are a distraction created by the NCAA and member schools and exacerbated by the media's constant coverage of the topic.

The most important issues that must be addressed in college sports are the abuse, mistreatment, and lack of attention to player health and safety at the hands of coaches and support staff. Even in the wake of recent allegations of mistreatment that demonstrate a cultural issue within college sports, it is incredible how quickly the focus has shifted back to NIL being the most important issue at hand. No matter where we land with NIL, we will have failed college athletes if we continue to ignore the much more important issues of player health and well-being, which impacts players' lives both during and after college.

The primary remedy for athlete mistreatment is to have external independent oversight by individuals who are not employed by the schools. Schools have repeatedly demonstrated that they cannot be trusted to police themselves. There are countless stories of individuals who have reported problematic coaches and staff and are subsequently silenced, fired, or otherwise ignored and pushed out. It usually follows that the more powerful and successful a coach, the more people's jobs are at risk if they speak out and the harder schools will work to silence anyone making noise.

For every scandal that has been made public, there are countless others that remain an open secret on campuses across the country. Players need accessible help they can trust with roles clearly defined. There must be independent oversight of practices, team meetings, and medical care. Players need access to individuals from whom they can seek advice and help without the fear that that individual break confidences and cause more harm. They need someone whose obligation is to them and not to the school, someone who can act as a mediator whenever necessary and advise players on the best course of action. And they must have independent authority to take appropriate action with the information once they have it, including the ability to investigate reported issues and bring issues to the attention of the administration without risking their jobs. Those individuals need to be trained to handle confidential information and exercise discretion and tact in addressing matters.

I hope we get a chance to discuss these very important and more pressing matters of college athlete health, safety, and welfare during this hearing.

What is interesting to me about the reason we are all here today is that we are discussing NIL as if it is a new, complicated subject, but it really isn't. Nothing about this area of the law is new, only how it applies to college athletes. It is really just the right of publicity, which is another way of describing a person's right to control the commercial use of their identity and image.

For years, the names and likenesses of professional athletes, models, actors, and artists have been used to promote and endorse products and services or to raise awareness about an issue. Past NCAA rules were simply preventing athletes from exercising the same rights already available to everyone else.

Now something we don't talk about is the additional benefits NIL actually gives beyond the financial. In addition to the nearly limitless entrepreneurial opportunities that athletes have and can now pursue, NIL has tremendous educational value as well. Athletes are developing skills that are directly applicable to the modern job market, including content creation, direct sales, promotions, con-

tract negotiation, brand development and management, and social media.

Athletes more than ever are encouraged to think about what they want to do after their playing days are over and to start setting themselves up for the future they want while they are in school. Previous generations of athletes had nowhere near the same opportunities to gain real-world experience or prepare for their futures as current athletes.

I outlined in my written testimony areas where the NIL space could be improved for college athletes, particularly around education, assistance with review of contracts, and agent regulation. But I believe these are relatively minor concerns within the overall landscape of college sports reform.

As I have discussed, it is time to finally focus on the big picture in college sports. We cannot allow any more athletes to be negatively impacted by issues that are so preventable with the right oversight. Schools must be required to direct spending towards resources that will address the biggest issues these students are faced with, which is their mental and physical health. These issues have the potential to negatively impact the rest of their lives, way beyond college.

With the influx of revenue from the college football playoff expansion, in addition to revenue pouring in from massive media rates deals—

Chairman WILLIAMS. The witness' time is up.

Ms. SALAMONE. Apologies. Thank you.

Chairman WILLIAMS. Thank you.

I now recognize myself for 5 minutes.

My first question will be to Mr. Donati. There has been a lot of concern about the patchwork regulatory framework that student-athletes need to navigate in order to play by the new rules. In addition to the NCAA policy, students have to abide by State law as well as rules set by their school and their conference.

Some have asked for a federal solution to this problem in order to simplify compliance. Now, while I agree that a uniform standard would provide certainty so that everyone is playing by the same rules, finding that appropriate solution is a difficult task. So my question is: What do you think the role of the federal government should have in the NIL space, if any?

Mr. DONATI. Well, I would say it would be to work with the NCAA. I don't think any of my colleagues or I expect the federal government to supplant the NCAA, but the nature of NIL, the complexities that come with it—and you mentioned the patchwork State laws have made this unmanageable. And so my colleague, Mr. Smith, and I believe the federal government can be involved in a number of ways.

You mentioned the agent issue. I think that is an easy one to address. I think there is a need for a national clearinghouse or transparency into these deals that I think the federal government can be involved with. And then the big question regarding the NCAA is how you enforce these rules, and I think that the federal government could play a major part there as well.

Chairman WILLIAMS. With the time remaining, Mr. Smith, would you like to add to that?

Mr. SMITH. Yeah, I would agree with my colleague that those are the areas where the federal government can help the most. But the single most important element, in my view, is the inconsistency across the country relative to State laws.

The NCAA, even if we had the ability or the model to come up and address the other issues, I think it would be difficult for the NCAA to come up with a strategy to create a level playing field across this country when it comes to the multiple State laws. I believe it is 18 States that have State laws that are different today. So I think we certainly need help in that particular area.

And then my second one is around agents. I will just refer directly to what Ms. Salamone said. Student-athletes are being taken advantage of, and that is saddening. It is sickening to read some of the reports where we allow all the unscrupulous characters to enter the space—and you refer to as bad actors—and ultimately take advantage of families and young people, particularly people from disadvantaged environments. So that area is one that I think the federal government can help us in, big time.

Chairman WILLIAMS. All right. Thank you.

The first year of the NIL era saw nearly a billion dollars' worth of deals, and there is nothing to hint that this number is slowing down anytime soon. The explosion of money and lack of uniform guardrails has led to what some describe as America's new wild west, and we have heard that today. Unfortunately, there are some bad actors that are exploiting the system at the expense of young athletes.

We have heard horror stories, such as contracts giving a company the right to use an athlete's name and image in perpetuity for their brand. And one student-athlete moved from Georgia to California on an NIL promise, only to be suspended by California governing bodies and suspended from playing for a year. Further, a recent lawsuit filed by a former University of Florida athlete alleged that a predatory loan was disguised as an NIL deal that included turning over 15 percent of any future professional football earnings.

So, Mr. Smith, my question to you: What can be done to improve NIL's guardrails to ensure that student-athletes are not being taken advantage of by these bad actors?

Mr. SMITH. Yeah, I think, again, that is where law needs to come into play. And those people who take advantage of—in particular the one you mentioned, the Florida student-athlete, who now is looking at a lawsuit where he has signed to pay 16 percent of his future earnings to a collective, that requires national law. That is not something that the NCAA can deal with.

So, in my view, you know, we need governmental help in that particular space.

Chairman WILLIAMS. Okay. Thank you.

Real quick, Mr. Torretta, you have got one of the most impressive resumes any college football player could dream of. Can you walk through real quick through your time playing football at Miami, from your first start to winning the Heisman Trophy, and describe to us how your story might have played out differently in NIL?

Mr. TORRETTA. Well, in 1989, we had an injury, so I started four games in the middle of our national championship year, broke the school record for passing in my second start, which is still considered QBU, I think. And at the end of the four games, I went back to the bench and knew I was going to sit the bench the following season.

So in today's day and age of a transfer portal, I would have probably looked elsewhere, because back when I was in school, you had to sit out a full season. There would have probably been inducements of NIL money of come to whatever school, pick your school. And my story probably doesn't turn out like it has today.

So for the good of NIL and transfer portal, there is probably also the bad. The grass is not always greener on the other side.

I think in all of these questions, it is going to take an adult to step forward and to protect—I will call these kids, because from 18 to 22, you are still a kid in my eyes. And, you know, whether that is Congress or the NCAA, an adult needs to step forward, put up some guardrails, and give some enforcement teeth to actual rules.

Chairman WILLIAMS. All right. Thank you very much.

I now recognize the Ranking Member for 5 minutes of questions.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Ms. SALAMONE, as you wrote in your testimony, many booster collectives tend to steer NIL deals primarily to male college athletes. Could you confirm for us whether this distribution is proportionate among men and women?

Ms. SALAMONE. I would say that primarily the collectives are steering money towards football athletes over every other sport, and so that is disproportionately male as compared to female.

You know, I had someone explain a collective to me in, I thought, a very good way, and it was described as a fan club and that these collectives basically operate at the behest of the coaches to direct funds to specific players that they sort of identify.

Ms. VELAZQUEZ. This is happening because booster collectives aren't regulated by Title IX, correct?

Ms. SALAMONE. In part. I think that the collectives came about as a result of schools not wanting to deal with the funds because they were concerned about having to comply with Title IX, and this is sort of a workaround. I think the relationship is so closely knit at this point that Title IX should apply to collective funds.

Ms. VELAZQUEZ. Would you agree that booster collectives who coordinate closely with their school ought to be considered extensions of their school outright and, therefore, subject to Title IX regulations?

Ms. SALAMONE. Yes. Collectives at this point effectively are extensions of the schools.

Ms. VELAZQUEZ. Ms. Salamone, some stakeholders worry that the predominance of social media influencing deals in the NIL market for women college athletes is incentivizing them to post suggestive content.

Ms. SALAMONE. So I think that this is maybe a greater societal issue. I know that there are certainly athletes—it is an issue with female athletes feeling pressure to post certain types of posts that might gain more attention. I think that what that comes down to is a greater need for messaging around that and conversations with

female athletes in particular about, I think, staying authentic, doing things that make you feel comfortable, not feeling pressured by an agent or anybody else.

You know, there are a lot of social media branding specialists that are encouraging athletes to do all sorts of things on social media, and I think it is becoming a pressure, and I think that schools should step in and kind of remind athletes that they should not feel added pressure to do those things.

But, again, I think females in society on social media feel the same pressure. I don't think that it is unique to female athletes at this point. So that is maybe a greater debate about whether we feel comfortable with, I think, the pressures on women in general to post certain posts on social media if that is not what they are comfortable with.

Ms. VELAZQUEZ. Race and sexual orientation play immense roles in this dynamic, as I see it. Is there a correlation between successful female NIL earners and more traditional race and sexual orientation identification?

