



Testimony of Tony Petitti
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Chairman Durbin, Ranking Member Graham, and distinguished members of the Judiciary Committee, on behalf of the Big Ten Conference, I want to thank you for providing me the opportunity to appear before you today to discuss the pertinent issues impacting collegiate athletics, including the use of student-athletes' name, image, and likeness (NIL).

I would like to thank the Senators on this Committee for their strong commitment to finding legislative solutions to the many challenges currently facing collegiate athletics. I have had many important and substantive conversations with members of this panel and I am encouraged to see there is strong interest in addressing the issues facing college sports.

My name is Tony Petitti, and I am proud to be serving as the seventh Commissioner of the Big Ten Conference, the country's oldest Division I collegiate conference. While I may be relatively new to my role as Big Ten Commissioner, my dedication to student-athletes and collegiate athletics runs deep and is fueled by a lifelong passion for sports. I have a long history of working in professional and college sports, recently as the Deputy Commissioner and Chief Operating Officer of Major League Baseball and President and Chief Executive Officer of the MLB Network. I also have previous experience in senior leadership positions in the media and broadcast space at CBS Sports, ABC Sports, and a local broadcast station in New York.

I was also a student-athlete, having played baseball while pursuing my undergraduate degree at Haverford College. Like millions of Americans, being a student-athlete allowed me to pursue a higher education and be the first in my family to attend college. As such, I understand on a personal and professional level the unique opportunities that collegiate sports can provide to our young adults and the need for us, as a conference, to support them to the greatest extent possible.

Starting in 2024, the Big Ten Conference will represent 18 institutions in 14 states, with championships in 28 sports, nearly 12,000 student-athletes, and over \$16.7 billion in research dollars. We are a conference deeply committed to academics, research, and broad-based sports programming that understands the important contributions of our student-athletes in helping our conference and member institutions flourish.

We are not a professional sports league, nor do we want to be. Our primary goal is to allow student-athletes the opportunity to excel at their sport while providing them with a world-class education that

will benefit them for the rest of their lives. While there is a lot of good in the system, there is also a lot that can be improved upon. The Big Ten is ready to make changes to benefit our students in a manner that does not throw out what is good within the uniquely American system of collegiate athletics. To do so, we need Congressional assistance.

As Big Ten Commissioner, I take great pride in the success of our student-athletes in the classroom. The graduation rate of student-athletes across Big Ten institutions is a testament to the commitment of our student-athletes both inside and outside of the classroom during their time on campus – as well as afterward. While student-athletes are committed to perfecting their craft, it is important to not lose sight that they are student-athletes, with “student,” coming first.

Furthermore, the Big Ten has taken significant strides in advancing women’s sports and we continue to build upon the successes of Title IX through expansion in participation across the women’s sports community. Just recently, the University of Nebraska set a new record for the largest crowd to watch a women’s sporting event in the United States, when more than 92,000 fans filled Nebraska’s Memorial Stadium to watch the Nebraska Women’s Volleyball team in an outdoor match.

We must also acknowledge the pivotal role college athletic programs play in bolstering a strong Olympic and Paralympic pipeline. Many accomplished Olympians come from a collegiate sports background. For example, nearly 200 Big Ten athletes participated in competitions at the 2020 Tokyo Olympics, and 45 Big Ten athletes participated in the 2022 Beijing Winter Olympics. Through collegiate sports, these Olympians are able to realize their Olympic dreams and gain the skills necessary to perform at the highest level.

At the Big Ten, we view student-athlete health and welfare as a top priority. That is why we strongly support and provide both on-campus and post-separation health care guarantees, which ensure that our student-athletes have access to medical care and mental health services both during and after their time on campus. Of equal importance is the Big Ten’s commitment to on-field health and safety standards during practice and play. As the first of the Autonomy Five (A5) Conferences to appoint a Chief Medical Officer, we firmly believe that every one of our student-athletes should have access to the same high standards of medical care and safety precautions while participating in collegiate athletics. While the Big Ten and other A5 Conferences currently provide these important benefits, the Big Ten is open to, and supports efforts to discuss additional health and wellness benefits for our student-athletes, such as life-long learning, financial literacy, and other life-skills training. We recognize that there is still room for growth and that more benefits need to go directly to our student-athletes and are committed to working with members of this Committee to identify ways in which that can be accomplished.

It is also no secret that the collegiate athletics community is at a pivotal turning point in its history – NIL, media and other revenue, transfer rules, state intervention, realignment, and a changing governance model are all impacting the landscape. At the Big Ten, we see this confluence of events as an opportunity to fundamentally modify the dynamics that exist for student-athletes. We are prepared to modernize our guidelines to create a new framework for collegiate athletics that more fairly provides benefits to student-athletes directly from member institutions, maintains broad-based sports opportunities for men and women, and upholds Title IX.

