



Testimony of Greg Sankey Commissioner of the Southeastern Conference

U.S. Senate Committee on Commerce, Science and Transportation July 1, 2020

Chairman Wicker, Ranking Member Cantwell and distinguished members of the Commerce Committee, on behalf of the Southeastern Conference and our 14 member universities, thank you for providing me with this opportunity to testify on the important topic of student-athletes' use of their name, image and likeness ("NIL").

My name is Greg Sankey. I have served as Commissioner for the Southeastern Conference since June 1, 2015. My work with the Southeastern Conference began in 2002 and my experience includes a total of 33 years working in intercollegiate athletics.

College athletics provides the path to educational opportunities for many young men and women, and our universities are making profound positive impacts on thousands of student-athletes each year. It is vital that we continue to provide these opportunities to all student-athletes—both now and in the future.

In reality, name, image and likeness presents complex and challenging issues. We are tasked with balancing and serving the interests of all student-athletes while also ensuring that we are being fair to a relatively small subset who may have greater marketing and business opportunities related to their name, image and likeness.

I have concerns about potential unintended consequences from some of the proposed changes in the NIL area, such as NIL activities leading to student-athletes being paid to play college sports, or how we prevent boosters from using NIL compensation as a recruiting inducement to attend a particular university. To be clear, however, I am not here to oppose NIL change. It is clear that change is occurring as a result of both the enactment of state laws and the consideration of "Name, Image and Likeness" laws in many other states. My aim instead is to share my thoughts on the importance of getting this right to provide opportunities for student athletes and preserve the characteristics of college athletics that make it unique, appealing and important to so many in our country. I offer the following observations for your consideration.



First, as we implement NIL changes, our student-athletes must remain students first and foremost, and not become employees of colleges and universities. We must continue to emphasize academic progress and success among student-athletes, particularly if NIL demands are added to their already busy schedules as students and athletes. We must continue to provide educational, athletic and career opportunities for the many student-athletes who otherwise would not have attended college. It is critical for us all to work to preserve, protect and enhance the academic aspect of college athletics.

Second, we must not allow college athletics to devolve into a pay-for-play system similar to professional sports. Central to this goal is the prohibition of colleges and universities paying student-athletes, directly or indirectly, for their NIL rights. If universities are allowed to pay student-athletes for NIL rights, at a minimum, the public will begin to perceive college athletics as a semi-professional sport, and the level of support for other student-athletes and their sports programs will decrease. This issue has not been at the forefront of the NIL discussion, as the focus has been on third-party endorsement and social media influencer activities. The fact remains that the California NIL law that will go into effect in 2023 allows universities—or even head coaches at universities—to purchase NIL rights and provide NIL compensation to student-athletes after they enroll. In addition to prohibiting such direct payments by universities, federal NIL legislation must also prohibit employees or contractors of universities from engaging in NIL payments to student-athletes.

Third, we must protect the integrity of the college recruitment process by keeping NIL activity out of recruiting. In practical terms, this means federal NIL legislation must eliminate boosters from using NIL compensation as an inducement to recruit high school students or entice enrolled student-athletes who are considering transferring to another institution. Without the appropriate guardrails, it is easy to envision boosters becoming the primary recruiters who will pursue elite high school athletes or reach out to college transfers, acting with no regard for actual NIL value but instead pursuing those individuals identified by the universities and coaches they support. The task of prohibiting such abuses is particularly complex and will require collaboration to arrive at the right balance.

The Autonomy Conferences—which includes the SEC, Big Ten, Big 12, Pac 12 and ACC—have worked closely together throughout this process, and we have spent a considerable amount of time on these issues. We believe a strategy worth considering is to make the pre-enrollment process and first semester of academic courses off-limits for NIL activity. We must also closely monitor NIL agreements entered after enrollment to ensure these agreements are legitimate and related to a student-athlete's actual NIL value.

Fourth, we must provide meaningful protections for student-athletes. NIL activities will be like other commercial activities in that third parties will look to take advantage of student-athletes who might lack the experience needed in such matters. The list of



potential bad actors includes agents, advisors, business entities and other third parties. We need meaningful agent certification requirements and disciplinary rules. The same is true of standards that require student-athletes to promptly disclose their NIL agreements and compensation. This type of system will provide a level of review that protects student-athletes from being taken advantage of by third parties. We must design a structure that properly supports student-athletes who will, for the first time in their lives, be dealing with tax filings, legal contracts, accounting needs, schedule management, and an entirely new financial reality, while also balancing their academic responsibilities, engaging in high-level athletic competition and maintaining their own mental wellness and physical health.

Finally, we need a federal law to address these NIL issues and there are two primary reasons for this need.

One, collegiate athletics needs a uniform system for regulating NIL activities, as a system of 50 different state NIL laws is not workable and would make it impossible to support a system for fair national competition and championships.

Two, we need protection from claims and liability arising from the implementation of new NIL standards and from continual challenges to the validity of NCAA rules. History has shown us time and again that changes in NCAA rules to expand or improve benefits for student-athletes results in litigation against the NCAA and conferences. We discussed this in more detail in our response to Senator Wicker's questions. Last week, we were sued again in a class action lawsuit seeking damages related to NIL when the current NIL rules have yet to be changed and have been found to be legally appropriate in prior litigation. You might recall that I predicted this would happen in my June 5 letter to Senator Wicker, only we did not expect such a lawsuit to be filed before any NIL changes actually occurred. We seek protection from claims related to the implementation of federal NIL legislation, which it seems very likely will increase NIL opportunities for student-athletes while also incorporating some parameters to preserve collegiate athletics and address some of the concerns raised above. We should not be subject to years of litigation as a consequence of complying with a federal NIL law.

My goal is to work with this Committee and other members of Congress to produce a federal NIL law that provides a workable path for student-athletes to benefit from the use of their name, image and likeness in a way that will preserve the key tenets of collegiate athletics identified above, create a uniform national standard and protect stakeholders such as the SEC and its universities from potential liability. It is critically important we get this right. Each year, the Southeastern Conference alone currently provides incredible, meaningful and life-changing opportunities for approximately 8,000 student-athletes. Across the country, at the Division I level, these same types of opportunities are available for more than 180,000 student-athletes—men and women, from all races and backgrounds, in a multitude of sports, all of which are grounded in the



educational values of our colleges and universities. The reality is we have to get this right because we must preserve and improve each of these opportunities.

I began my comments by sharing that my entire career has been committed to working, serving and leading within higher education through college athletics. I have learned many things during the past 30+ years, and at the top of the list of learning is that we are not perfect. Yet, in college athletics, what we do—provide opportunity and education for young people, engage our public, celebrate achievement and guide young people as they move from adolescence to adulthood—we do all of these very well.

In the midst of this debate, let's not lose sight of the fact that we are all privileged to enjoy something very special through the uniquely American experience of college sports.

I look forward to working with you to achieve these objectives.