Ms. SALAMONE. So I think what you are asking is are they feeling pressured because they see the success of other people making money on social media. Certainly. And, again, I will go back to I think that is a greater pressure that content creators in general feel when they see things that are working for other content creators. And I think it goes back to athletes needing to be reminded to stay true to themselves, not to feel the pressure, to focus on their sports. But they are going to feel it. They are part of—this new generation, they grew up in the social media world. It is a reality. They have a different mindset than we do when it comes to that. And so that has to be taken into consideration. But certainly I think that when anybody sees what someone else is doing as being successful, they are inclined to want to copy that.

Ms. VELAZQUEZ. Thank you.

You placed great emphasis in your testimony upon the need to prioritize health, safety, and well-being for college athletes and any congressional action in this space. Can you explain why this is critical to the success of the NIL businesses?

Ms. SALAMONE. Yes. If an athlete is being abused, if they are mentally suffering, just like any normal person in business, if they are not taking care of themselves and living a well-balanced life being taken care of, their businesses are going to suffer. They go hand-in-hand.

Ms. VELAZQUEZ. Based on your experience, can you tell me and the Committee if colleges are putting resources into helping athletes?

Ms. SALAMONE. I think that many schools are putting resources. I think there is a tremendous gap in the education, and I will touch on my fellow panelists here. I think one of the ways that we can address some of the contractual issues and the agent issues is to educate about things to look for in contracts, what kind of practices to watch out for and how to guard against them.

Ms. VELAZQUEZ. Thank you. I yield back.

Chairman WILLIAMS. Thank you.

I now recognize Representative Meuser from the great State of Pennsylvania for 5 minutes.

Mr. MEUSER. I thank the Chairman very much.

Gentlemen, lady, thanks for being with us. It is always enjoyable, it seems, to talk about football, particularly in the middle of the day or late morning on a Wednesday. But these are some pretty important subjects we have got here, and the idea of us having congressional legislation seems to be agreed upon by all.

So when I conclude, I am going to ask you, who has got the plan? You clearly are all the specialists in this and have great experiences and tenure, but, you know, think about that a little bit. Who else do we go to for the gaining and developing, creating the right plan moving forward?

Because the thing is that I think no one disagrees that a student-athlete—I have always felt, I mean, from the days of Tim Tebow, for instance, right, he was great in college and made it to the NFL, but the idea that he couldn't get a Nike contract, whatever it might be, never made any sense to me.

My son actually plays at Bucknell, 1A. They have a good time. But the idea that they couldn't use their name for, say, a local business or car dealership perhaps to help promote never really made any sense, kind of having a side job.

But this has gone further, right? Now we have alumni basically coming together, my understanding, putting millions of dollars into a pot or some schools maybe tens of thousands, where one is tens of millions, and doling that out to gain the best quarterbacks, the best team possible with contractors that really have no regulations or jurisdiction, where some States are putting themselves in the middle of it.

So the first question is: Do you think we have got a problem just with that amount of money going for this purpose, yet the revenues from the football cannot be used—you know, for the football programs cannot be used. Are we—with that funding from generous donors or donors who just want to win football games perhaps, but either way, would it be going elsewhere? That is question number one. I mean, is it being pulled from other funding that would build a library perhaps, Mr. Donati?

Mr. DONATI. Absolutely, to answer your question directly. The money that is being put into NIL is—there are donors making a decision of how they are going to best support the university, whether it is through supporting NIL with the student-athletes or funding a building or a scholarship. And so we are seeing that in real time, and we are having to—as athletic directors having to make adjustments of our budget accordingly.

Mr. MEUSER. Okay. Okay. So that is a big yes.

Mr. Smith—sorry, my glasses aren't working so great here—do you agree with that?

Mr. SMITH. Yeah, I agree with that. And I think one thing we have to recognize is that there are over 350 Division I schools in this country, and the diversity in how they are financed is significantly different. Many of the schools that we are blessed to have in our country who educate our children, the athletic departments are funded through the university general funds or student fees. They are not like Ohio State. You know, we generate \$250 million externally through our revenue generation plan which covers our

expenses, and we contribute dollars back to the institution. So we are a different beast.

Part of the realities is that we are listening to comments about places that don't do it right. We educate our student-athletes. We do not have the same issues relative to fundraising that my colleague mentioned, because our donors are going to support us at the end of the day.

So the diversity in our business is significant. And so I think we need to recognize that and pay attention to that because, in my view, the plan is represented in some of the bills that have been offered, support—well, Mike Carey's bill significantly, but there are other plans that the NCAA is working on that I think, you know, need to be put in place to allow more institutional involvement. It gets to the Title IX question.

Mr. MEUSER. Yeah.

Mr. SMITH. At the end of the day, I am going to make sure we meet Title IX. That is not some outside entity that is going to make that determination.

So it is a long speech to your question.

Mr. MEUSER. No, I appreciate it.

Mr. SMITH. But that is the reality.

Mr. MEUSER. I will just go to Mr. Torretta real fast, same question.

Mr. TORRETTA. I would just say under the current system the universities are getting free labor still, because the additional cash is coming from boosters to the players and the student-athletes. So I think that is where—you know, is it a percentage of revenue to the student-athletes? But under the current system, really, the student-athlete doesn't cost the university any more.

Mr. MEUSER. I am out of time. I would like to follow up and ask you what problems are created from that, some unintended consequences.

But I yield back, Mr. Chairman.

Chairman WILLIAMS. Thank you.

I now recognize Representative McGarvey from the great State of Kentucky for 5 few minutes.

Mr. MCGARVEY. Thank you, Mr. Chairman.

And being from Kentucky, we love our college sports, so this is of particular interest to me. I am going to say, though, this is the first time on our Committee I have seen an organization come forward before us who doesn't have its act together and is so inept that they are actually asking the government to take over what is going on and regulate this.

You know, I was the senate minority leader in the State of Kentucky. I was the first person to introduce the name, image, and likeness bill in Kentucky. I worked with our university to author it. Passed it. Within 6 months it was basically obsolete. We had good things in their, including registry of agents which you are talking about. We had good things in their protecting the players. I am very much about the players, their safety, their well-being.

We had a provision in there which I liked that I haven't heard anybody talk about today, which is if you sign the contract as a student-athlete in college, it was void if you wanted it to be when you went professional. Therefore, you know, we have got some 17-

, 18-year-old kids who are signing up for contracts when they go to college. If they are one and done in basketball, they are not obligated to that after they go. I think there is some good things we can do.

But here's the thing, right? The NCAA is the best institution to handle this. The next best institution is us. The last institution are your State legislatures, which I am a State legislator at heart. I love what they do. But you saw an arms race and this patchwork of laws which has led us to being hear today.

But here is my warning. Just like what we did in Kentucky, when you needed a change, you have got to go back to the State legislature. When you all are asking the United States Government where it will literally take an act of Congress to change something once we let it out loose in the wild, is the NCAA so inept right now that this is something Congress must legislate?

Mr. TORRETTA. Somebody needs to step forward, and apparently they are not stepping forward to create some—like, I mean, essentially what we all want is a level playing field amongst TCU, Ohio State, Miami, Kentucky, Texas where the athletes and athletic departments are playing by the same set of rules. I mean, like—you know, you line up on Saturday. You know there is going to be 11 on defense. Is Kentucky going to play with 12 without the same set of rules as Florida?

So that is what I think everybody wants to protect, you know, the games that they all play. And it is apparent the NCAA isn't going to step forward, so I think that is why we are here to say, maybe Congress can, you know, put the impetus on the NCAA to say here are things that need to happen; do it.

Mr. MCGARVEY. And I appreciate that. And I will take some of the silence as an answer. And so I think we do need to step forward, and we have got to make sure that we are protecting players, that we are creating that level playing field, that it is a national standard. We are missing the national standard right now. That is something we need.

Ms. Salamone, I have a question for you specifically. How can we use a name, image, and likeness? If we are going to do this, let's do it. Let's do it right. Let's do it for the players. Let's not try to come back here and fix it. How do we improve player health and safety standards including in the years after their careers are over?

Ms. SALAMONE. I mean, I think that we start with independent oversight, as I mentioned in my testimony previously, and you need organization of players. They need to be able to collectively bargain. That is what we are trying to do at the College Football Players Association. I think it would take care of a lot of the issues that the NCAA is concerned with when it comes to issues of antitrust, because if players are given a seat at the table and are able to talk about the issues that are most important, nobody has to guess. And legislators don't have to come in and create legislation that really doesn't quite hit on the issues that actually matter to players. The only way to know that is to talk to the players themselves. So that is the answer.

Mr. MCGARVEY. I appreciate that. And, you know, I wish we had a ton more time because this is an important topic. There are a lot of things we have to deal with, including the fact that the

transfer portal has basically become an extortion market as we see it today. How do we make this so it is right?

Regards to student-athlete well-being, though—and one thing about athlete well-being, I see this conference realignment stuff going on right now. If you have got an athlete at the University of Louisville who is flying now to Cal or to Stanford, how does that impact player well-being? What does that do for player athletes?

Ms. SALAMONE. I mean, I will comment that I didn't go to Stanford specifically. I wouldn't go on a recruiting visit because for lacrosse it meant traveling so much to play anybody good at the time that I was in college. It has a tremendous—it adds—it means for most of the sports that don't have chartered flights, flights in the middle of the night. It is exhausting. It is going across time zones. Athletes can't get any work done. They are barely in class. You know, it doesn't make any sense. And the fan bases are then all over the place. It is actually fun to be able to go kind of local to play and have rivals that are nearby.

So, I mean, it makes absolutely no sense to have coast-to-coast conferences.

Mr. MCGARVEY. Thank you.

Unfortunately, I am out of time because I have got a lot more questions, as you guys can probably tell. I want to get this—I think we do have to step in. I think we do have to step up, and I want to make sure we get it right because you literally will have to get Congress to act again if you want to change something.

Thank you, guys.

I yield back.

Chairman WILLIAMS. Thank you.

I now recognize Representative Van Duyne from the great State of Texas for 5 minutes.

Ms. VAN DUYNE. Thank you very much, Mr. Chairman.

And thank you to our witnesses for coming today.

I just have a few questions. I did not go to a competitive athletic school. Mr. Meuser and I went to the same undergraduate school. We are not known for our football team.

Fair statement?

Mr. MEUSER. Fair. Very fair.

Ms. VAN DUYNE. Can I just ask, though, how difficult will it be for smaller schools to be able to stay competitive when the larger schools can afford to pay athletes more?

And I am not quite sure which of you would like to answer that question. But how? How are some of the smaller schools going to be able to compete with a school that can raise \$250 million like that and know that they are going to be able to do that?

