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**US Senate Judiciary Committee Hearing
“Name, Image, and Likeness and the Future of College Sports”**

Ramogi Huma Written Testimony

October 17, 2023

Dear Chairman Durbin, Ranking Member Graham, and members of the Judiciary Committee,

Thank you very much for inviting me to participate in the “Name, Image, and Likeness and the Future of College Sports” hearing on Tuesday, October 17, 2023. This discussion encompasses important freedoms and protections college athletes should be afforded. The National College Players Association (NCPA) served as a co-sponsor of California SB 206 known as The Fair Pay to Play Act, and served as the primary advocate for NIL laws in a dozen other states.

Please accept this summary and full written testimony as my written testimony.

Summary

Congress should not ignore sexual and physical abuse, deadly negligence, poor graduation rates, and other serious issues that harm college athletes while passing NIL-only legislation. Instead, the NCPA encourages Congress to adopt broad based reform that includes the enforcement of health and safety standards, ensure athletes’ sports-related medical expenses are covered, ending the NCAA’s discrimination against female college athletes, and other key provisions for college athletes.

Full Written Testimony

NCAA sports has sentenced generations of college athletes, many of whom are Black athletes from underprivileged households, into second class citizenship. Separate is not equal in education and college athletes should have equal rights and freedoms

afforded to other students and Americans. NCAA sports is asking Congress to eliminate college athletes' protection under both antitrust and labor law in return for tinkering with just a sliver of the racially discriminatory economic exploitation inflicted upon college athletes.

College athlete name, image, and likeness (NIL) pay is the smoke that hovers above the raging fire of injustices at the core of NCAA sports. College athletes' economic, academic, and physical well-being continue to be consumed by an insatiable greed and a mentality that treats players as property rather than people.

Broad Based Reform

It would be unjust for Congress to turn a blind eye on critical aspects of college athlete well-being and economic equity that are much more important than narrow NIL compensation.

The NCAA says it has no duty to protect college athletes and refuses to enforce health and safety standards despite negligent deaths during workouts, sexual assaults against hundreds of college athletes, and athletic trainer surveys finding rampant mistreatment of concussions and other serious injuries nationwide. The NCAA says it has no duty to ensure a quality education for college athletes while football and basketball players' federal graduation rates hover around 50% and many college athletes are pushed into classes and majors that they do not want to take for athletic eligibility purposes.

Economic equity for college athletes is inextricably tied to not only college athlete NIL freedoms, but it is tied to their freedom from medical expenses, freedom from preventable sports-related injury and abuse, freedom from serious obstacles that impede degree completion, and freedom from illegal, cartel activity that stifles their economic opportunities.

Instead, the NCPA is asking Congress to pursue broad-based reform that is critical to college athletes' well-being. I ask for a continued dialogue with each of your offices so that we can work together to bring forth a fair and just arrangement for college athletes.

Oppose Antitrust Exemption for NCAA Sports

The NCPA is asking Congress to decline NCAA sports' request for an antitrust exemption.

The NCAA is a chronic antitrust violator whose immoral, illegal price fixing schemes have harmed generations of college athletes. The US Supreme Court made very clear in its 9-0 decision in favor of plaintiffs in the *Alston v. NCAA* antitrust lawsuit that the NCAA is subject to federal antitrust laws and deserve no special treatment. The NCPA agrees.

Each antitrust action against the NCAA has resulted in benefits for countless college athletes. The NCPA has assisted antitrust lawsuits and investigations that have led to important advancements for college athletes such as the elimination of an NCAA prohibition on medical coverage during summer workouts (*White v. NCAA* antitrust lawsuit settlement), removing the NCAA's 1-year scholarship limit (US DOJ Antitrust Investigation), eliminating the NCAA's ban on player stipends to cover basic necessities (*O'Bannon v. NCAA* NIL antitrust ruling), and, thanks to the US Supreme Court's ruling in *Alston v. NCAA*, the option for colleges to pay athletes educational-related compensation including up to \$6000 per year in academic achievement awards. If the NCAA already had an antitrust exemption, these gains would never have been made and the states would have never had the ability to adopt NIL laws at the core of this hearing.

