



April 8, 2026

Senator Bill Cassidy
Chairman
Senate Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC, 20510

RE: Request for Information: Stabilizing College Sports and Preserving Opportunities for Athletes

Dear Chairman Cassidy:

On behalf of the American Council on Education (ACE) and the higher education associations listed below, which represent all sectors of the higher education community, I am writing in response to your request for information regarding “Stabilizing College Sports and Preserving Opportunities for Athletes.” This is an important topic for the higher education community, and we thank you for the opportunity to share information related to it.

Troubling Trend of Student Athletes Classified as Employees:

The colleges, universities, conferences, and governance organizations that oversee intercollegiate athletics have always emphasized the primacy of education for student-athletes and the contribution to their education that participation in intercollegiate athletics offers. Indeed, student-athletes graduate from four-year colleges and universities at a rate in line with or higher than their non-athlete counterparts. Athletics programs have long played a crucial role in a student-athlete’s education. Among other things, student-athletes learn valuable lessons about teamwork, discipline, sportsmanship, and time management.¹ They also receive unique opportunities to engage with their student community, participate in a significant aspect of campus life, and serve as formal and informal leaders among their peers and representatives of their institutions.

As a result, there is widespread concern among colleges and universities about classifying student-athletes as employees, paying them as such (including overtime pay), and adhering to Department of Labor regulations—all of which would have severe, negative consequences for student-athletes, schools, and intercollegiate athletics as a whole. A 2024 decision by a National Labor Relations Board Regional Director that Dartmouth College’s men’s basketball team members are employees under the National Labor Relations Act (NLRA) is deeply troubling, and part of a larger trend to rebrand collegiate student-athletes as employees. As another example, in the case of *Johnson, et al. v. National Collegiate Athletic Association, et al. (Johnson v. NCAA)*, in July 2024, the U.S. Court of Appeals for the Third Circuit [affirmed](#) the District Court’s decision that the plaintiffs—a Lafayette College women’s tennis player, a Fordham University men’s baseball player, and other student-athletes playing non-revenue sports—could be employees under the Fair Labor Standards Act (FLSA).² In *Johnson*, even though the athletes would still take classes as students, their relationship to the

¹ https://ncaaorg.s3.amazonaws.com/research/goals/2026RES_GOALS-AWEdSession.pdf (slide 52).

² The Third Circuit remanded the case directing the lower court to apply the FLSA’s economic realities test to assess whether the plaintiffs are employees.

institution and their coach would be dramatically altered in ways that would jeopardize the scholar-athlete model. This approach raises concerns about the potential loss of focus on academics and the overall experience of student-athletes beyond money.

These cases, and the broader national discussion about college athletics, rest on a false narrative: that students are enticed by athletic scholarships to join intercollegiate teams, and that they are then exploited by colleges and universities for profit. The reality is far different.

The vast majority of college and university athletics programs are not revenue generating enterprises for their institutions. If they were viewed as such, intercollegiate athletics would have virtually disappeared from American higher education long ago. In fact, nearly all of the athletics departments of the NCAA's 1,100 member institutions have operating costs that exceed generated revenues, and most of the 500,000-plus intercollegiate student-athletes participate on teams that bring in little or no revenue.³ This is the case even for schools with high-profile football programs. In 2024, only 21 out of 130 FBS (Football Bowl Subdivision) schools generated athletics revenues that exceeded their athletics expenses.⁴ In the same year, there was only one FCS (Football Championship Subdivision) school bringing in more athletics revenues than their athletics expenses.⁵ Their teams must rely on institutional or donor funding to cover significant portions of their operating costs.

At the Division, I level, in the 2024-25 academic year, about 40 percent of student-athletes choose to play on their school's intercollegiate team without receiving a penny of athletic scholarship money.⁶ At Division III institutions, 31 percent of undergraduates are student-athletes, over 210,000 student-athletes on Division III teams, with no athletic scholarships at all.⁷ The overwhelming majority of them report that being a student-athlete helps them fit in socially at their college;⁸ and 88 percent of them graduate with degrees.⁹ They participate because of their love of their sport and the competition that comes with it. For most of them, that opportunity is the culmination of their long-running dreams and aspirations and a source of personal pride and educational growth. The cost of compensating Division III student-athletes is difficult to calculate, but there can be little doubt that it would be prohibitive. Given sensitivity to tuition increases, passing these increased costs onto the broader student body would not be a viable option; nor would it be equitable given the range of campus activities in which students routinely participate without any expectation of compensation.

Financial Threats

Colleges and universities will face several challenges if student-athletes must be considered employees. Transitioning student-athletes to employees would lead to serious financial challenges for institutions, presenting new direct and indirect costs to colleges and universities. Chief among them

³ See <https://www.ncaa.org/sports/2019/11/12/finances-of-intercollegiate-athletics-database.aspx> (Summary tab) https://ncaaorg.s3.amazonaws.com/research/Finances/2021RES_D3-RevExpReport.pdf.

⁴ https://ncaaorg.s3.amazonaws.com/research/goals/2026RES_GOALS-AWEdSession.pdf (Slide 8).

⁵ <https://www.ncaa.org/sports/2019/11/12/finances-of-intercollegiate-athletics-database.aspx> (Trends in Net Generated Revenue (2015-2024) tab).

⁶ https://ncaaorg.s3.amazonaws.com/compliance/recruiting/NCAA_RecruitingFactSheet.pdf.

