

U.S. Senator Maria Cantwell

**Opening Statement at U.S. Senate Committee on Commerce, Science, and Transportation Hearing
titled "NCAA Student Athletes and NIL Rights"**

**Witnesses: Mr. Martin McNair, Father of Jordan McNair, Founder of The Jordan McNair Foundation
Ms. Christina Chenault, Former Division I Athlete, University of California Los Angeles ("UCLA")
Ms. Kaira Brown, Student and Division I Athlete, Vanderbilt University
Ms. Sari Cureton, Former Division I Athlete, Georgetown University**

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Cantwell: Thank you all for being here this morning. We have a distinguished panel to talk about the continuation of a very important issue that is changes to name, image, and likeness for athletes across the United States of America. I welcome our panel to continue the discussion about how important this issue is to athletes across the United States. Last week we heard from legal experts from the NCAA, a coach, and other individuals who talked about this. But we also heard, as Mr. Gilmore said, there is so much more to be done. Congress cannot pass an NIL law that just ignores the rights of students. It also has to hear, I believe, about the experiences in healthcare and scholarship that make important rights issues so central to this debate. I'm submitting testimony from Washington State football player Dallas Hobbs, which outlines some of these issues, particularly as it related to healthcare during the COVID crisis, and also Sedona Prince, an Oregon basketball player, who was left with thousands of dollars in medical bills after an injury, and also pointed out the inequities in training facilities during the NCAA tournament.

But we're here today to welcome a very distinguished panel and I want to start by saying Mr. McNair, I'm so sorry about the loss of your son Jordan. My sympathies are with you and your family. I can't imagine the pain that you must feel from that loss, but I so appreciate you taking the time to advocate for a new law, and thanks to you, Maryland has one, so we certainly appreciate your commitment to this issue. We will also hear from a variety of witnesses who will tell us about the challenges they face in today's world of NCAA athletes. Kaira Brown, who has underscored the importance of NIL and leveling the playing field for female athletes, and how this can help build leadership skills for female athletes. And we're going to hear from Sari Cureton, who also is going to tell us about the athletes and the challenges they face. One of the things clear is that all of you want to provide mentorship, and yet the challenges of providing those mentorships when we have the current rules in place, make that very challenging.

I also want to welcome Ms. Chenault, thank you so much for your leadership. I think your testimony, more than others, really outlines the challenges of NIL, when someone such as yourself can be a voice, attract so much attention, and yet then be limited by how you could use that. We have many challenges to face in getting legislation passed. I think some of the issues that you'll bring up in the hearing today about schools that do have a scholarship certainty, and yet there seems to be still uncertainty to that plight. There still seems to be healthcare, but a lack of mental health in the system. There seems to be changes that we can make that I think would help us move forward on providing student athletes the kind of certainty not just on their rights, not just on their healthcare and scholarship, but improve the

experience for women in sports today. So thank you all very much for being here and I look forward to hearing your testimony today.

Q&A With Witnesses

Time Stamp (from Commerce website livestream): 0:56:33

Cantwell: Thank you all of you for being here and you each hit on very unique aspects of this challenge. I think I want to start with you, Mr. McNair. How do you think you were successful in getting this legislation through in Maryland, focusing on the issue of health care, and how do you think, you know, given the new law that is in place there, what should we do here to make sure that these standards are met across the country?

Martin McNair: Well one of the things that, Ms. Cantwell, one of the things that I think the reason we had success with in Maryland was one of the--last year we kind of—we didn't make it out of the House so that was one challenge, there was a lot of ambiguity there. However, one of the things that we did this year as far as our actual--we wanted a bill that would align with our foundation's missions. So our foundation's mission is the promotion of awareness, education, and the prevention around heat-related injuries. So we stuck to our guns in regards to the player safety and wellness component of it. And one of the things I was very, very adamant about, I didn't want to use my son's name from a notoriety perspective. So if it was just going to be name, image, and likeness, that was something that we really didn't want to focus on because we wanted to--we knew how paramount that the actual safety of a student athlete was first. You can pretty much hear as my panel members up here said, the challenges that they've had, I'm speaking as a parent for their safety if the shoe was on our foot in a sense, so I think one of the things is, we just had to really stay adamant and focus about player safety. What I think at this level, as opposed to us being an individual state, we have the creating legislation or you all have to create legislation from a perspective where it's one system that kind of governs all of it, because we need a baseline protection system across the board for student athletes at all levels of college education or college competition.