Mr. DONATI. Well, I will take that.

Well, that is not new, right? I mean, The Ohio State University—did I say that right?

Mr. SMITH. Yes.

Mr. DONATI.—has always been one of the largest State institutions in our country, and so schools have found other ways to compete. I think what is different here is the amount of money that is going unchecked into the NIL world and to the NIL business.

So it is a reality. It is a—but there are ways—there is a lot of talent in our country. So I don't—while there are some competitive

inequities with the money, you know, I am more focused on the rules by which we are playing by and finding one set of rules. Because we had talked about the difference, the patchwork in State laws; those are providing the competitive inequities, in my opinion.

So the money is—that is not new. There is going to be large schools with larger donor bases and alumni bases——

Ms. VAN DUYNE. Yeah.

Mr. DONATI.—and smaller schools——

Ms. VAN DUYNE. Mr.——

Mr. DONATI. Sorry.

Ms. VAN DUYNE. Okay. So you are just saying it is not new.

Mr. DONATI. Yeah.

Ms. VAN DUYNE. Mr. Smith, do you have—nothing?

Mr. SMITH. No, I agree. It is——

Ms. VAN DUYNE. Okay.

Mr. SMITH.—not new. It is just a——

Ms. VAN DUYNE. It is just another tool?

Mr. SMITH. Yeah, it is just another tool.

Ms. VAN DUYNE. Okay.

Mr. SMITH. One of the challenges, using your words—if the institutions had this model and they were paying the money, then the challenges will be at those smaller schools, how do they afford to do it, even at their level, regardless of where we are.

You know, if you are looking at the Mid-American Conference—and I know my colleagues are here from the Mid-American Conference. If you look at the Mid-American Conference, those presidents will have to make a decision on whether or not they continue to fund athletics at the level that they have been funding them.

Ms. VAN DUYNE. Uh-huh.

Mr. SMITH. Because the majority of their money for those athletic programs comes from their general funds. Students on the campuses will have to decide whether they want to continue pay students' fees to support athletics, because, now you are paying the athletes that I go to school with?

Ms. VAN DUYNE. Yeah.

Mr. SMITH. So there are a lot of dynamics at that level that will come into play if we end up there.

Ms. VAN DUYNE. Speaking of dynamics, how difficult do you think it will be to coach students that are actually making more money than the coaches?

Nobody wants to answer that one.

Mr. TORRETTA. I don't think that is going to happen at Ohio State or TCU. So. That is all I am saying. If I may answer your question, ma'am, they can't, those smaller schools.

But I would say this——

Ms. VAN DUYNE. Yeah?

Mr. TORRETTA.—You know, if a school like Harvard, with the largest endowment in the world, wanted to really invest in their football program, they could probably spend as much as Gene.

Ms. VAN DUYNE. Harvard beats my alma mater, by the way.

Mr. DONATI. I would just say that I think our coaches recognize this is a different environment.

Ms. VAN DUYNE. Okay.

Mr. DONATI. So it hasn't been a challenge we have seen yet.

Ms. SALAMONE. I would also add that I think that there needs to be mindset shift and the coaches need to get over their own egos when it comes to that and be encouraging their athletes to set themselves up for a future of success. That should be the focus.

It is an educational institution that they are coaching at. If they want to coach in the pros, then they should do that. But that is not the role of a coaching college.

Ms. VAN DUYNE. So you don't think, though, that students would get more full of themselves if they were making a lot more money and being very difficult to coach? And still being students, as opposed to professional athletes—

Ms. SALAMONE. They might very well be. But I think that if a coach demands the respect of their team, it doesn't matter how much the team is making. And I think that is the deeper issue, is that these coaches haven't figured that out.

Ms. VAN DUYNE. Okay.

Quick question. Mr. Smith, can you explain what collectives are and the impact that they have had on college sports? And do you agree with Ms. Salamone's description as "fan clubs"?

Mr. SMITH. Yeah, I don't disagree with her description.

You know, they emerged as 501(c)(3)s, and now they are switching to—a great deal—to LLCs. And they are creating activities and events and podcasts and things of that nature, with memberships and things of that nature.

And then—but some of them are legitimately helping student-athletes connect with local businesses and are actually doing real good NIL work. But they are largely fan clubs, yes.

Ms. VAN DUYNE. All right. Thank you.

I yield back.

Chairman WILLIAMS. I now recognize Representative Landsman from the great State of Ohio.

Mr. LANDSMAN. I thank you, Mr. Chairman.

And thank you all for being here.

As Mr. Carey said before he had to leave, also from Ohio, the two of us have a bipartisan bill, the student-athlete Level Playing Field Act, which I believe is straightforward and, you know, would be a win for this Congress.

It creates the kind of structure and transparency that we have been talking about in this hearing. The three things that have come up—the national oversight, the national clearinghouse; making sure that folks who are part of these transactions, these agents, are registered; and that the deals are disclosed, that kind of transparency.

Question for all of you: Thoughts on the bill? My hope is that we take this bill up as a Congress, that it gets passed, and it provides meaningful structure and transparency. I am just curious what your opinions are on those three aspects of the bill or the bill itself.

Mr. DONATI. Well, I will take it first.

Those were some of, I think, the critical aspects—and, first of all, thank you for bringing this forward. But those are some of the critical aspects that we are all looking for.

Mr. LANDSMAN. Yeah.

Mr. DONATI. So I commend you for bringing that forward. I would definitely support that.

Mr. SMITH. Yeah, I concur. I thank you as well. I think the bill has all the elements that are needed to help us in this space, so I support it wholeheartedly. I think it is a good bill, and I believe many of my colleagues would as well.

Mr. TORRETTA. I mean, I think transparency, registration is what the world needs, but I also think you need some enforcement. And who is going to do the enforcing? Is that going to be the NCAA? Is that—you know. If they are not going to step forward, then Congress has to step forward and say——

Mr. LANDSMAN. Yeah.

Mr. TORRETTA.—“You have to enforce it.”

Mr. LANDSMAN. Yeah. Agreed.

Ms. SALAMONE. Yeah, I would agree that I think some of the issues with the bills that I have seen are the mechanisms by which they accomplish the goals that they say. Because they are not bad goals, necessarily; it is just the “how”——

Mr. LANDSMAN. Yeah.

Ms. SALAMONE.—and whether it really is more appropriate for that to happen through collective bargaining and figuring that out, some of these issues.

Mr. LANDSMAN. Can you say more on that?

Ms. SALAMONE. So some of the issues that are being addressed in many of these bills, it is like “everything and the kitchen sink.” And it is what I alluded to earlier, with legislators trying to put in things that they think will be a good idea and in practice work but may not actually address the deeper issues that athletes have and what they really want fixed.

Mr. LANDSMAN. Yeah. Yeah.

So, to that point, I mean, you talk about, rightfully so, the safety, health, the well-being of athletes being critical, most important, and supporting efforts to create structure, transparency in the NIL space, but to also appreciate that there are these other issues.

This may be a dumb question. Should those be taken up separately? I mean, you know, I—or, how related are they?

Ms. SALAMONE. I am generally of the opinion that they should be separate. I think that these bills are trying to do too much——

Mr. LANDSMAN. Yeah.

Ms. SALAMONE.—and they are ineffective and will not pass. So that is my opinion.

Mr. LANDSMAN. And, then, on the health and safety piece——

Ms. SALAMONE. Uh-huh.

Mr. LANDSMAN.—I mean, it is, I would think, something very similar. I mean, it is national oversight.

Ms. SALAMONE. Yeah. And those are deeper issues that require more attention. And I think that many of these bills have been kind of rushed through, and I think more thought needs to be given into the “how”s of the bills.

Mr. LANDSMAN. So, just as we wrap up, with a minute to go, this bill, I suspect, will get combined with others, but my hope is that we get something passed. It has been several years where we have been living in this Wild West world.

The most important aspects, I am assuming, are the national oversight, the transparency, and then, ultimately, the right enforcement mechanism. Is that right? Wrong?

Mr. DONATI. Yeah, absolutely. And I would just add, the agent oversight as well.

Mr. LANDSMAN. Yeah. Yeah.

Gene?

Mr. SMITH. Agree.

Mr. TORRETTA. Well, the other, inducements of a kid transferring from—

Mr. LANDSMAN. Yeah.

Mr. TORRETTA.—one institution to the other, and even inducing a 17-year-old to say where they are going to go to college, which is part of the whole problem.

Ms. SALAMONE. I would add, to the inducements, though, I think that the NCAA can actually step in. And I think they have kind of abdicated the throne in an effort to get an antitrust exemption, rather than just enforcing the rules that they can enforce.

Mr. LANDSMAN. My time has expired, but I appreciate you all. That is very helpful. Thank you all.

I yield back.

Chairman WILLIAMS. I will now recognize Representative Ellzey from the great State of Texas.

Mr. ELLZEY. Thank you, Mr. Chairman.

Thank you all for being here today. This is an important hearing.

And, you know, I don't know if the Chairman mentioned it or not, because he is always very humble about this, but he is in the TCU Hall of Fame. And I won't tell you what year that he got inducted.

Chairman WILLIAMS. Your time is up.

Mr. ELLZEY. Okay.

But, you know, he is great at telling stories about how it was, being drafted by the Braves and being a college athlete and how little money they made.

My grandfather, Drew Ellis, was in the class of 1937 with Slingin' Sammy Baugh and was in the draft, 21st in the draft, in 1937. Played for the Eagles for 2 years, 1938 and 1939. Was cut short. Don't know why. He probably got injured.

But, you know, as we talk about this subject, it is—how much could it have helped Roger? How much could it have helped my grandfather? How much can it help these young men and women that are going through this today.

And I agree with the Chairman that we don't want Congress making the rules here, but it is clear that there needs to be some definite readjustment of how we do this. Because so many of these young men and women—I know at 18 I wouldn't have had any ability—or 20 or 22, 25—had any ability to handle the amount of massive money that these kids are dealing with.

So I would just like to suggest and ask Director Donati: Having been an agent before and now being an athletic director, holistically, how do you guide these young men and women? What do you automatically do, but what do you think should be done system-wide, to ensure that these young men and women, who may not have any background or guidance from home or direction in their lives, learn how to manage that money and how to prepare themselves for the future, for the 2-year football player who sud-

denly doesn't have a degree, or much of one, and no ability to make a living after that.