The very narrow areas where restraint of trade are justified such as prohibiting NIL deals to be used as inducements for prospective college athletes should be enacted directly by Congress. Congress does not need to give the NCAA an antitrust exemption to accomplish these things.

Do Not Ban NIL Pay from Collectives, Ignore the Competitive Equity Myth

NIL arrangements with collectives and boosters should not be banned in the name of competitive equity because competitive equity does not exist in college sports. These same sources already give athletic programs money that is used to recruit the best recruits, win the most games, and generate the biggest TV deals that allow rich athletic programs to continue their dominance. In their most recent report to the Department of Education, Ohio State University reported \$247 million dollars in athletic revenue while Ohio University reported only \$28 million in athletic revenue. They are both in the FBS Division. How can anyone suggest that these two colleges compete on an equal playing field? How can colleges, conferences, and the NCAA justify denying college athletes economic freedoms in the name of competitive equity when this severe disparity among colleges exists and is held up as the system that should be preserved? Colleges, conferences, and the NCAA have not moved to address these inequities – they haven't banned booster payments to colleges and they don't share athletics revenue equally among colleges in the name of competitive equity. In addition, other leagues do not ban 3rd party NIL deals with fan clubs and those leagues operate very well.

Federal legislation should not sacrifice college athletes' freedoms so that NCAA sports can pretend that competitive equity exists. Additionally, roster and scholarship limits keep the inequity from "getting worse". There is a finite number of recruits each year and the top recruits already flow to the Power 5 Conferences. If fair legislation inadvertently changes recruiting migrations to where some of the top recruits begin to flow away from some of the Power 5 Conferences, it would actually increase competitive equity compared to where it is today.

"Patchwork of State Laws"

The last two years of college athletes' NIL freedom exposes as false claims that the NCAA, conferences, and colleges would be unable to withstand competitive inequities or navigate around a patchwork of state name, image, and likeness (NIL) laws. It is clear that the NCAA and its colleges are capable of complying with an array of different laws – just as other businesses involved in interstate commerce must do. Federal NIL legislation is not necessary to preserve college sports. And federal law is not necessary to ensure college athletes gain NIL compensation freedoms since state action has already accomplished this. For these reasons, Congress should treat NIL as a low priority issue in college sports reform.

“Need for Regional Conference Alignment”

Another important issue, and one that is worthy of its own separate bill, is the corrosive conference realignment that will require college athletes to spend many additional hours traveling at the expense of their academics and their health. These developments are nothing but a greedy TV money grab that treats athletes like commodities and education as a punch line. Using athletes in predominantly Black sports to generate more TV dollars at the expense of their education while Black football and basketball athletes suffer the lowest graduation rates is unjustifiable.

Another problem is that as mega-conferences emerge, each team and fanbase will have less of a chance to win their conference. Colleges in mega-conferences are literally selling out their athletic future for TV dollars, just to give a pay bump to coaches, athletic administrators, and spend on shiny facilities. This is short-sighted. This harms college athletes, and the NCPA is encouraging Congress to pass legislation that would base conference membership on reasonable regional proximity and limit the number of colleges in a conference.

“Bipartisan Legislation”

The NCPA has worked with lawmakers on both sides of the aisle to pass NIL laws in red states, blue states, and purple states because, when it comes to the well-being of college athletes, lawmakers who care about athletes find themselves on the same team, regardless of political party.

As a practical matter, any bipartisan legislation that can actually move through the Senate cannot have any poison pills that would kill it. Such a bill shouldn't attempt to require or prohibit athlete revenue sharing, require or prohibit college athlete employment status, or attempt to give NCAA sports an antitrust exemption. There are strong beliefs about these areas among stakeholders, but these issues should be set aside so that bipartisan progress can be made in other important areas.

Thank you again for the opportunity to participate in this hearing and I am committed to working with this committee in continuing discussions on this issue and other issues concerning college athletes' well-being.

Sincerely,

A handwritten signature in black ink, appearing to read "Ramogi Huma". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ramogi Huma
NCPA Executive Director