Cantwell: I think Mr. Gilmore--I'm sorry Mr. Gilmore, when he was here, mentioned, you know, the fact that the statistic showed that there were 30 deaths, I think, over the last decade plus in this area in NCAA, while there was only one death at the NFL level. What is it that you think needs to happen to make sure that institutions across the country are adhering to a standard and enforcing it?

McNair: Okay so, in regards to the NF, it was Korey Stringer to be specific, and the NFL has the resources to put the right systems in place financially, the same systems that all colleges have in a sense, so I think that one of the main things is we can't do a one size fits all approach to this, in a sense. And I just really think that, to really keep the student athletes safe, we have to put the systems in place, and I don't want to sound redundant but again, that's what I really mean. We have to put the baseline systems in place, the NCAA has to put the base line systems in place, or the states that have this bill but again, we don't

want to have 52 different states that protect student athletes. I think that what I would suggest is, follow Maryland's lead, and put this as a priority. We're not interested in name, image, and likeness and you can wear the type of sneakers you want. We need to keep young people safe, because again, when you have people, and I'm sure all of my panel members will agree with me, whenever you have any type of college sports or sports overall, it's not an issue of what's going to happen, it's a matter of when it's going to happen. And something is always going to happen, and we have to put the right systems in place that we're always prepared.

Cantwell: Ms. Chenault, the Pac-12 is usually seen as the leader on these issues, and yet you're citing still gaps in the system, particularly about second opinions and mental health. What is it that we need to do, and also on the scholarship side, it seems like they have the best scholarships, and yet you're telling me that the system still can be undermined?

Christina Chenault: Yes, thank you, Senator. I think there definitely needs to be a national bill put in place, I think the autonomy can't be put in place just for the institutions to take up individually. When that happens, especially in a system where athletes do not have the power within this system, the athletes are always going to be put on the backburner, or put at a state of disadvantage. So I think there should be a widespread bill that, like Mr. McNair stated, from a health and safety standpoint, can take the precedent of Maryland. From an NIL standpoint, I think it can take the precedent of California's SB 206. And I think just for equality cross across the nation, and fairness, it should be implemented at a nationwide standpoint. So, that is definitely something that I think is an opportunity for change here and correction in the future.

Cantwell: And I wanted to ask in those instances that you were referring to both in your own situation, or the, you know, a case with the meniscus. Do you think that people knew who to go to talk to at the university besides the coaching team? Did you think of anybody that you could go to and approach at the university?

Chenault: I don't think athletes really trust that many professionals at the institution. I think there's a big fear from athletes that it will all come back to their coaches, or in some way, have a financial implication on their end, regarding their scholarship or playing time or whatever the case may be, that will limit their ability to play or do what they love to do. So I think athletes don't know who else to go to, they aren't referenced anybody else outside or externally that they can go to as well for medical help and assistance. So I think that aspect is really limiting, and I think there should be availability for like a third party, or a second opinion that isn't currently there.

Cantwell: Thank you.

Q&A Second Round

Time Stamp: 1:34:50

Cantwell: I want to follow up on this since it's come up a couple of times about mental health and second opinions and counseling in general, and obviously the horrific incidents of suicide on campus. So, what do you think the structure should be in the context of, what do you consider either an ombudsman, a second opinion, or a layer that gives you the discretion that you need to confide in someone, either about your physical or mental? Yes, Ms. Chenault.

Chenault: Yes and thank you. For one, I think mental health shouldn't be reactive, it definitely has to be proactive. So to Mr. McNair's point, I think there should be like a checkup within the athletes that doesn't currently exist, rather than the athlete having to take the autonomy themselves to go search out and find the psychologists. And the second thing is, I do think the psychologist should be catered specifically to the athlete, whether it's by sport, whether it's a sports psychologist specifically, or whether it's just the representation of gender or race as an availability or option for these athletes to be able to go to, so that is not just "one person fits all" within mental health.