So they monetize their college years, but then they are out on the street, and then they are doing construction later on. We see it all the time in the pros.

How are we going to do that with these young college students?

Mr. DONATI. Well, it is to double-down on education. And that is a key aspect of this. And you heard my colleague bring it up, as well, as a Hall of Fame Chairman.

One of the first things that we lead off our semester with, or lead out the school year with, is the NIL education. Because we realize that, in these transfer portal days, if students feel like they are misadvised or not given appropriate advice, they have other options, which I think is a good thing.

So we take it very seriously, because they are—you know, one of the things that keeps me up at night is April 15th, because that is when taxes come due. And so we spend a lot of time with our young men and women to make sure that they have done the appropriate work, they are filing their taxes, and that they are not getting themselves in future trouble.

So I would just say, we take this very seriously. I draw on my time from being an agent, part of the NFL PA here, when we were certified in Washington, D.C. There are rules in place in which you can weed out the bad actors. And so I think that kind of standard, that kind of uniform standard, at the federal level would do massive good in our world right now.

Mr. ELLZEY. Okay. Thank you.

Director Smith, you are from which OSU?

Mr. SMITH. Would you like me to spell that for you?

Mr. ELLZEY. Sorry. I had to.

Mr. SMITH. I am on the way out, so I can—you know, be careful.

Mr. ELLZEY. In deference to you, The Ohio State University—

Mr. SMITH. Yes.

Mr. ELLZEY.—are you all doing something similar to TCU?

Mr. SMITH. Yes, sir. We do the same thing.

But I want to address a little bit, kind of, nuance to your question.

Mr. ELLZEY. Okay.

Mr. SMITH. Let's be clear: We do a lot of education, all of our schools do, but it is the third party that impresses that individual. It is an "uncle who is not an uncle" that is very difficult for us to get to. And many of these deals are cut by them. And so that is a challenge that we have in our space and why we need help.

Mr. ELLZEY. Do you know, would you have benefited from that kind of guidance?

Mr. TORRETTA. Well, I think you read about it in professional baseball, basketball, football, all kinds of issues that you are talking about, where a player has made significant amounts of money and they weren't wise with it or they were taken advantage of. And I think that it is happening now to, like you said, a 17- to 21-year-old kid.

And you can try to educate as much as possible, but, like Gene said, you may have somebody that is close to you, maybe a family member, that, you know, when money is involved, some decisions

are made not in your best interest. And you try to protect and educate as best you can, but you are not going to have that in 100 percent of the cases that we are going to get rid of the bad actors, even with registration. The NFL has registration with financial advisors and players' agents, and there are still issues with people that are registered.

So I think you can educate all you want and do what you can, and you hope that—you hope that they listen. Because even if you are 32 years old in the NFL making a lot of money, a lot of them, you know, some, they don't listen.

Mr. ELLZEY. Thank you.

Chairman, my time has expired. I yield back. Thank you.

Chairman WILLIAMS. Thank you very much.

I now recognize Representative Mfume from the great State of Maryland for 5 minutes.

Mr. MFUME. Thank you very much, Mr. Chairman. I appreciate the opportunity to be a part of this. I am glad we are dealing with it. And for some of us, we have been dealing with it for some time.

But allow me, on a point of personal privilege, just to call the attention of the Chair and the Committee to the fact that we have been joined by Tom McMillen, who many of you will recall his great years at the University of Maryland, you will recall him as a Member of our 1972 U.S. Olympic team, and some of you will recall him as a Member of this body, having gotten elected in the 100th Congress.

Tom, it is good to see you. Thank you for being back up on the Hill. Really good to have you.

Mr. Chairman, I have been listening. I think there are two aspects that continue to come at me about what we are dealing with today. One is a police aspect of what has to be done. In other words, who is going to set the rules and enforce them.

And then the other one is the information we heard from Ms. Salamone about, if I can use a better term, maybe prevention, the care of the athlete, what is going on and what is not going on, and why things seem to be as bad as they are in some respects.

I spent 12 years on the Johns Hopkins Board of Trustees and then the last 30 on the Board of Regents at Morgan State University. And I can tell you from the public side and the private college side that colleges and universities really want guidance; they want information. And what they fear is litigation and liability, because there is so much that is not clear in many respects.

Universities and colleges approach this in a diffuse manner, in a difficult manner, and definitely in a different kind of looking glass.

So I know that there is some apprehension about Congress setting the law and setting the standard and enforcing it. But if somebody doesn't do it, it won't get done, and if it doesn't get done, things are going to happen.

So I appreciate the discussions here that we have had about agent registration. I think we are all kind of in tune and on board with that. I would not refer to them as "bad actors," the ones that are bad. They are more like leeches that take advantage of young kids, take advantage of their families, take advantage of their un-

certainties. And they do it in a number of different ways. It has been going on, as we all know, forever.

We do need, and I think we are all in agreement on, standard contracts—standard, so that what is here today is the same thing that will be there tomorrow and how we operate on issue A is how we operate on issue A 10 years from now.

We need a prohibition, obviously, against inducements, because those same leeches, for lack of a better term, find a way to roll in all sorts of things over the phone, in person, by third party, to kind of induce these kids to make a decision and to really do a hands-off afterwards except to say, “They signed with us because they just like us.” No, in many instances, they are being induced to sign, and they don’t have any real defense of their own.

And we need strong enforcement measures.

So, if those things are the things that we can agree on, maybe that is what we ought to start looking at, going forward.

And I think that there really do have to be two different approaches here. That is the police side.

And while I am at it, let me also talk about these booster collectives, which operate outside of Title IX and find their own hocus-pocus to get things done and to get students signed in and locked in.

Now, on the prevention side, I am glad, Ms. Salamone, that you brought up this whole issue about player health and well-being and independent oversight.

Five years ago at the University of Maryland, a kid by the name of Jordan McNair died after a practice because of a heat-related illness that nobody cared about, and everybody told him, “Get back out there. Get back out there. Oh, you are going to be okay.” Well, he wasn’t okay. He was taken off the field, hospitalized with heat-stroke. They tried to give him an emergency liver transplant; it didn’t work. Fifteen days later, he was dead.

And, following an investigation, it was determined that there was a culture in the football program that led to this kind of tragedy.

Those tragedies are happening everywhere. They don’t get reported the same way. And those are something on the prevention side that I think we have to deal with.

Now, I introduced, with the help of some of you in this room, the Jordan McNair Act just a couple of months ago here in the Congress that would put in place things that are really, really needed: requiring the use of external defibrillators on the field, requiring the use of cold-water-immersion equipment on the field.

I just can’t stress enough that, while name, image, and likeness are important, the health of the player also is extremely important. And we have a role, I think, Mr. Chairman and others, to find a way to protect that.

So I would hope that we could keep both approaches in our mind as we go forward. Neither one is going to win all the votes that it needs, but this process of amending and maneuvering and managing and massaging these bills will hopefully get us to a point where we won’t have to sit before this Committee and witnesses and others, still saying, what do we do, how do we do it, and when do we get it done?

I yield back.

Chairman WILLIAMS. Thank you for that.

And I now Representative Bean from the great State of Florida.

Mr. BEAN. Thank you very much, Mr. Chairman. Good morning to you.

And good morning, Small Business Committee. It is a big deal to have everybody here.

My first question is for Gino Torretta.

Welcome. Gino, I can't really see you right now because the glare from your championship ring is just kind of blinding me up here.

Mr. TORRETTA. It is the Heisman ring. I left the two championship rings at home.

Mr. BEAN. It is just too much.

And trust me, I know how hard it is to wear a championship ring. We won the Congressional Baseball Game under the leadership of Chair Williams. He presented us with our rings. I lasted 2 days; it was just too heavy, just too heavy.

So I salute you for all that you have done.

And I also, Mr. Chairman, I want to congratulate you. This is the largest Committee attendance that we have had. And we have outdrawn, I think, Secretary Pete Buttigieg, who is testifying downstairs. And so the interest of college athletics is certainly great around the country.

Question. The elephant in the room is not Roger Williams; it is the fact that there is also another big impact to college athletics in—the name, image, and likeness, that is a big deal, but also this transfer portal. What is the greatest impact right now, or is it them together.

Gino Torretta?

Mr. TORRETTA. Well, I think you have had the convergence of two major changes in college athletics, where you are allowed to transfer, which a kid didn't have the right—or, an athlete didn't have the right, if a coach left, to change schools or—you know, I came from northern California. Maybe I wouldn't have liked—maybe I didn't like Miami after one semester and would have gone home, but I couldn't transfer somewhere else without sitting out a year of my eligibility. So you have that. Now there is the freedom.

And then, with the NIL, we have talked about, it is the inducements of: money is involved, and, "Hey, Gino is a good player, and he is young. Maybe we can pay him or his people to transfer."

And I think the combination of that, yes, it is not good. Now, is the transfer portal good in and of itself? Sure. But add in the inducement piece; it is not good for any of us sitting up here.

Mr. BEAN. 10-4.

I was a State legislator too, and I remember, a few years ago, I got a call from then-head coach Dan Mullen of the University of Florida, and he said, if we don't pass a name, image, likeness bill in the State legislature, we are going to kill Florida schools, because everybody will go somewhere else.

Is it a fair playing field among States? Are there more lucrative colleges in other States, or is it about equal? Do some States give you a better chance to make more money playing college ball?

Mr. TORRETTA. There are differences amongst conferences. The SEC schools make a different amount of money than Big Ten

schools, than the ACC, than Pac-12. That is why we are seeing conference realignment, and we have deemed the West Coast, of California, Oregon, and Washington, kind of irrelevant in college athletics. All those schools are moving to the Big Ten or the ACC or SEC.

Mr. BEAN. Gene Smith, is it true, what he says? Does he preach the truth right now, Gino Torretta?

Mr. SMITH. I don't know about preaching, but what he said was pretty good.

You know, but I think the core issue there is in the transfer portal, those things coming together, with where we are with NIL. We have to remember, transferring is a good thing. Student-athletes deserve the same rights as other students.

Now, with our institution, where student-athletes decide to transfer, we have to make sure we understand why. If they are transferring because we made a commitment that we didn't live up to, then we need to go look in the mirror. Don't point the finger at the student-athlete. So that is one.

But the reality is, the SEC, the Big Ten, in particular, have done a great job over the years of creating a culture that everybody else wants to be a part of.

Mr. BEAN. Gotcha.