We see four main challenges that must be addressed by proper regulation to better protect and serve our student-athletes. These federal regulations need to (1) preempt the developing patchwork of state laws pertaining to college athletics; (2) provide the NCAA and conferences with the ability to regulate more effectively; (3) better identify “true NIL” deals from “pay-for-play” or inducement schemes; and (4) codify the classification of student-athletes as students.

Preemption of NIL State Laws

There is no doubt that student-athletes can and should be able to monetize their name, image, and likeness. At the Big Ten, we are very supportive of the exposure and financial benefits students can receive through NIL deals but would like to see legislation at the federal level that makes the regulatory environment easy for student-athletes to navigate, allows conferences and the NCAA to certify compliance, and ensures that there is no undue competitive advantage being provided to specific institutions. However, there are now more than 30 different state laws related to NIL and college athletics, with many states passing laws specifically designed to provide individual institutions with a competitive advantage in recruiting top talent. To provide certainty, equity, and competitive balance, a uniform federal statute is needed to preempt this growing network of state laws.

Ability to Regulate

A combination of court decisions, current litigation, and state action has rendered the NCAA increasingly unable to make or enforce common-sense regulations governing college athletics. As such, through legislation, Congress should grant limited and conditional liability protections so that the Big Ten and NCAA can set and enforce reasonable competitive standards and promote student-athlete welfare. Specifically, we are focused on the problematic area of agent registration, transparency of deals, and the codification of a no inducement regime or “pay-for-play” system.

Identifying “True NIL” Deals From “Pay-for-Play” or Inducement Schemes

One of the biggest challenges facing institutions and athletic departments today is the ability to identify *true* NIL deals from “pay-for-play” or inducement schemes, particularly with the precipitous rise of collectives. In today’s current regulatory environment, student-athletes are frequently being induced by collectives to attend specific institutions and transfer from one school to another – without a true NIL deal. This has resulted in a “pay-for-play” system, primarily driven by boosters and executed under the guise of NIL. Unfortunately, in some instances, this system fails to deliver on promises made to student-athletes. As collectives become more influential, we are concerned that operational control of college athletics is shifting away from institutions to collectives.

To be clear, the Big Ten will continue to support students making *true* business deals (such as being paid to promote a product or service on social media) from their name, image, and likeness, and provide student-athletes the freedom to choose the institution from which they will obtain an education. However, we do not support such activity when it is tied to a “pay-for-play” scheme disguised as NIL.

Simply put, as the collegiate sports environment has evolved, so too have the motivations and goals of many collectives, which are now trying to create competitive advantages and are not subject to Title IX. We are already seeing that payments from collectives will not be easy to sustain. Without action from Congress, we will continue to lack the ability to manage collegiate athletics.

Codifying Student Status

In tandem with the other challenges NIL brings, we feel it is important for Congress to work with the NCAA and conferences to clarify that student-athletes should not be classified as employees. Speaking on behalf of the Presidents and Chancellors of the Big Ten's institutions, employment status is not only complex, but it is contrary to the educational model that has long flourished in American college athletics.

Consider, for instance, the recruitment process of smaller schools, which offer athletic programs to encourage student enrollment. Mandating that student-athletes be reclassified as employees and requiring specific benefits and wages may render lesser-resourced schools incapable of providing various opportunities and experiences to those student-athletes.

Employment status would also push collegiate sports towards a more professional outlook but would fail to recognize the reality that while student-athletes in football and field hockey are equally dedicated to their sport, revenues in each sport are radically different – likely resulting in different benefits to similarly situated students. The Big Ten does not support a world in which students in non-revenue generating sports receive less support simply because they have little to no employment bargaining power.

As such, the Big Ten instead strongly supports Congressional proposals that would codify benefits for student-athletes that guarantees consistency across states and sports, without the need to classify student-athletes as employees. Bolstering these benefits through legislation would strike a balance between the interests of student-athletes and the values of the Big Ten and NCAA.

Moving Forward

While there are many important issues that we will discuss during today's hearing and beyond, it is important to understand that student-athletes must be kept at the forefront of our minds. With many new challenges on the horizon, we look to Congress for your partnership in helping us embrace change and ensure that we tackle these new challenges effectively, while celebrating and promoting the magic that is college athletics.

I look forward to working with each member of the Committee to ensure our student-athletes are properly taken care of during and after their college sports careers.