Cureton: Yes, I definitely agree. I think in our experience, we have one woman on staff and she is a white woman. And in my experience, it was good to have someone there, but it would have been even better if we had a wide variety of options, someone that understands my unique experience as a Black woman, and a female athlete. And I think there also needs to be better safeguards in place on educating staff and coaches about the mental health needs of the athletes that they're serving, so it needs to be proactive on every front. So, just like you get an annual physical, you should have the opportunity to meet annually and check up with a sports psychologist. I think we're putting our mental health secondary as if it doesn't impact the way that we function in the same way that a sprained ankle would. So I think that needs to be a change and a shift in the perspective and how we look at mental health in athletics.

McNair: Yes, so, I believe it boils down to the recruiting process. As the young lady just said, I think that you have coaches they need to be educated to even in the recruiting process, it's all about questioning. So as I mentioned earlier, I didn't ask the right questions and I think that in fear, not in fear, but I think that when you have recruiters and coaches recruiting student athletes, they need to ask parents like, "Hey, does your child have any mental health issues?" Because a lot of times usually what happens, it never comes up until it surfaces once your student athlete gets to college, where reality I think as a parent, a lot of times they may not want to blow the opportunity of their child whether they're saying, hey, you know, I know they may be experimenting with substances or whatever the case may be, or they may have a mental health challenge beyond what they're taking medication wise. And I just think that it needs to be full transparency all across the board in regards to the whole process. That way, you know, a coach or an athletic program knows the person that they're dealing with as opposed that finding out when it's too late in a sense for a reactionary perspective.

Brown: I think they all covered it pretty well. I might add, maybe having access, or at least having the trust or faith that there's a wall between sort of whoever works with students or their mental health and sort of the coaching staff to--I think sometimes there's a fear of like, what you say there, even though you know it's confidential, somehow leaking out, or somebody even finding out you're seeing one if that becomes an issue on your team. So just making sure the trust and sort of the feeling of safety is there for the athlete so they know this is someone they can go to, and it won't affect how they're treated on their team or something like that.

Cantwell: So that's really what I was getting at, so thank you for bringing that up. I think both on the health care side, I mean, broadly on health care, physical, and mental, what do we--so we've had a lot of discussion with a lot of athletes about this, and one of the things we've talked about is a second opinion from somebody at the university and some athletes have said well that might not even be, you know, enough distance depending on whether you trust that individual not to go back, or, you know, the implications of the university. So can this be somebody at the university, or it has to be outside the university.

Chenault: Personally, I think it has to be someone outside of the university. Yeah, because when we look at the power dynamics of a university, even from the individual athlete level, then you have a coach, then you have the AD, then you still have like the chancellor of the school. So, even for a lot of these issues that we've talked about, if the athlete brought it up to the coach and if the coach actually agreed and brought it up to the AD, there's still limitation I think from the top down, of protecting the image of the institution as a whole. So I do think it would have to be outside.

Cantwell: Okay, anybody else on that point?

Cureton: Yeah, I think the key point is just making sure that athletes—that they're accessible to athletes. So that's kind of what I worried about, I think before we had a sports psychologist or model was that they could refer you to an outside individual, but you had to ask for that. So sometimes I think that having someone that's there and present within your community might be easier as far as accessibility is concerned, but maybe having them be accountable to someone else, like they're not accountable to your athletic director when it comes to talking about different things might be the route to go. But I do agree that the power dynamics are something that are worth considering, but I think accessibility also needs to be prioritized.

Cantwell: So clear independence?

Cureton: Yes.

Cantwell: So an ombudsman could work or you know someone at the institution who is seen to have that unique role not reporting into that system.

Cureton: Yes.

Cantwell: Okay, Mr. McNair?

McNair: Yeah, I agree with what they both said, I think that you definitely need to have an ombudsman or outside system, outside health system, that tends to all of these matters, especially with these types of things. Because as the young lady just said, it's that tier system. And I know I can't speak for, but I know one word, one phrase, a lot of athletic directors don't really want to hear is lack of institutional control, and it's kind of like, how did you miss that? And again, that makes the image of the organization or the school look bad.