Mr. SMITH. And that is reality.

Mr. BEAN. Gotcha.

Here is a toss-up question for every panelist. I am going to ask you to give me a number, and that number is your confidence, on a scale from 1 to 10, 10 being absolute confidence that the NCAA can handle this without congressional action, that would be a 10; zero, zero confidence and you definitely need Congress to jump in.

Jeremiah Donati, what say you for that number?

Mr. DONATI. Somewhere between zero and 10.

Mr. BEAN. Yeah.

Mr. DONATI. No. I would say this—I would say this. The new president, Charlie Baker, is—we have a lot of faith in him, but he needs help, and he need this Congress's help. We are firmly behind him, but this is a—the level of complexity we have—

Mr. BEAN. Does that mean 6? Five?

Mr. DONATI. Four.

Mr. BEAN. Gene Smith?

Mr. SMITH. Four. Three to 4. Four.

Mr. BEAN. Gino Torretta.

Mr. TORRETTA. Hope is eternal.

Mr. BEAN. Gotcha.

Maddie Salamone?

Ms. SALAMONE. I think it depends what issue we are talking about, so I would take issue with the framing and plead the Fifth.

Mr. BEAN. 10-4.

Mr. Chairman, I yield back—Coach, I should say. Coach, I yield back.

Chairman WILLIAMS. All right. Thank you for that.

And I now recognize Representative Scholten from the great State of Michigan for 5 minutes.

Ms. SCHOLTEN. It is a great State, isn't it? With all due respect to the Ohioans here.

Thank you all so much for coming and testifying today. This is such an important issue, as we see by the crowds gathered here.

And, you know, I know this to be such an important issue. I am the daughter of a sports reporter. I was a student-athlete myself—never in a position for any of what we are talking about here today to be relevant. But the challenges of balancing the demands of school, of young adulthood, and the demands of the physical aspects of athleticism are so challenging and come together around this important issue.

Ms. Salamone, my first question is for you. It was incredibly gripping to hear from your testimony how prevalent psychological abuse is for female athletes and the detrimental effects it can have on mental health. Continuing on some of my colleagues' questions about putting the health and safety of student-athletes front and center, I want to talk about the mental health aspects.

Can you talk more about what systemic changes might need to be made for student-athletes to have the mental health support and resources that they need, both in general but particularly at this changing time? We know that social media plays a huge role in mental health components for young people today.

And, also, more broadly, what enforcement mechanisms need to be in place so that this toxicity can be reported and tracked and monitored?

Ms. SALAMONE. I mean, I will start with the enforcement. I think, again, it is independent oversight.

Schools—there are very good people that work at schools who very much care about the athletes. But when it comes to stepping up for an athlete, if it puts the school at risk of, you know, being exposed for some scandal, they have to put the school first. And especially depending on who is involved, that can be an issue.

So independent oversight, as a starter.

I think, in terms of addressing mental health, there are so many different components. You know, number one, there is tremendous pressure to be an athlete alone. You add on top of that social media in general, which came before NIL, and that already created a different world.

And I think that there needs to be—you know, these are young, impressionable individuals that are learning who they are and learning how they exist in the world and trying to figure out what they are going to do with their lives. And all of that feels enormous at that age.

And so I think they need—in addition to mental health resources that are independent and that are not reporting to coaches what is being talked about, they need people that actually understand what it is like to be an athlete at that level. They need people who they can talk to and have some kind of validation and perspective given to some of the issues to kind of counsel through on a one-on-one basis more.

I think that there have been a lot of efforts put in around mental health, and athletes are talking about it more than ever. But I think it still has a little bit of a stigma, where you can identify it in other people but not so much see it in yourself.

I think, when you have injured athletes, that needs to be a top priority. Injured athletes face a hurdle, in many respects, and can

start to feel very isolated from their teams, whether because their coach kind of starts to push them out and deems them less important and tries to get them to leave, which happens, or if it is just they feel removed, they feel like they are trying to put on an act, and it takes a lot of effort to keep that brave face up and try to be a good and positive teammate while you are dealing with something like that.

So it is so many pressures, that they need—they genuinely need people that they can talk to that get it.

Ms. SCHOLTEN. Thank you so much. That was very powerful.

Mr. Donati, since 2021, when NIL became permissible, have you seen name, image, likeness compensation alleviate some of the broader stressors student-athletes have had to navigate, such as low graduation rates and poor mental health?

Mr. DONATI. Have I seen NIL alleviate some of the burdens student-athletes carry with them?

Ms. SCHOLTEN. Yes.

Mr. DONATI. I mentioned in my opening testimony that one of the things I think that we are not talking about is, a lot of our student-athletes, you know, come from underprivileged homes—

Ms. SCHOLTEN. Uh-huh.

Mr. DONATI.—and, a lot of times, there is pressure on them to support those families once they get to school. So these resources now, in a lot of cases, are going directly home—to mom, to dad, to brother, sister, to extended family.

So that, to me, has been a real win and something that I have seen. If we are talking about mental health, the pressure of that is so real for some of these young men and women, to be able to help them at home has been—I have seen that burden alleviated in real-time. So I think it has been a real win.

Ms. SCHOLTEN. Yeah. Thank you.

I yield back.

Chairman WILLIAMS. All right.

I now recognize Representative Stauber from the great State of Minnesota.

Mr. STAUBER. Thank you very much.

And to our witnesses, thanks for your testimony. It is from your experiences; it is very compelling.

And so, I come from northern Minnesota, and we have great college athletics in our great State. And, of course, hockey is one of them. And I was fortunate to play hockey, win a national championship. And then, all these years later, I can say I fooled the Detroit Red Wings in deciding the end our contract. And I have two other brothers that played professionally, and my nephew is with the Chicago Blackhawks.

I have to tell you, though, I haven't heard a lot about schooling and grades and education. Because, eventually, we are done. We are done.

And so I would like to talk more with a focus on, what are you doing with the student-athletes that come in—sometimes when they come from underprivileged homes, what have you, and they are making really—through the NIL, making, you know, some good money, how do you balance that with their school education and their future? And they are not going to be there forever, you know?

Mr. Torretta, I am sure you saw people waste a lot of money, right? And, all of a sudden, one day it is over. You put—in my case, you put the skates away, and we say, “You are working that 9:00-to-5:00 now.”

How do you deal with that, and how do you prepare that student, that student-athlete—because they are students first, athletes second. So how do you prepare that student-athlete?

Mr. Donati, go ahead.

Mr. DONATI. Well, you just identified the great challenge of being an athletics director. Because you do inherit young men and women who are at your university to grow, and some are all ears, and some aren’t. And some find out later in life that they missed an opportunity, and that is why we have systems in place to bring them back for degree completions down the road.

We only have the ability to be with them so many hours of the day, so many hours of the week. Those are NCAA rules. So we have to make the best use of those.

I will give you one example, to answer your question, of how we educate them. We have what is referred to as “Alston money” that we were allowed to provide our student-athletes, up to \$5,980 per year. And we have a condition on receiving that money that they go through this financial literacy education. So that is the requirement. There are no if’s, and’s, or but’s. If you miss one of those sessions, you do not receive the check.

So we do try to hold them accountable. And it is not a perfect science, because we are dealing with 18- to 22-year-olds, in some cases 23-year-olds. But it is the great challenge of being an athletics director, candidly.

Mr. STAUBER. Uh-huh.

Mr. Smith, can you give us your thoughts on what would happen if some of the proposals we have talked about became law?

And before you answer that, I will just say that I am one that not necessarily would support the government being involved and forcing you on this. I would rather have the NCAA and the institutions and the professionals at this table make those decisions. But, if need be, you know, we in Congress could help out. But I just see that the less Washington gets involved, I think the better off the ultimate outcome can be, especially in this situation.

So give me an example, if we put laws forward, what does that do?

Mr. SMITH. Well, first of all, your premise—now, I am 67. I was an athletic director at the age of 29. And, trust me, I never wanted to come to the federal government to ask for help, okay? But we have reached a point where interest groups, pressure groups, lawyers, politicians, whoever, have made it very difficult for us to come up with a strategy to deal with the issues that we are dealing with today.

And, frankly, as you heard in the ratings of our faith in the NCAA structure to be able to deal with it, we don’t see that happening. So that is why we are here. It is that simple. We need the leadership help that is represented in this room.

So, you know, I really believe that accepting one of the laws that has been talked about earlier, one of the bills that has the elements that we have already talked about, it is very important to try and

get across to everyone so that we can get it passed. The things that we have talked about relative to agent management, all those type of things, we really need help with. And so I would say that the plan is around that.

Mr. STAUBER. Thank you.

Ms. Salamone, I really, really appreciate your comment about taking care of our athletes, both their mental health and when they are injured. And we do need to make that a priority. When an athlete gets injured, you can't just put them aside. They are part of the team. And the mental health part of it is really important for me too.

So I am out of time, but thank you, witnesses, for your testimony, and appreciate your athleticism.

Chairman WILLIAMS. Thank you.

I now recognize Representative Thanedar from the great State of Michigan for 5 minutes.

Mr. THANEDAR. Thank you, Mr. Chair.

And I want to thank all the witnesses to be here and for all of their testimony.

You know, my kids are not professional athletes. They are like me, so they—but they love sports and a wrestler and football. So, for the first time, I was able to impress my children with my new job here, you know, with today's hearing. So I want to thank the Chairman for this hearing.

You know, I grew up in a family that didn't have anything to do with business or entrepreneurship. When I got my education, I worked as a chemist. I wanted to start a business, and I had absolutely no concept of, you know, how to manage, whether it is branding, whether it is revenues, whether it is investment.

And I am looking at these young people that have focused so much on developing their sports skills. They are young, and many of them come from families that are not into business. How do we teach these young people so they can look after themselves, make good, sound financial decisions, and have a strategic plan?

Even, you know, when you start a business, the first thing you do is write a business plan that you go present it to a financial institution. How do you bring that entrepreneurship, that ability to, you know, have a plan, and making sure that they don't get exploited by vested interests, but they, you know, are able to make good decisions for themselves? How does NIL help?

Anybody on the panel, Mr. Smith, anyone else, on this?

Mr. SMITH. Well, I think all of us are into education. And the blessing that we have—and it includes the athletics—is that we are probably the only incubator left in higher education where we can actually have programs specifically for student-athletes to help them with that.

Mr. THANEDAR. Uh-huh.