⁷ https://ncaaorg.s3.amazonaws.com/compliance/recruiting/NCAA_RecruitingFactSheet.pdf

⁸ https://ncaaorg.s3.amazonaws.com/about/d3/D3_FactsandFigures.pdf

⁹ https://ncaaorg.s3.amazonaws.com/compliance/recruiting/NCAA_RecruitingFactSheet.pdf

is the significant cost increase for schools to employ all their current student-athletes and the likely reduction in rosters or sports offered on campuses. Direct compensation (e.g., hourly pay or salary) would be extremely difficult to accommodate under current budgeting for most institutions because, with few exceptions, most athletics programs produce no net revenue for the institution.

In addition, treating student-athletes as “employees” would trigger a variety of other costs for institutions beyond paying student-athletes minimum wage (or more). These costs could include (i) potential overtime payments whenever a student-athlete “works” more than 40 hours per week (which could include time spent traveling to and from athletic competitions); (ii) tax obligations, Social Security, and Medicare payments in connection with wages paid to student-athletes; (iii) state and federal labor law compliance, including the detailed tracking of hours, time off, and the provision of various benefits; and (iv) premiums for workers’ compensation and unemployment insurance.

With more requirements to satisfy, institutions would need more employees and that would lead to a higher burden on human resources staff and compliance officers. For instance, institutions would have to establish additional systems to track student-athletes’ “work” hours and time off to ensure they are paying minimum wage and overtime. Schools would also need to engage attorneys specializing in state labor and tax laws to comply with the laws of not only their own state, but also those of states to which their “employees” would travel with their teams for competitions.

All of these additional costs would make fielding intercollegiate teams cost-prohibitive for all but a handful of athletics departments. There is wide variation in the size of athletics programs at institutions, even at Division I schools. For example, a “Power 4” institution in conferences like the Southeastern Conference or Big Ten has considerably more resources than an institution in the Mid-American or Sun Belt conferences (e.g., the median generated revenue among “Power 4” schools in 2024 was \$133.8M as compared to \$17.2M among FBS nonautonomy schools and \$6.1M among FCS schools).¹⁰ The inevitable result is that schools at every level—Division I, II and III—would have little choice but to eliminate many of their teams, cutting entire sports programs such as wrestling or men’s gymnastics, or even eliminating athletics departments altogether. The vast majority of U.S. Olympians get their start and train in NCAA athletics programs,¹¹ and a reduction in collegiate sports would have a drastic impact on U.S. Olympic teams. Similarly, the cost of employing student-athletes would likely negatively impact women’s college sports, which do not generate nearly as much revenue as some Division I football and men’s basketball programs. Intramural competition, and perhaps student-run club teams, would survive, but American intercollegiate sports as we know it would virtually collapse under the weight of untenable expense.

The financial impact would be disproportionately visited on smaller, less-resourced schools. For many of them, offering intercollegiate athletic opportunities to full- and partial-pay students is a key component of building their classes.¹² The elimination of fiscally unsustainable teams could lead to the actual closure of schools.

For all colleges and universities, the disintegration of intercollegiate athletics would rob a substantial portion of their students of what participating on an intercollegiate athletic team contributes to their education. Unlike professional sports teams, whose primary purpose is to generate profits for their

¹⁰ <https://www.ncaa.org/sports/2019/11/12/finances-of-intercollegiate-athletics-database.aspx> (Summary tab).

¹¹ <https://www.ncaa.org/sports/2024/4/3/olympics-games.aspx>

¹² Zvosec, Claire and Baer, Nathan, *The Role of Athletics in the Future of Small Colleges: An Agency Theory and Value Responsibility Budgeting Approach*, Journal of Issues in Intercollegiate Athletics: Vol. 15: Issue 1, Article 28 (Jan. 2022).

owners, the vast majority of intercollegiate athletics teams are sustained by their schools because of the belief that the teams provide students with valuable opportunities to develop outside the classroom—building self-confidence and self-discipline, learning unique lessons about teamwork, and generally enriching their college experience.¹³

In summary, treating student-athletes as employees under the NLRA or the FLSA, has deeply troubling implications for the continued viability of intercollegiate athletics, and would be potentially devastating for many of America’s institutions of higher education, as well as for future generations of aspiring collegiate athletes who risk losing the opportunity to have an intercollegiate athletics experience.

We thank you for the opportunity to submit these comments and for considering our views. We are ready to assist Congress in evaluating the implications of these dramatic threats to our colleges and universities and their student athletes.

Sincerely,



Ted Mitchell
President

On behalf of:

American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
Association of Public and Land-grant Universities
College and University Professional Association for Human Resources
National Association of Independent Colleges and Universities

¹³ See Erienne Allen Weight et al., *Holistic Education through Athletics: Health and Health-Literacy of Intercollegiate Athletes and Active Undergraduate Students*, 1 J. Higher Ed. Athletics & Innovation 38, 50–52 (2016); https://ncaaorg.s3.amazonaws.com/research/other/2020/2020RES_GallupNCAAOutcomes.pdf; Ketcham, C., Bell, L., Hall, E., & Weaver, A., *Intercollegiate athletics experience as a High Impact Practice: Examination of quality indicators*. *Journal of Higher Education Athletics & Innovation*, Vol.1, No.9, at 61-81 (2022).