

**Testimony of Dan Radakovich  
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**U.S. Senate Judiciary Committee  
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Chairman Graham, Ranking Member Blumenthal, and distinguished members of the Judiciary Committee, on behalf of Clemson University and the other 64 institutions in the Autonomy Five conferences, thank you for providing me with this opportunity to testify on protecting the integrity of college athletics. I look forward to discussing reform proposals regarding student-athletes' use of their name image and likeness, or NIL.

My name is Dan Radakovich. I have served as Director of Athletics at Clemson University since 2012 and have worked in college athletics administration for 37 years. Prior to arriving at Clemson, I served as the Director of Athletics at Georgia Tech and American University plus various administrative roles at the University of Miami, Long Beach State, the University of South Carolina and Louisiana State University. In 2017, I was honored to be named the SportsBusiness Journal Athletic Director-of-the-Year. I also serve as Chair of the Board of LEAD1, an organization representing athletic directors at the Division I level. I also have a perspective on this issue as a former non-scholarship Division II football player at Indiana University of Pennsylvania, where I earned a degree in finance before going on to receive my Master's in Business Administration from the University of Miami.

At Clemson, I am proud that our athletics program produces champions on the field and in the classroom. You are no doubt aware that our football program has played in four of the last five national championship games. You may also know that our men's and women's soccer programs are world-class. But it's more important to me to tell you that our student-athletes set an academic record last year -- with a cumulative grade point average above a 3.0, which included the difficult transition to online learning halfway through the spring semester. Like most of our peer institutions, athletics at Clemson provides a tremendous opportunity to a diverse group of young people to succeed in all aspects of their lives after their collegiate careers, whether in professional athletics, law, medicine, government and education or in any career beyond sports.

Student-athletes on our 19 intercollegiate teams at Clemson - like most in the Atlantic Coast Conference – have at their disposal all of the tools that they need to learn, to find a career passion and path, and to get on the road to success. The list is long, and you may not be aware of all of them. Today, these benefits include, but are not limited to:

- scholarships
- mentoring
- career counseling
- academic counseling
- mental wellness professionals
- nutritional guidance
- unlimited meals and snacks
- world-class medical care
- post-eligibility care for athletic injuries

- post-eligibility scholarships
- housing
- laptops
- and a full cost-of-attendance stipend to cover expenses.
- elite-level sports performance including strength and conditioning
- priority class scheduling
- life-skills development
- access to leaders in business and sports

In all, at a typical university in one of our Autonomy Five conferences, the combined value of these benefits is between \$70,000 and \$125,000, per student, per year.

Much of the public debate surrounding NIL is focused on the very few student athletes who are destined to make millions in professional sports. I would encourage this distinguished committee to broaden that focus to the diverse and overwhelmingly larger population of students in all sports. The right balance must be struck between the interest of these two groups. The wrong decisions on NIL policy could be detrimental to all student-athletes, those in and out of the spotlight, and especially for those in sports that do not generate revenue.

In each academic class at Clemson, we have 125 or so student-athletes. Only a handful in each class will ever participate in professional sports. Across the country, 180,000 students of a wide variety of backgrounds compete at the Division I level in sports and just a few hundred will ever play their sport professionally after college. The rest will embark on professions determined by their interests and by their achievements in the classroom. The provision of educational benefits, across the board to a diverse group of student-athletes, is what makes the American collegiate model of athletics unique – and it is that model that we are asking Congress to preserve, for the benefit of student-athletes, as it considers reforms to laws surrounding NIL.

The ACC and its peers – the Big Ten, the Big 12, the Pac-12 and the SEC – are asking Congress to step in and take nation-wide action now. Three states have already passed laws allowing third-party payments for NIL and one of them – in the ACC state of Florida – takes effect less than one year from today. Many states are considering similar action and some held off this year awaiting action by Congress. Unless Congress acts, by next winter, we will see a hodge-podge of inconsistent state laws, regulations and enforcement mechanisms. Time is of the essence.

To preserve the integrity of competition in college athletics, we need one national standard on NIL. That standard must be universal, fair, and benefit all student-athletes and, therefore, preventing disadvantages for certain students in certain states. By enacting a single national standard, Congress will guarantee all student-athletes the same set of rights and protections.

To accomplish this, our five conferences have worked closely together to develop consensus principles for a national NIL solution that would provide student-athletes with additional opportunities while preserving the integrity of collegiate athletics.

First and most importantly, we must recognize that we are dealing with students. Collegiate athletes must remain students and not employees. We cannot allow college athletics to devolve into a pay-for-

play system that exists only as a training ground for a handful of future pros. This means prohibiting universities from paying students directly or indirectly for NIL. This prohibition must also include employees or contactors of universities from engaging in NIL contracts with student-athletes.

