



THE DRAKE GROUP

Realizing The Promise
Of College Athletics

POSITION STATEMENT

The Drake Group¹ Strongly Supports “College Athletes Bill of Rights” Introduced in the 117th Congress²

August 18, 2022

On August 3, 2022, U.S. Senators Cory Booker, Richard Blumenthal, Brian Schatz, Ron Wyden, and Alex Padilla re-introduced the “[College Athletes Bill of Rights](#)” legislation aimed at advancing justice and opportunity for college athletes. “The College Athletes Bill of Rights bill is long overdue and extremely important,” **said Andrew Zimbalist, President of The Drake Group**. “It protects college athletes’ rights to NIL income, agent representation, gender equity, transfer to a new school, enter pro sports drafts and return to college, have the same freedom of speech as other students, proper medical care and coverage for four years after eligibility ends, tutoring from outside the athletics department, and a national commission to implement and enforce these provisions with strict penalties for violations. The Drake Group enthusiastically endorses this bill.”

For too long, governance organizations like the NCAA have failed to protect those under their charge from sex discrimination, the short and long-term costs of athletic injuries and have unfairly denied college athletes outside employment opportunities under the guise of “amateur status.” As concerning, higher education leadership and athletics administrators have turned a blind eye to failed to address systemic racism in highly commercialized basketball and football programs where colleges and universities are economically and educationally exploiting college athletes, a majority of whom are athletes of color and 98 percent of whom never make it to the NFL or the NBA. *The College Athletes Bill of Rights* is a welcome signal that Congress is willing to address these alarming trends by mandating medical benefits, advancing better educational outcomes and putting ongoing structural mechanisms in place to protect the

¹ The Drake Group is a 501(c)(4) non-profit advocacy organization dedicated to educating policy-makers and advancing legislative initiatives that foster academic integrity and athlete wellbeing in intercollegiate athletics.

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health, safety, and economic rights of college athletes. The Drake Group believes the Booker-Blumenthal bill represents a strong first step to address compelling needs.

The Drake Group also expresses the hope that the following amendments to the bill will be considered prior to its consideration in the 118th Congress.

1. Improvement of academic outcomes is a racial Issue and requires acknowledgement of “special admissions” practices and installation of an institutional obligation to remediate.

The bill conditions scholarship renewal guarantees on athletes not going below the 2.20 GPA standard for two consecutive semesters creates a “Catch-22” for D-I football and basketball players who are majority Black. Eighty to ninety percent of these recruited athletes are specially admitted with many demonstrating significant reading and math deficiencies. When they cannot compete in the classroom with better prepared peers, the institution turns to academic fraud to keep them eligible. To enable this student to achieve the 2.20 GPA standard without institution practicing academic fraud, we recommend an exception to this standard for this group coupled with an institutional obligation to remediate and no imposition of the standard before two years of remediation.

2. Allow institutions, conferences, and governance organizations to legislate specific, narrow and reasonable NIL restrictions necessary to determining whether improper inducements occur.

It is reasonable to permit NIL rules that: (a) require that actual services be rendered by the athlete, (b) application of a fair market value standard for compensation, (c) prohibit compensation offers from institution-specific third-party NIL service vendors (booster collectives), and (d) prohibit other compensation intended to induce attendance or remain at a specific institution.

These booster collectives were created for the purpose of collecting funds to purchase or otherwise facilitate NIL opportunities restricted to athletes attending a specific institution or who are being recruited to attend a specific institution. They are recruiting inducements offered in clear sight. Such entities can be prohibited while maintaining the right of any individual, business, or organization currently giving money to a collective, to do so through the athletes' certified agents or directly with the athlete. Agent certification is an important athlete protection mechanism that is circumvented by collectives. The collectives also seek to evade gender equity obligations by taking recruiting expenses and efforts away from of the institution and the reach of Title IX. The chaos created by this development will never be controlled by athletic governance organizations unless these four tools are blessed by Congressional legislation that lower institutional fear of litigation.

3. Permitting expenditures by the institution or boosters to pay the transportation expenses of the college athletes' family members and friends to regular season games is fiscally irresponsible.

The proposed bill has a reasonable provision that athletes facing physical or mental health concerns should be supported by the institution providing a limited number of family members with transportation expenses to come to the aid of the athlete. We note that current NCAA rules only allow the NCAA to provide for family transportation to the Final Four (limited to \$3,000 per family). If representatives of its athletics interests (booster) are permitted to provide such expenses, we may see "collectives" formed for this purpose with such collectives used to evade Title IX's equal treatment requirements.

If the institution is permitted to provide family and friends with free transportation to all of the athletes' competitions without limitation, this will become the new recruiting coin for athletes. These are significant expenses that will add to current deficits (98.4% of all athletic programs operate in the red) and increase institutional general fund subsidies derived from non-athlete tuition and mandatory fees which in turn are financed by student debt (Higher Education Act student loans and elevating student debt).

4. It is unwise to undermine the permissibility of sport-specific athletics financial aid limits without careful study

Second only to salaries and benefits, athletics scholarships represent the largest operating cost of Division I and II athletic programs. The current bill as written mandates no limits to institutional or third-party (booster) support of housing, food, and all elements related to controlling the value and number of athletic scholarships -- undermining the very possibility of cost controls and, again, opens Pandora's box. Issues of athlete compensation and other forms of cost control deserve careful study and should be relegated to the proposed Commission.

5. The listing of gender equity obligations of conferences and associations is incomplete

Organizations consisting of members institutions, all of whom are subject to Title IX, should also be subject to Title IX. The bill's incomplete listing of treatment and benefits creates a statutory limitation of scope. If the concern is that not all Title IX elements should apply to conferences and associations, then relegate the details of Title IX's application to these entities to a Commission determination – but don't make the mistake in the statute.

The Drake Group believes this is a good and important bill deserving of broad Congressional and public support. These additions would make it a great bill.