Mr. SMITH. I would just give you one example. At our level, with the students that we recruit, many of them never worked in their lives. So, when we sit them down as sophomores and tell them it is a requirement that they write a resume, it starts their wheels turning—

Mr. THANEDAR. Yeah.

Mr. SMITH.—to get them thinking about, “Uh-oh, what am I putting on here?” And so then you begin the process to help them understand why it is important to take advantage of the internships that we have available to you throughout the rest of your career here, putting them in the work environment so that they can see what it means to be in the work environment.

The lessons learned through athletic competition and practice are directly transferrable to the work environment. That is the blessing we have in athletics. So how do we help the student-athlete on their continuum, while they are with us, get to that? And it takes a lot of programming, it takes a culture, it takes an effort and a doggedness to make sure you work with those student-athletes.

We have a thousand of them. And that is the highest priority that we have, is to make sure that they prepare themselves for life before they walk across that stage and get that diploma.

So I could go on and on about that, because that is what I am passionate about.

Mr. DONATI. And I would say, overnight, when the NIL laws were passed, we created 550 new entrepreneurs on campus. And so one of the things that we did at TCU, which I know are going on at other universities like The Ohio State University and other places, is that we took—we have a top business school in the country, and we have a top athletics program. We said, let’s combine resources.

And so we literally brought a piece of that business school into the athletics department, created an endowed professorship, and brought in Neeley faculty—Neeley School of Business—and got to work on these entrepreneurship skills. We thought, what an opportunity.

So I am bragging a little bit about TCU for a moment, but I know this is going on at other schools across the country. And so this was—this is the good side of NIL. These are the little positives. Because this is bigger than any NIL payment. These are tools they can take with them forever.

Mr. THANEDAR. Thank you so much. These young people need the help, and I really appreciate all of the work that you do. Thank you.

Chair, I yield back.

Chairman WILLIAMS. Thank you very much.

And we still have some time left. We have some Members on their way back from other Committee hearings.

And for those of us here, would you like to ask another round of questions?

You want to talk about the University of Maryland?

Mr. MFUME. Well, I would really like to get back to Ms. Salamone.

I mean, your perspective on this I did not expect, coming into this hearing. I hadn’t read the testimonies, but I figured we would talk about the regular things—the guardrails and what we needed to do and, you know, oversight.

But I would like for you to talk some more about this whole aspect of the athlete being a human being and how we, in the process of developing good athletes, make sure we are developing good human beings.

Ms. SALAMONE. Yeah. I mean, you talked a lot about Jordan McNair. And I think his father is someone who is doing tremendous work bringing that humanity to athletes and bringing a parental perspective that I think we lose a lot of times when it comes to college athletes, that these are young people that we need to care about, and there are many people who care about them. And they get treated like a sack of meat a lot of times, but they are human beings.

And coaches can tend to lose sight of that when it comes to winning games, treating it like a job, and, you know, forgetting that even the best bosses in business care about their employees and treat them well and treat them with respect and care about them personally.

And I think we need to bring more of that mindset into coaching, into administration, and getting to know the athletes, what they care about, what they—you know, not just what they can do on the field or on the court or wherever their performance is.

And I think that would go a long way, is just bringing back that humanity, that these are human beings with families that work very hard but that, you know, can't do it all and sometimes buckle under the tremendous pressure of college athletics.

Mr. MFUME. Thank you. And it is a lot of—

Mr. TORRETTA. Can I add—

Mr. MFUME.—pressure.

Mr. TORRETTA. I would just like to add something—

Mr. MFUME. Go right ahead.

Mr. TORRETTA.—on, you know, the independent oversight, which I agree with. And I would say, the mental abuse happens in high school athletics to, you know, on up, and it is like, who do you call? Because if you go even to a high school administrator and you report something, it becomes self-preservation for that administrator, because that administrator is working for the institution, you know, whether it is a high school or a college, and they are going to try to not have this be a major issue.

And that is where it is like, who do you call as a parent if you are in high school, or who do you call if you are a kid, that you know that they are going to have your best interest?

Mr. MFUME. Uh-huh.

Mr. TORRETTA. And I can go back to broadcasting a ball game. And it was Duke that was in the ball game, and they have one of the best brain institutes in the world—brain studies, you know, CT, you know. They had a player come across the field. He gets knocked out cold. He is back out there three plays later. The same play, gets knocked out again.

Mr. MFUME. Yeah.

Mr. TORRETTA. And I can remember thinking, I am like, man, if I was his parent, I would jump over the rail and wring the coach's neck, because who allowed that to happen?

And that is what the NFL has tried to deal with, having the independent doctor on the sideline. Because, no matter where you are at, it becomes self-preservation. Who you are employed by, that is who, kind of, you are beholden to.

Mr. MFUME. It does.

And, I mean, we are familiar with the abuses—if I might, Mr. Chairman, for just a minute longer.

I mean, we all saw what happened with Jerry Sandusky and how, because of that mountain of power, nobody wanted to check Person A, B, or C, and everybody was intimidated, until it all blew up. And then the question became, what did you know, when did you know it, and what did you do about it? And that is what universities and colleges are faced with.

I would say, however—I must say that—and I think it is important for the record—that there are a lot of good coaches out there who also don't know where to turn. And it is like the policing. Nobody hates a bad cop more than a good cop. And nobody hates a bad coach more a good coach.

So we have to find a way, dually, I think, to empower those good coaches and we have definitely got to figure out how to get this notion of intimidation out of the game. Because people are fearful; universities are fearful. Everybody is worried about, am I going to get sued? Am I going to lose my job? Will I be demoted? Will I be shifted somewhere else in the university?

And the fact that it starts, really, at the high school level, as you said and talked about, is more challenging for us.

Mr. TORRETTA. Or are you going to—you know, it comes to all of us individually. Do you have the courage to step up when you are in that?

I mean, there was an instance, the Dolphins-Patriots game, there was a, you know, fight in the stands, and somebody lost their life this past weekend.

Mr. MFUME. I saw that.

Mr. TORRETTA. Do you have the courage, instead of filming it on camera—

Mr. MFUME. Right.

Mr. TORRETTA.—to actually stop what is going on?

And I think that is—you know, that is just society, in a general sense, of stepping up—if you see something—“See something, say something,” you know? We do that in the airport. It is, “Do something.”

Mr. MFUME. Uh-huh. Thank you.

Mr. SMITH. And I agree wholeheartedly. And I think—and I applaud you. Thank you for bringing the focus to that with Ms. Salamone.

I mean, this is about leadership. This is about culture. You know, we probably could have won the national championship last year if we had let Marvin Harrison continue to play. But, at the end of the day, he had a bad hit, so we took him out. But that was independent oversight. The coach had nothing to do with that.

Mr. MFUME. Uh-huh.

Mr. SMITH. And so what she is talking about is 100 percent right. Structurally, you need to put the people in place who are the experts to make those type of decisions. My coaches are experts on the X's and O's; they are not a doctor.

Mr. MFUME. Uh-huh.

Mr. SMITH. And I don't know if many of you saw. Recently, we just had a session on CNN with one of our former athletes, who walked into our coach's office and said he wanted to kill himself.

And, fortunately, we have empowered our coach to make sure that they are very sensitive and humanistic in those situations and listens and then determines who is the expert to help that individual.

And that is the coach you have to create, to her point. You have to make sure that the individuals in your organization understand their talents and skills and be empowered to give those talents—to give those things that they have talents and skills or no authority over, give it to the people who do.

Mr. MFUME. Uh-huh.

Mr. SMITH. And that does not exist. And not just athletics, but many organizations.

So I agree wholeheartedly, and thank you for bringing the attention back to that. Because, at the end of the day, that is what it is all about, developing people.

Mr. MFUME. And thank you, Mr. Chairman, for the extra time. I appreciate it.

Chairman WILLIAMS. Thank you.

And we're winding down our time now. I am going to ask what will probably be the final question.

We have heard some questions today about collectives that are putting them in a negative light. I think this is missing some important context to the role they play. Now, collectives also help get small businesses in contact with some of the athletes to create these partnerships and brand deals.

So you three might just touch on that real quick. Would one of you, or all of you, please, talk about these collectives, how they came about, and how they help your teams compete, and if they do?

Mr. DONATI. Well, collectives are here because we have allowed them to be here.

And I think there are a number of them that do it the right way. I am proud to say, I think that the Flying T Club, which is the collective that supports TCU Athletics, does it the right way. We work with them, we have a lot of communication with them to understand what they are trying to accomplish and how they are trying to support our student-athletes. But they know this is not a sham and that they have got to do their responsibilities to make sure the real NIL activities are happening.

So they have really gone heavy with community service. We have all of our student-athletes that are part of this collective engaged in community service. And so I am really proud of that, because you see young people in our community that look up to our student-athletes. I was one of those once. Our student-athletes are able to have a real impact in their lives.

Not every collective works that way. And it goes back to having some uniformity, some oversight over them. But I think, by and large, collectives, you know, have been a good thing.

Chairman WILLIAMS. Do you want to respond to that?

Mr. SMITH. Yeah, I agree with Jeremiah. And I thank you, Chairman Williams, for bringing that back to that attention. Because you are right; we have talked about the negative side of it, but there are a lot of collectives across this country that are doing really good for young people. And many of them for Olympic sport athletes, not just football and basketball. We talked earlier before

Title IX. There are many collectives that are doing well in that space.

So, yes, I agree with Jeremiah that there are so many of them that are doing well.

Chairman WILLIAMS. Gino?

Mr. TORRETTA. I would just think that the contributors to the collectives, they want to support their institutions. You know, I think that maybe sometimes the small business maybe gets a negative connotation. Because if you have a small business, you reach out to—I would probably call Gene and say, “Hey, I have a small business in Columbus. Is there a student-athlete? I would like to support.”

And I think what collectives were formed for, if I didn’t have a small business but I wanted to support the players, I could donate money to that collective, and then they could disburse it and support the athletics.

So I think there are good things, but without policing of anything, there obviously are going to be bad issues—bad things.

Chairman WILLIAMS. Yeah.

Ms. SALAMONE. Yeah, I would echo the sentiment. I think that there are collectives that are doing good work. Some are connecting athletes with charitable organizations.

I spoke to one person who told a story about—you know, I think one of the issues is, athletes go to whoever can help them with certain issues, and that is not always the school. And so this collective was able to actually help an athlete by connecting them with a social worker who could help them with a familial issue that they were dealing with. And it was causing them difficulty, where they were asking for money, when what they really needed was help in this other area that they were able to provide because they listened.