Reasonable measures must be considered to keep NIL payments from being used as inducements in the recruitment process for the protection of student-athletes and the integrity of competition. To achieve this goal, our conferences recommend a few common-sense protections regarding NIL licensing by boosters and sponsors, and we also recommend a semester of academic progress before any NIL activity. Without these protections, it is easy to envision a situation in which payments for licenses, unconnected to the actual market value for those publicity rights, becomes the dominant factor in recruiting.

We are also concerned with the potential impact that booster participation in NIL deals will have on lower profile sports. Should boosters shift their funding and focus to NIL compensation for individual players in high-profile sports, many athletic programs could struggle to fund lower-profile sports. Both outcomes – the disruption of recruiting rules and revenue shifts away from lower profile sports - would be bad for the vast majority of student-athletes.

As you address potential NIL legislation, Congress will also need to consider gender equity issues – a subject that state legislation is unable to address. Market forces could result in redirected athletic department revenues that may have Title IX consequences.

Our conferences are also concerned with unscrupulous outside actors seeking to take advantage of student-athletes. To that end, a few other reasoned recommendations include: (1) implementing appropriate standards and safeguards with respect to representation by NIL advisors or agents; (2) disclosure of representation to the university in which the student-athlete is enrolled; and (3) public disclosure of NIL licenses. Similarly, we recommend allowing individual universities, if they choose, to prohibit NIL agreements in the few categories that are inconsistent with the standards of the university in which the student has decided to enroll (for example, at some schools these could include alcohol, gaming, pornography or illegal activities).

In order to assist student-athletes and their families who may lack the experience to navigate this new world, I also personally believe that there an independent, third-party – a foundation or not-for-profit organization—should be established. Such an organization could play an important role in providing education on many relevant topics and other support services to student-athletes including:

- Selecting an agent or representative
- Avoiding pitfalls
- Exploring the types of opportunities that exist
- Reasonable remuneration
- Predicting tax consequences

The organization could also serve as a national clearinghouse for:

- Certification, registration and discipline of agents or representatives, and
- As an open registry of NIL deals.

As we have all experienced over the last few months, it is possible to reach across the country remotely and such an organization could reach all student-athletes. I would also hope that former student-

athletes will give back to those starting the process and graciously provide their time and wisdom to current student-athletes through such an organization.

Once Congress enacts a system of NIL rules, I urge you to do so in a way that puts an end to litigation against the universities and conferences who will abide by these rules. As you may have heard, last month, our conferences were sued in two new class actions regarding NIL rules that we have yet to even adopt. In fact, almost every time rules are changed to increase benefits for student-athletes, a parade of lawsuits soon follows. Universities and conferences should not face lawsuits for complying with Congress's mandates on NIL. Our conferences and the NCAA are spending a lot of money on these lawsuits. As an athletic director, I would prefer to see that money shifted to benefits for student-athletes. To have a fair and final NIL system, one that benefits both the star athletes and the more anonymous students who play lower-profile sports, we need legislation that enables students to benefit immediately from their NIL rights, without further litigation.

Finally, while I'm here on behalf of Clemson, the ACC and the other four major conferences, I want to point out that earlier in my career, I was an associate athletic director at Long Beach State University, a Division I university competing in the Big West Conference. I can tell you for certain that the ability of many schools like Long Beach State to offer a broad-based athletics program would be devastated if NIL policies are adopted without appropriate safeguards. There are outstanding programs like Long Beach State in almost every state in America. They rarely get mentioned in news coverage on this issue, but it is my hope that Congress will keep the student-athletes in those programs in mind as it considers NIL legislation.

College athletics at the Division I level provides for truly national competition among a set of schools with diverse missions, advantages, and locations. This model is uniquely American. In Europe and around the world, promising young athletes abandon their schooling to pursue athletic aspirations in almost every sport. In contrast, their peers in the United States receive world-class educations while simultaneously competing at the highest amateur levels. By the time these individuals reach their mid-twenties on both continents, only a few of them are still competing. But in the United States, those who no longer compete are well-educated and equipped for success in life.

The American collegiate model works for student-athletes. It works for the same reason college education has always worked in America. Lives change. Futures change. The trajectories of entire families change.

I know I speak for all collegiate directors of athletics when I tell you that we are grateful for your attention to this issue and we look forward to working with the members of the United States Senate and House of Representatives as you design a fair, workable, national NIL policy. It is challenging to be sure. It is my hope that through this dialogue we can find an answer on NIL that will be equally beneficial for the 500,000 student-athletes who currently participate in intercollegiate athletics.

I look forward to the collaboration. Thank you.