Cantwell: Thank you. Thank you, Ms. Brown, do you have anything else to add to that? You kind of started us off, so we're good.

Q&A Third Round

Time Stamp: 1:46:07

Cantwell: Thank you, so I want to go back over on the issue of NIL rights in general, because I want to get a few things for the record, I know we have a couple of other colleagues on their way. One, do you all support getting federal law in place?

Chenault: Yes I do.

Cureton: Yes, I believe that having a uniform federal law would be beneficial for all student athletes.

McNair: Yes, I do as well.

Brown: Agreed. I think uniformity is important.

Cantwell: Thank you. And then one of the issues that also often comes up is how you define NIL rights, and not to get into the legal ramifications of fair market value, but there's also issues about making sure that boosters or other people don't artificially influence the value, or create a system where somebody's attracting someone to come to a school just, you know, for that specific purpose. Do you have any thoughts on that, Ms. Chenault or anybody else, on how you see the California law and definition playing out now?

Chenault: Thank you, I can go first. I think there should not be too many limitations on NIL, just because if it is left to the institutions like I've stated, that it won't be implemented equally or fairly across the nation. I think, of course there are some precautions just to make sure that there is fairness for the athlete too and the institutions. So I think as long as the athletes are kept in mind first, rather than just the institutions or the posturing of the institutions that really might just be trying to take away freedoms from the athlete is kept in mind, then I think the widespread NIL rights that California is implementing will be successful.

Cantwell: So you're aware that then some states are actually within the NIL right limiting the students, not just if they conflict, but basically giving institutions any ability to say they conflict, which then would thereby be limiting the rights.

Chenault: Yes, exactly. So that's why I think it should be nationwide, of a kind of implementation, like California, because I think that posturing that other states are taking, saying that athletes shouldn't be given like full rights to their name, image, and likeness, would have long term implications that really would just limit and NIL's implementation as a whole.

Cantwell: Ms. Cureton?

Cureton: Yeah, I think a lot of the problems that we discussed here today, when we talk about pay for play and amateurism, and that's brought up by institutions, I feel like sometimes those words are thrown around not really in the interest of student athletes as actually protecting and preventing those instances, but more in line with protecting the institution, and maintaining their control over NIL rights. So, as long as, like Ms. Chenault already mentioned, we put athletes first and we prioritize their right to monetize their NIL, and when we're considering restrictions and things like that, I think that's the most important approach to a national legislation.

Cantwell: And you mean by restrictions meaning...?

Cureton: When we're talking about preventing, you know, pay for play, and things like that. I think that institutions will use that word as kind of like a buzz word, and maybe sometimes it is a real concern, but other times I think it can be more about limiting the rights of student athletes.

Cantwell: Okay. Anybody else on that point, Ms. Brown, anything on that?

Brown: I guess one thing I'd add is I think sometimes in discussing like concern over how student athletes are going to manage their money, I think there's an opportunity here to like teach student athletes about how to understand the business side of sports, because they already like are pretty well versed in how their sport works, and they sort of know I think a lot more than people give us credit for about how things work. So I think, rather than letting the institution sort of limit how we can use our name, image, and likeness, I think there could be a, I don't know if this would be a legal thing or just sort of come out later, but we could be allowed to learn I think about how NIL would work and be given workshops and that sort of thing, but I don't think we should be limited in terms of how we can use it. Maybe just taught or guided in terms of how best it could work.

Cantwell: Yeah, Mr. Gilmore brought this point up last week too about, you know, institutions who basically are going to say, "You can't have NIL rights if you don't go and take some classes on finance first." And so I think he was very outspoken and pointed on that.