So there are good people in this space doing good work. But those are the types of issues—again, to go back to why it is important to have players in the room, they will explain that to you, that it is not just about money. It is about, how can you help with the real-life things that happen outside of sports?

Chairman WILLIAMS. Well, thank you.

And I just want to say that this has been a great hearing. It is good to see so many of you in the audience, that weren’t witnesses today, that care about this.

I think it also shows that in Washington we can get some bipartisan stuff done. Not everything is driven by anger. But also the importance of this, college athletics, what it is to our country.

So I want to thank all of you for being here today.

Without objection, Members have 5 legislative days to submit additional materials and written questions for the witnesses to the Chair, which will be forwarded to the witnesses.

I will ask the witnesses to please respond promptly when that happens.

If there is no further business, without objection, the committee is now adjourned. Thank you.

[Whereupon, at 11:55 a.m., the committee was adjourned.]

APPENDIX

Hearing Before the United States House Committee on Small Business

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

Testimony of Jeremiah Donati, J.D.
Director of Intercollegiate Athletics
Texas Christian University

September 20, 2023

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for this opportunity to testify before you today.

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

Testimony of Eugene D. Smith
Senior Vice President & Wolfe Foundation Endowed Athletic Director
The Ohio State University

September 20, 2023

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹ OSUNIL 2023 Impact Report

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

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

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

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

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

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

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

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

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

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

Hearing before the U.S. House of Representatives Committee on Small Business
"Athletes and Innovators: Analyzing NIL's Impact on Entrepreneurial Collegiate Athletes"

Testimony of Gino Torretta

1992 Heisman Trophy Winner, 2009 NFF College Hall of Fame

University of Miami

September 20, 2023

Chairman Williams, Ranking Member Velázquez, and distinguished members of the Committee, thank you for the opportunity to testify today. As one who has been engaged in collegiate athletics since 1988, as an athlete, and broadcaster, I'm honored to be with you to provide you my insights on Name, Image, and Likeness' impact on entrepreneurial collegiate athletes.

Collegiate athletics afforded me unique opportunities that helped me to be where I am today. I grew up in Pinole, CA and attended the University of Miami on a football scholarship. I spent five years as quarterback for the Hurricanes and was a member of two national championship teams in 1989 and 1991. After my senior season in 1992, I won the Heisman Trophy, Johnny Unitas Golden Arm Award, Maxwell Trophy, Walter Camp Player of the Year, Toyota Leadership Award and a NCAA Top 6 Award. After graduating, I was drafted by the Minnesota Vikings and spent 5 seasons in the National Football League with the Detroit Lions, San Francisco 49ers, Seattle Seahawks and Indianapolis Colts. Since 1998 I have broadcasted NCAA games on Television and radio and currently serve as the Founder and CEO and Play by Play analyst for Touchdown Radio. I am also a Senior Vice President of Gabelli Asset Management.

During my time as a Miami Hurricane, the NCAA had rules in place regarding transfers and there was no ability to monetize your Name Image and Likeness. With the passage of NIL and the creation of a transfer portal, athletes are able to work and monetize their success and notoriety in sport. Essentially allowing all athletes to create their own small business to capitalize on their time competing in college. This NIL window provides the athletes with a head start in earning and saving before graduation and entrance into their chosen professional field, which for the majority will not be as a professional athlete. These experiences will be beneficial going forward in their lives.

In college athletics, one can always find examples of a player and/or Institution not following the rules. When these rules have been broken in the past, it led to an athlete losing eligibility, schools being placed on probation, fines, bowl bans, etc. With the current NIL system, there are no NCAA rules for the Universities to follow, only guidelines. Coaches do not devise game plans to be within "guidelines", they create game plans following the rules of the game.

Because the NCAA has failed to issue "rules" for the schools to follow and because each institution is governed by a different set of State laws, Congress must step forward with federal legislation for all of the Universities to follow regarding NIL.

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

- A National NIL Standard so there is consistency across the country to ensure everyone is playing by the same set of rules.
- Transparency and Registration of all NIL Agreements.
- Standard NIL Contracts.
- Prohibition of Inducements.
- Strong Enforcement measures.
- Bring "Collectives" Under the Guidance of each Institution's Athletic Department.

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

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**Written Testimony of Madeline “Maddie” Salamone
Vice President of the College Football Players Association (CFBPA),
Former Chair of the Division I Student-Athlete Advisory Committee (SAAC)
Former Division I Lacrosse Athlete**

“Athletes and Innovators: Analyzing NIL’s Impact on Entrepreneurial Collegiate Athletes”

Background

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

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

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

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

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

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

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

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

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

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

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

³ <https://www.ni.com/rutgers/2020/06/investigation-calls-for-changes-to-rutgers-softball-program-but-no-discipline-for-coach-accused-of-abuse.html>; <https://www.newsobserver.com/sports/article228787814.html>; <https://dailytargum.com/article/2019/10/rutgers-softball-coaches-are-accused-of-committing-physical-emotional-abuse-on-players>; <https://www.usatoday.com/story/sports/ncaa/big12/2020/08/05/texas-tech-ad-meets-basketball-players-after-report-abuse/3305547001/>; [Northwestern sbnation.com/college-football/2023/7/10/23789587/northwestern-football-hazing-scandal-explained-pat-fitzgerald](https://www.sbnation.com/college-football/2023/7/10/23789587/northwestern-football-hazing-scandal-explained-pat-fitzgerald); <https://www.sportingnews.com/us/ncaa-football/news/pat-fitzgerald-northwestern-football-hazing-scandal-coach/pa95vojh5emxcaxvzixvqmi>; <https://www.washingtonpost.com/sports/2023/08/02/northwest-hazing-scandal-lawsuit-allegations/>;

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

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

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

Independent Oversight is Required

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

⁴ Turf fields are known to increase the risk of sports injuries. https://www.hss.edu/conditions_artificial-turf-sports-injury-prevention.asp; NFLPA says new data shows turf fields still cause more injuries than natural surfaces, https://sports.yahoo.com/nflpa-says-new-data-shows-turf-fields-still-cause-more-injuries-than-natural-surfaces-171352790.html?guccounter=1&guce_referrer=aHR0cHM6Ly9kdWNrZHVia2dvLmNvbS8&guce_referrer_sig=AQAAMUUiQot8V9vys8Lp4rYHJwvCn3t_n2H-LfZjaYH5KR2j-HnJkIn_6oKC84PVg9W6o4HqD8fgkUseXP_vFIBfD2LJ57Kno5eDSsVXr61fKgCbqgN9blbdVOsK8S3l5Dq3H45p-W1vrGatBYSpitupTdrV6Oq3QfMUZYUqJh88R7y

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History of Name, Image, Likeness

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

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

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

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

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

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

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

¹⁴ "Name, Image, and Likeness (NIL): NCAA Rules Control Rights of College Athletes," published January 9, 2019, <https://www.youtube.com/watch?v=zC2nAXIWK3I&t=16s>

¹⁵ NCAA Bylaw 12.4.4

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

¹⁷ NCAA Bylaw 12.4.3

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

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

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

The Benefits of NIL

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

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

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

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

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

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

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

Areas for Improvement in the NIL Space

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

²¹ https://www.knightcommission.org/wp-content/uploads/2023/09/cfa_financial_projections_report_2023.pdf

Committee on Small Business
Hearing Entitled, “Athletes and Innovators: Analyzing NIL’s Impact on Entrepreneurial
College
Athletes.”
Wednesday, September 20, 2023

Questions for Record
Eugene D. Smith
Senior Vice President & Wolfe Foundation Endowed Athletic Director
The Ohio State University

1. Since the introduction of NIL a few years ago, does data show an increase or decrease in the GPAs of student-athletes?
 - It has not had an impact one way or the other. It may be several years before there is enough NIL data to assess what, if any, impact that NIL has on academic performance. However, increased disclosure of NIL deals would help in compiling the data needed for such an analysis.
2. Regarding individuals who do not have scholarships, has NIL helped these student-athletes reduce their student loan debt?
 - Yes, NIL is a tool that can be used by many non-scholarship student athletes to reduce student loan debt. Moreover, NIL has been successfully used by some student athletes on partial scholarship. As I mentioned in my testimony, most Olympic sport student-athletes are on equivalency (partial) scholarships. Historically, many of these student-athletes graduated with debt. NIL opportunities offer the possibility to mitigate that debt. This is one highly positive outcome of NIL that is not often noted in the media.
3. Has NIL led to an increase in the percentage of student-athletes that receive 4-year degrees?
 - It’s difficult to say at this point. It may be several years before there is enough NIL data to assess what, if any, impact that NIL has on graduation success.

9/20/23, 10:57 AM

Cruz: Texas college sports are bigger. Here's how we keep it that way.

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Ted Cruz: College sports are bigger in Texas. Here's how we keep them that way

Sen. Ted Cruz Austin American-Statesman

Published 7:00 a.m. CT Sept. 1, 2023

This weekend, Texas football teams will begin their seasons with legitimate playoff aspirations. That's because college sports, like everything else, are bigger in Texas.

Tens of thousands of faithful fans from all walks of life will gather to watch these games, united in their love of their team. And no one will know (or care) about the religion, background, or politics of the fan sitting next to them.

College sports are a great cultural unifier, but they are in peril—not just for fans—but for thousands of student-athletes whose games won't air on national television. In 2021, the Supreme Court issued a ruling against the National Collegiate Athletic Association (NCAA) that ultimately resulted in student-athletes having the ability to profit from their own name, image, and likeness (NIL). Now, additional litigation and draft state laws are hampering the ability of the NCAA to enforce even modest rules, set recruiting standards, promote fair competition, or crack down on bad actors looking to take advantage of student-athletes. Many school administrators agree that these developments, coupled with the evolution of athlete compensation, will lead to the premature end of big-time college football and basketball at dozens of schools. More troubling, however, could be the fallout at all levels of colleges and universities: the elimination of non-revenue sports.

If we are to preserve college athletics as we know it, congressional action will be necessary. To understand what lawmakers should — and should not do — the response of Washington to football's first crisis is instructive.

After a series of deaths from football-related injuries threatened the sport's future, President Theodore Roosevelt brought university leaders to the White House to encourage them to create rules that all parties could agree to rather than rely on the government. This became the early stages of the NCAA, an athletic system built on self-governance free from government intervention.

into a particular coach's methods, or federally mandated water and safety breaks.