Q&A Round Four

Time Stamp: 2:00:44

Cantwell: Thank you Senator Lujan, and thank you for sharing that personal perspective, and I think that is why we're here today, to make sure that we're hearing all perspectives on this issue. So I would be remiss if I didn't ask the women athletes here about Title IX and about tournament and tournament play. One of the testimony that's submitted here today is by Sedona Prince from Oregon who you may know posted a photograph of facilities during the NCAA tournament, it didn't quite look like the same facilities that the men were participating in, we so appreciate her being outspoken. She's submitted testimony on other issues as well, particularly health care, but this brings up an important issue about Title IX and its implementation. What else do we need to do? Do we need to make sure the NCAA complies with it, do we make sure that tournaments have to comply with it? In your individual athletic experiences, what do we need to do to make the enforcement even across the board? And I think Ms. Brown, you might have mentioned the name of the NCAA tournament itself being used only in, you know, one instance, you know I'm a firm believer that, that the age of the internet, that there will be

lots of opportunities for people to see content and absorb content. I'm a huge track fan and I actually would love to see more of those events and understand who, you know, who are the individual athletes in these events. So what needs to be done here on Title IX as it relates to the competition and making sure there's a level playing field?

Chenault: Yeah thank you Senator, I think one point of consideration that is often overlooked is within Title IX, it accounts for football, just as a body count, as a head count, to equate equal amount of representation for female sports, but that doesn't equate for like facilities and treatment. So within my experience personally, I know we have our own football facility, and then we have our own basketball facility which because of Title IX, the women's basketball team is able to use that basketball facility, but the entire football facility which is probably maybe two, three times the size as the other facility that the rest of the remainder of all the other sports combined use, is totally different in regards to our training and our treatment. All of our training room for all the other sports, outside of football and basketball, have to use that amount of limited resources, training, whether that's snacks, we don't have access to meals like the football team does. So there is a little bit of inequity, even though Title IX emphasizes the importance of equity within headcount and body count for male and female sports, it doesn't necessarily ensure that the resources and the facilities that we're able to use match or equate to that level of equity.

Cantwell: So, doing something besides headcount is important.

Chenault: Definitely.

Cantwell: Yes, Ms. Cureton?

Cureton: Yes, I think having the NCAA be required to abide by Title IX and making sure the tournaments are also abiding by that policy as well will be extremely beneficial. I think Ms. Prince's testimony, as well as evidence she submitted during the tournament, is evidence of that, of women being continually treated as an afterthought. But I can say as a female athlete, that wasn't surprising to me. I didn't expect the women's tournament to have the same level of facilities as men's tournament and that's sad to say, but we're just aware of that's how we're treated, and that's how the system usually works. So I'm glad that we're able to speak out. In my own personal experience as far as athletics at Georgetown is concerned, like Ms. Chenault already mentioned, I'm a women's basketball player. So when they redid our facility, they had to give us the same court and locker room as the men's team. When it comes to our living situation, initially, until the men moved out of the renovated apartments, we stayed in regular housing like most students do. So a lot of times we get the hand me downs from the men's team. And that ends up equating to, "oh it's equal," but there's a feeling of that as appreciative as we are for the resource that we had, then you feel like you're an afterthought, it affects you.

Cantwell: I will be curious as to where you think all this can go in the future. I saw this interesting moment that I really didn't understand, actually I had a chance to ask the Oregon Women's Basketball Coach about this later but, you know, when they have the NCAA tournament and then they have this shootout event where they basically load up, you know, around the horn of--basically how many shots can you get off in a matter of, I don't know what it is, I don't know how many minutes. Anyway, so they have this shootout tournament and then they pick a winner and they have a winner of both the men's and the women's division, and then the women and the men face off against each other. The women nailed it. The women beat the men, and asking this coach about this, I guess that's a frequent thing. Well for me, somebody who was an observer, I had no idea that women could out shoot men in that kind of tournament with that level of consistency. I thought that was fabulous. I thought that was like this great moment. And so, where do you see, you know, if we could empower more, you know, of women athletes, you know, particularly say in the basketball area, which you're familiar with, what could, where do you see this going? What are the kinds of things that we could do to bring more awareness, bring more revenue, bring more media attention?

Cureton: Well, I think that women's basketball is an amazing sport to watch, and it's highly competitive, so if we're talking about just media attention and the marketing perspective, there's a lot of untapped potential with our tournament in general. I know just watching it from my perspective, it's fun to watch, and there's a misconception like you just mentioned, that we can't compete like the men, or it's not as entertaining because we don't do dunks, and x y and z and all that, but that's not accurate to the experience. Most sports fans that really watch women's basketball can tell you it's just as enjoyable as watching a men's game. But on the real world impact as far as girls in sports, I think, in my experience, I grew up in a household where basketball was king, because my father played professional sports.

But male professional athletes respect female professional athletes. You're not going to hear a man in the NBA talk down on a WNBA player, because they know what we're capable of. So growing up, I was always shown female sports. There was never a time in my life where I questioned my capability to play my sport because I was a woman. And I think the more that women and young girls are exposed to that, it can increase the likelihood that we will be a part of sports. And when you think about the impact that sports has on our lives, for all the negative that we've talked about here today, my experience in athletics has helped shape me and make me into the person that is able to sit in front of you, convey these thoughts and opinions, and advocate for what I believe matters. And I think that's a powerful thing.

Cantwell: Well I think we've seen in sports overall, the more people know the story of the individuals, it also allows them to, you know, to relate to those players. And I just feel like there's just this big anonymous void when it comes to women's basketball, that there's so much there we'd like to know. I mean, obviously Arizona had a great season, had a tremendous player, I'm sure people would want to know more about her, you know the tournament itself I feel is-- doesn't get the attention—I feel like we're almost limiting it by the rules that we have in place now. And, you know some of this may be, you know, on the media as well, I don't know, we'll have to dig in more to that. But clearly, you know, with,

as I said, with the age of the internet, empowering these stories, you have the ability to have so much more consumed, and to understand who these athletes are, which are really incredible stories which then gets to how you empower more women athletes, which is why this is so important to do. Very, very important.

Q&A Round Five

Time Stamp: 2:19:40

CANTWELL: Thank you Senator Hickenlooper, I have a few more things I want to cover just so we could get them on the record. Mr. McNair, one of the things about the health standards, particularly as we brought up this issue of heatstroke is who should be responsible for enforcement in the legislation that you were successful in passing, who is the ultimate enforcer of, of those standards at the universities in the state of Maryland?

McNAIR: So within the actual state of Maryland, you have at the various universities or the state schools that law is applicable to, basically you have your medical staff that that should cover the oversight of many related injuries or who should be trained and things of that nature regarding that. But it always boils down to your athletic training staff, because those are the ones that will be out on the field or out on the field, and of course, with the actual student athletes.

So they have to be trained at the highest level that they can be trained at in regards to education. As I mentioned earlier, heat strokes aren't bad. And even with the University of Maryland at that particular time, they had an emergency action plan that was in place, all of these schools that have emergency action plan, but it's the equivalent of a fire drill. So this building has a fire drill. However, if nobody does fire, they have a fire emergency action plan in regards to a fire drill. But if you don't execute a fire drill, execute a fire drill, how will we know what door to exit out of in the event of a fire. So there was plans in place, but they needed to be practiced and executed consistently. So in the event that something does happen, we'll know what to do. Now, not only that, but again, student athletes need to know if the peak times they need to know their bodies and things of that nature. I need know my teammate, if they are out of shorts, in a sense, this could potentially be a heatstroke just due to all of the conditions that may be going on. So the more people that are educated, the better off we'll be. But again, in regards to the initial question, the medical staff and the athletic training staff should be responsible for these.

CANTWELL: And so were there were there penalties, or just the university had to be accountable?

McNAIR: There weren't penalties from the NCAA, however, the university did hold themselves accountable and made all the necessary changes in regard to an independent investigation. And the suggestion of that the independent investigation, so all those things are in place now.

CANTWELL: And so the primary focus was about education and awareness. Is that what you're saying?

McNAIR: Yes.

CANTWELL: And then just making sure that that was carried out consistently so that, you know, 15 years from now, that this will still be remembered and institutionalized so that people know and understand these conditions?

McNAIR: Correct. So to always boil down awareness, education and prevention, and that's what it all it'll always boil down to that.

CANTWELL: And I'm curious, what has been your conversation with the NCAA about helping to make this more standard across the United States?

McNAIR: Nonexistent.

CANTWELL: Because you've tried or?

McNAIR: No, just didn't? I mean, just didn't go at them at all, or question them at all.

CANTWELL: Okay. Okay.