After speaking with athletes, stakeholders from numerous Texas schools, collegiate sports associations, and others, I developed draft legislation that preserves the self-governance model and provides limited federal involvement to fully address outstanding legal issues that undermine fair competition.

First, my model codifies NIL rights for college athletes. As a matter of first principle, a man or woman is entitled to profit from their own labor and success. Many Texas athletes (and schools) are now benefiting from NIL rights. Just last year, the Longhorns landed Arch Manning, who ranks third in Name, Image, and Likeness valuation, among all college athletes. Four of the top 20 NIL collectives are affiliated with Texas universities.

Despite this early success, Texas institutions could find themselves at a competitive disadvantage against out-of-state rivals by the actions of another state legislature. A national solution for a national market is needed, which is why the Texas State Legislature requested in its NIL law that "the United States Congress...act on this matter to ensure the competitive integrity of intercollegiate athletics."

NIL deals are not without risk of exploitation. Not unlike the booster scandals of yesteryear, university-affiliated "collectives" can use NIL deals to recruit athletes on behalf of coaches and schools. If there is unethical pay-for-play activity, the NCAA and schools are largely powerless to curb it. My bill would address this challenge by empowering athletic associations to enforce recruiting and transfer rules. It would also create a registration system for agents so students can be sure a potential representative is knowledgeable, and it sets uniform contract provisions so NIL agreements contain safeguards that protect the student-athlete. The bill also allows athletic associations to create a NIL database so athletes and their representatives can better understand a player's market value.

Finally, the bill would ensure athletes are not deemed employees for purposes of employment law. This provision is essential to preserve the idea that student-athletes are students first and the focus remains on education. It would protect scholarship students so they could not be "fired" for non-performance, and preclude the enormous financial pressure that would likely cause schools to cut non-revenue sports.

9/20/23, 10:57 AM

Cruz: Texas college sports are bigger. Here's how we keep it that way.

Austin American Statesman

SERVING OUR COMMUNITY SINCE 1871

Do we decide to take the path of creating a new federal agency and concomitant regulation of college sports, as well as the hyper-politicization that would soon follow it? Or do we want to preserve the self-governance model that Roosevelt and others chose more than 100 years ago? I prefer the latter.

Cruz, a Republican, represents Texas in the U.S. Senate.

117TH CONGRESS
2D SESSION

H. R. 9698

To amend the Higher Education Act of 1965 to require institutions of higher education to create a venue-specific heat emergency action plan.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 27, 2022

Mr. MFUME introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Higher Education Act of 1965 to require institutions of higher education to create a venue-specific heat emergency action plan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jordan McNair Stu-
5 dent-Athlete Heat Fatality Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Heat-related illnesses are serious medical
9 conditions that result from the body’s inability to
10 cool itself down in extremely hot environments.

1 Heat-related illnesses include heatstroke, heat ex-
2 haustion, heat cramps, heat syncope, heat rash, and
3 muscle breakdown. When experiencing heat illness,
4 patients may exhibit an array of symptoms, includ-
5 ing confusion, slurred speech, unconsciousness, sei-
6 zures, fatigue, elevated body temperature, fainting,
7 dizziness, or muscle pain.

8 (2) The Centers for Disease Control and Pre-
9 vention reported over 700 heat-related deaths in the
10 United States from 2004 to 2018. Heat is the lead-
11 ing climate-related cause of deaths, and rising tem-
12 peratures pose a serious risk to student-athletes par-
13 ticipating in outdoor sports.

14 (3) Jordan McNair, a highly accomplished high
15 school football player from Maryland, received schol-
16 arship offers from many competitive university foot-
17 ball programs. He chose to continue his athletic and
18 academic career at the University of Maryland.

19 (4) On May 29, 2018, Jordan McNair collapsed
20 during a workout on the University of Maryland's
21 football field in the 81 degrees Fahrenheit heat.
22 McNair was suffering from heatstroke and was un-
23 able to remain in an upright position without assist-
24 ance from his teammates and athletic trainers.

1 (5) Despite being a student-athlete at a well-
2 funded Division I university, Jordan McNair re-
3 ceived inadequate heat-related illness treatment once
4 he was escorted off the field and into the training
5 room. Because athletic trainers were unable to re-
6 verse McNair's core body temperature, the illness es-
7 calated to a seizure and respiratory distress.

8 (6) Most medical professionals advise patients
9 to receive treatment within 30 minutes of initial heat
10 illness symptoms. Over 90 minutes passed from the
11 time McNair displayed initial symptoms of heat-
12 stroke to the time he finally received adequate care
13 from the nearest hospital.

14 (7) By the time Jordan McNair arrived at the
15 hospital, his core body temperature had reached a
16 life-threatening temperature of 106 degrees Fahr-
17 enheit.

18 (8) On June 13, 2018, two weeks after col-
19 lapsing on the football field at practice, Jordan
20 McNair died from symptoms of heatstroke.

21 (9) Two extensive external investigations of the
22 University of Maryland's football program concluded
23 that the program's athletic training staff failed to
24 promptly intervene, diagnose, and treat Jordan
25 McNair's heatstroke symptoms.

1 (10) According to an independent medical re-
2 port, University staff failed to assess Jordan
3 McNair's vitals, recognize and monitor heat-related
4 illness symptoms, provide adequate cooling devices
5 and respiratory aids, and generate an emergency
6 plan to coordinate with emergency responders.

7 (11) The McNair family is devoted to honoring
8 Jordan's legacy and founded the Jordan McNair
9 Foundation, which provides an educational tool to
10 help coaches, student-athletes, and parents identify
11 symptoms of heatstroke and heat-related illnesses.

12 (12) Heat-related illnesses and fatalities are
13 preventable if caught early. Medical staff, coaches,
14 and athletes must be knowledgeable of the warning
15 signs for heat-related illness in order to protect stu-
16 dent-athletes from injury, and even death.

17 **SEC. 3. VENUE-SPECIFIC HEAT EMERGENCY ACTION PLAN**
18 **REQUIREMENT.**

19 Section 485 of the Higher Education Act of 1965 (20
20 U.S.C. 1092) is amended by inserting at the end the fol-
21 lowing new subsection:

22 “(n) VENUE-SPECIFIC HEAT EMERGENCY ACTION
23 PLAN REQUIREMENT.—

24 “(1) IN GENERAL.—Each institution of higher
25 education that is participating in any program under

1 this title and that is a member of an athletic asso-
2 ciation or athletic conference, shall, beginning not
3 later than 1 year after the date of the enactment of
4 this subsection, develop and implement a venue-spe-
5 cific heat emergency action plan for the operation
6 and use of automatic external defibrillators and cold
7 water immersion equipment.

8 “(2) REQUIREMENTS.—A venue-specific heat
9 emergency action plan developed and implemented
10 under paragraph (1), with respect to an institution
11 of higher education, shall—

12 “(A) include a symptom identification
13 structure and a plan for staff and emergency
14 responders to coordinate care for student-ath-
15 letes;

16 “(B) be posted and visible in each—

17 “(i) locker room;

18 “(ii) athletic training facility;

19 “(iii) weight room; and

20 “(iv) outdoor sports complex and sta-
21 dium;

22 “(C) be made available on the school’s ath-
23 letic program website or public website of the
24 institution of higher education at the beginning
25 of each academic year;

1 “(D) be distributed to medical staff and
2 coaching staff; and

3 “(E) be rehearsed in-person every year by
4 medical staff, coaching staff, and student-ath-
5 letes before the start of in-person training.

6 “(3) ANNUAL REPORT.—An institution of high-
7 er education that is subject to the requirements of
8 paragraph (1) during a 12-month period (or during
9 a portion of such period) ending August 31 of a year
10 shall submit to the Secretary and authorizing com-
11 mittees a report to demonstrate compliance during
12 such period by not later than July 1 of the following
13 year.”.

○



Brent Chapman
Chief Executive Officer
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Chairman Roger Williams
House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Williams,

Over the last two years, college sports have experienced a monumental shift that is reshaping the landscape of amateur athletics with the introduction of Name, Image, and Likeness (NIL) rights for student-athletes. While NIL is creating opportunity, it is also creating inequity. Experts estimate that the top 4% of student-athletes are earning most of the money generated through NIL deals. With more than 500,000 NCAA student-athletes from over 1,000 schools across all three levels, a majority of athletes aren't able to fully take advantage of their rights.

Like many of today's challenges, technology and innovation are creating solutions to benefit the greater good. This is why I founded myNILpay, to serve ALL student-athletes and allow them the ability to maximize earning opportunities through NIL. myNILpay provides an avenue for student-athletes across all NCAA divisions to even the playing field in monetizing their NIL rights directly through the support of college sports fans and school alumni. Student-athletes receive a minimum of 90% of gross revenue through myNILpay payments, the highest known pass-through on NIL deals. All transactions are taxable, trackable and, most importantly, compliant under NCAA guidelines.

We feel our platform can bring stability and equal opportunity across college athletes – particularly the smaller, under-served schools. For instance, let's look at Northeastern State University, a small public university based in Tahlequah, Oklahoma. The school enrolls about 8,500 students and competes at the Division II level. As you can imagine, NIL opportunities for the RiverHawks are few and far between. myNILpay recently partnered with NSU to help the school deliver support for student-athletes and within a few short weeks' sponsors started rolling in to financially support their men's and women's teams, as well as help NSU recruit the next generation of RiverHawks. Tahlequah Lumber and Local Bank are great examples of this, as two community businesses that have since agreed to sponsorships with NSU.

We have fully embraced the challenge of democratizing NIL and we are opening doors for more student-athletes to benefit from the rights bestowed upon them by the NCAA's rules. As a proud small business, we aim to continue pushing the envelope for how we can better serve student-athletes. As NIL continues to evolve and this committee plays a crucial role in determining the best path forward for student-athlete rights, I am eager to share what we've learned from serving student-athletes across all walks of life – from the softball pitcher at a D-I school, to the tennis player at a D-III school, to the offensive lineman at a Power Five school.

Thank you for your time, attention, and dedication to collegiate athletics. I look forward to further discussion about this committee's efforts to better serve our college athletes through NIL and building a better process for all student-athletes to leverage their rights.

Sincerely,

Brent Chapman
CEO, myNILpay