McNAIR: Well, well, we'll find out where they are in the standard. Another thing I want to just to clarify, we've been having a lot of discussion about the scholarship length, the time passed, you know, the four years of institution, I know that I think the PAC 12 is five years, it might be might be longer, what should we be looking at as to guaranteeing the athletic time of scholarships, just so that, you know, there's more predictability and certainty, particularly when athletes are injured?

CANTWELL: Yeah, I think I'm trying to protect the contracts as much as possible. I think once a coach commits to recruiting an athlete and has them sign something, they should be held accountable. And that means there shouldn't be kind of like loopholes or different ways to get the athlete out of the contract. If the coach no longer wants them a part of the team for just subjective reasons or opinions. I think that helps protect the athlete from feeling the pressure to always have to be this commodity to always have to perform as well. And as we've all discussed, I think throughout this day, there's a lot of pressures from athletes from all different angles. And it's also a lot of circumstances out of your control,

whether that be an injury or something else that comes up during those four years. So I think putting contracts in place where they cannot be easily revoked in one way, whether it's athletic reasons or whether it's academic reasons. I think that holds the institutions and coaching staffs more accountable to treat the athlete holistically, rather than just as someone who can perform.

CANTWELL: Ms. Cureton, anything to add there?

CURETON: Yeah, well, I think when it pertains to injury, I believe it's Gonzaga that has a policy like two years after your injury, the university is still responsible for helping care for you. And I think that extends beyond your eligibility. So I think that injury piece in that responsibility, the University still take care of you even after you've completed your time and completed your eligibility, even if you're no longer on scholarship is very important, because now we're looking at injuries that are more long term when we talk about football and CTE and things like that. And even now, coming out of COVID, a pandemic. We don't really know the possible implications for athletes, you know, that had COVID and what that could mean long term. And so when we're talking about care, I think that it's important that universities take up the responsibilities for athletes that have been negatively affected by, you know, participating in their sport. So kind of goes beyond scholarship.

CANTWELL: Okay. Miss Brown, anything on that point?

BROWN: I'm sorry. Can you repeat the question? It's about?

CANTWELL: Well, actually, I was asking you about scholarship, but Ms. Cureton added in healthcare, which is great, so it's really about the length of time, you know, so I've talked to various coaches who said things have changed a lot, you know, in the last several years, I'm not sure how much they've changed. So I'm just trying to clarify. And I think Ms. Chenault said it best that you know, that you can, even at the PAC 12 level, you might have five or six years to complete your scholarship. If so, if you were injured, you had that extra time to complete your education. But then if there's a bunch of qualifiers on it, that put you at a disadvantage, that becomes, you know, a challenge. So just was trying to get a sense of what you thought about a federal law that said, you know, guaranteed your scholarship, for a length of time post your four year education as a way to make sure that if you were injured, you get to complete, you know, your scholarship.

BROWN: Yeah, that definitely sounds good. Just having the security to know that regardless of what happens physically about your ability to compete, that you are allowed to complete your degree that you were promised that you would be able to when you signed.

CANTWELL: And then one of the other things we've been looking at is transferability, is just to being able to make sure that you do have that ability to transfer. Any thoughts on that?

CHENAULT: Yeah, I think transferability is definitely an issue that regards athlete freedom and their ability, I think, the limitations on transfers, make it very difficult or pigeonhole athletes into one institution, regardless of if they're being mistreated or abused in any way. So I just think transferability is something that's definitely important in regards to athlete freedoms. And there's so many restrictions currently that restrict athletes from being able to transfer to certain schools, whether in the PAC 12, you can't maybe go to another competitive school, or you have to sit out for a year. I don't think policies like that should have to be in place, especially if coaches are able to whether it's reduced contracts or do these other things, I think there should be more transfer freedoms for athletes as well.

CURETON: Yeah, I know, for basketball, if you transfer, you have to sit out a year, and then in certain conferences, the policy is dependent if you transfer in conference and you sit out a year, and then you don't get that year back. So I think that restrictions on transferring can be problematic, because as we all mentioned, there are a level of abuses that do occur within you know, athletic departments that may lead an athlete to want to transfer.

I also think another issue that I've seen play out is the way coaches can kind of control where you go just by word of mouth, saying certain things about an athlete intentionally, bad mouthing an athlete, or if they request a waiver, to get their year back for whatever reason, maliciously, like not signing the waiver or not, you know, providing any sort of statement or assistance in that process. So I think the coaches are given a significant amount of control over their athletes in the transfer process.

CANTWELL: And was there something waived here during COVID? That made a difference?

CURETON: Yeah, the NCAA did like put them a broad waiver for the year. So even if you played this year, like for basketball, you still get that year back and are able to continue playing.

CANTWELL: And what do you think the effect of that was? Do we learn something from that? Or?

CURETON: Um, yeah, I mean, I think the freedom that it offered to athletes was a big deal. And the fact that a lot of athletes were able to be like, okay, like, I can leave, I can make this change, like a lot of people are in the portal, and it did make things a lot more hectic as far as recruiting was concerned. But I still think that the freedom that it offered was important.

CANTWELL: Ms. Brown, anything on transferability?

BROWN: Just in relation to the COVID year, I think that was really helpful, allowing students to opt out. There may have been like, internal pressures at certain schools not to but the waiver and the opt out will really allowed students to sort of take put their put their physical health first this year with that, which I thought was really important. So if there was some sort of way, we were talking about injuries earlier, and sort of being pushed to like or encouraged to push through them. Just I think the opt out this year was sort of really easy. You could just sort of say, I don't feel comfortable playing. And that should be an option for student athletes, regardless of whether or not we're in a global pandemic.

CANTWELL: And what is that today? What do you think that is today? You can opt out, right? I mean, you can you can be recruited and go to an institution and then decide not to participate, right?

CHENALT: Yes, that's true. If you decide not to participate. If you're on scholarship, though, then your scholarship gets just revoked immediately.

CANTWELL: And do you think that's across the board? I know that was at my institution, but I believe that's across the board.

CURETON: Yeah. If I think the way that it works at Georgetown, when you're given a scholarship for the year and then you end up attending the university, then your scholarship is maintained throughout that year. And obviously, it's renewed on a year to year basis. If you're a first year you decide not to play, then you only have one year of education payed for it, you have to figure out how to pay for the rest of the four years. Um, as far as opting out is concerned now, it's just different with COVID. So I was able to opt out, I'm a walk on, so my scholarship isn't covered, but I did have teammates that opted out as well. And their scholarship was still taken care of for this year.

CANTWELL: Okay. Yes, Ms. Brown.

BROWN: Just to clarify, I wasn't necessarily talking about being able to sort of quit your sport and keep your scholarship just in terms of like the safety aspect with COVID. They sort of recognize that there is a real safety risk to playing right now. And you are allowed to opt out. But I think generally, even if it's for a period of time, like having the ability to say I don't feel safe in this environment, or I'm in pain, I need help. And not feeling like there's going to be retribution, I think is important.

CANTWELL: Yeah, that's part of the testimony we're submitting from Dallas Hobbs who played at WSU who led some concerns as it related to COVID standards during the football season. And I'm bringing

that up. And so yeah, we definitely, I think we want to get a little more information from you know, the institutions across the United States on these things, but we think that is one of the benefits of setting up federal law is to basically clarify these things to make sure that people understand them. We do know that there's a lot of money in sports, and particularly, as these bowls and tournaments have continued to expand and are going to continue to expand more. And so we clearly want these issues dealt with and we want clarity there for students. And so appreciate everybody being here today. I think I have testimony from one other person. Kelis Barton, who is a soccer player at WSU. And so we're going to also submit her testimony for the record.

Closing

Time Stamp: 2:36:10

CANTWELL: Thank you. Thank you Senator Duckworth. And just to that last point, Ms. Cureton, and this is the point I was trying to make earlier that if you actually put the viewership out there, and the internet gives you this huge opportunity to do that, you can see that you can build the audiences and but you have to put the effort in, and then, you know, make sure that you're giving that focus and not just focusing on, you know, one tournament or just on the male side of the equation. So I want to thank all the witnesses, this has been a tremendous hearing, and your input has just been so valuable.

The hearing record will remain open for two weeks until July 1, 2021. And so any senators who want to submit questions for the record should do so by that date. We ask that you respond as promptly as possible in no case later than two weeks after the receipt of that information. So with that, we're adjourned.