

September 14, 2026

The Honorable Ted Cruz
Chairman
Senate Committee on Commerce, Science,
and Transportation
Dirksen Senate Office Building 554
Washington, D.C. 20002

The Honorable Maria Cantwell
Ranking Member
Senate Committee on Commerce, Science,
and Transportation
Dirksen Senate Office Building 554
Washington, D.C. 20002

Dear Chairman Cruz and Ranking Member Cantwell:

As organizations and former antitrust enforcers committed to building a robust, fair economy and fighting against abuses of corporate power, we write to express our serious concerns with S. 4668, the Protect College Sports Act (PCSA), as currently drafted. The broad antitrust exemption in Title I, the expansion of the Sports Broadcasting Act in Title II, and the absence of any meaningful enforcement mechanisms will grant the NCAA unprecedented power exempt from the state and federal oversight and laws that apply to all other business enterprises in America. Taken together, these provisions radically empower the NCAA to continue its longstanding and well-documented exploitation of college athletes for its own financial benefit, while depriving college athletes of meaningful protections from the NCAA's outsized economic power.¹ **Should these issues remain unaddressed, we cannot support the PCSA.**

The PCSA Would Codify the Most Sweeping Antitrust Exemption in More Than 80 Years

The PCSA includes a broad antitrust exemption that would immunize the NCAA from any federal or state enforcement for weaponizing its enormous power over college athletes to cap pay, limit eligibility and transfers, or otherwise impose burdens or restrictions on players. This would constitute the most sweeping antitrust exemption granted by Congress since the McCarren-Ferguson Act of 1945. Traditionally, antitrust immunity is granted only when the parties agree to rules through a collective bargaining process—and only for so long as a bargaining relationship is in place—or when rules are conditioned on state or federal regulatory oversight.² However, neither protection is included in the PCSA.

¹ See, e.g., NCAA Athlete NIL Rights: Hearing Before the S. Comm. on Com., Sci. & Transp., 117th Cong. (2021) (S. Hrg. No. 117-800); Michael H. LeRoy, *Harassment, Abuse, and Mistreatment in College Sports: Protecting Players Through Employment Laws*, 42 Berkeley J. Emp. & Lab. L. 101 (2020); Edward B. Runquist III et al., *Associations of Abusive Supervision Among Collegiate Athletes from Equity-Deserving Groups*, 59 Br. J. Sports Med. 1124 (2025); NCAA lawsuits, *infra* note 3.

² See *Brown v. Pro Football, Inc.*, 518 U.S. 231, 237–50 (1996); *Parker v. Brown*, 317 U.S. 341 (1943); *California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97 (1980); Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law* ¶¶ 260–261 (labor exemption), ¶ 212 (state action doctrine) (5th ed. 2023 & Supp.).

An antitrust exemption would be particularly harmful to college athletes, as it is the only tool they have to protect themselves from the predatory and exploitative behavior the NCAA and its member schools are known for. It may be difficult to believe, but there is not—and never has been—a mechanism for college athletes to challenge the NCAA themselves. The association has no internal dispute resolution system for athletes and regularly takes advantage of its existing levers to disadvantage college athletes.

The PCSA Will Be Applied Retroactively to Pending Lawsuits

Unsurprisingly, there have been multiple actions brought by athletes in recent years that are currently pending on state and federal judges' dockets to fight back against decades of abuse. The PCSA is silent on the question of whether it will apply to pending lawsuits, except for cases involving prohibited gambling. That means, in many cases, courts will apply the PCSA's antitrust exemption retroactively to lawsuits that were brought before the law was passed, insulating the NCAA from accountability in ongoing matters.

Furthermore, the NCAA has refused to accept amendments to the PCSA that would remedy this ambiguity by providing in express terms that the legislation applies only to lawsuits filed after the date of enactment. There is only one logical explanation—the NCAA hopes that the exemption within the PCSA will relieve them of accountability in lawsuits that are currently pending, which would be enormously unfair to athletes who have spent time and money to pursue their rights.

The PCSA Grants the NCAA Unprecedented Powers to Enforce the Law Without Any Government Oversight

While the PCSA does include important protections for college athletes, crucially, it fails to create a workable mechanism to enforce those rights and deter non-compliance. The PCSA also does not establish a new federal regime to monitor whether the NCAA and its member schools are complying with the bills' protections for college athletes. Importantly, the PCSA fails to grant any government entity authority to enforce the PCSA. Instead, enforcement of the bill's provisions relies exclusively on a newly created and fundamentally unworkable private right of action that fails to protect college athletes. As a result, the NCAA and its members will not be seriously deterred from violating the new law, and athletes will effectively have no recourse to challenge the NCAA when violations inevitably occur.

The PCSA's Private Right of Action is Designed to Fail

The bill's private right of action is a paper tiger that will let down harmed athletes seeking recourse, providing a false pretense of justice but leaving them and their families out to

dry. Because of key flaws, the vast majority of college athletes will be unable to bring a lawsuit when the NCAA violates the new rules established by the PCSA. First, the remedy in the legislation is limited to “actual damages.” The antitrust laws, by contrast, provide for treble damages to encourage victims to bring suit, punish perpetrators, and create a disincentive to bad conduct. This divergence from other antitrust laws matters because actual damages in these cases are fairly low. Thus, while they may be lifechanging for athletes disadvantaged by the NCAA, they would not cover the costs necessary to bring complex lawsuits.

Additionally, the bill does not provide a meaningful pathway for athletes to recover their attorney’s fees. The PCSA places the award of attorney’s fees in the discretion of the court, and only if attorney’s fees are “otherwise allowed under applicable law.” No other “applicable law” has been identified that would allow for payment of attorney’s fees to a prevailing plaintiff. This will leave all but the wealthiest athletes without the ability to pay their lawyers at the end of meritorious cases.

Lastly, the private right of action includes a “notice and cure” provision that requires the athlete to provide notice to the defendant 30 days before filing a lawsuit. If the defendant “cures” the violation within those 30 days, the athlete cannot pursue the claim. The notice-and-cure provision gives the deep-pocketed NCAA the ability to delay litigation and run up costs over frivolous disputes by claiming to have “cured” violations when they have not.

Taken together, the private right of action’s flawed construction will make it almost impossible for athletes to find attorneys willing able to take on the financial burden and additional hoops these cases will carry while the NCAA pays its own lawyers thousands of dollars per hour. The private right of action in the bill is designed to prevent athletes from ever obtaining real relief, and if the PCSA is passed, will very likely succeed.

The PCSA Grants the NCAA – a Serial Law Violator – Unprecedented Antitrust Immunity

Congress rarely grants immunity from the antitrust laws, and for good reason. Exempting an entity like the NCAA, with dozens of violations under its belt, is unconscionable.³ The NCAA has used its power to violate our antitrust laws for decades and is now demanding that Congress remove athletes’ only effective tool for holding it accountable. Congress should not aid the NCAA in this endeavor.

³ See, e.g., *NCAA v. Alston*, 594 U.S. ____ (2021) (NCAA limits on education-related benefits violate the Sherman Act); *NCAA v. Board of Regents*, 468 U.S. 85 (1984) (restricting universities’ ability to negotiate television contracts); *Johnson v. NCAA* 108 F.4th 163 (3d Cir. 2024) (affirming that amateurism does not automatically exclude college athletes from FLSA protections); *Law v. NCAA*, 134 F.3d 1010 (10th Cir. 1998) (artificially capping assistant coaches’ salaries at near poverty levels); *House v. NCAA*, No. 4:20-cv-03919-CW (N.D. Cal. filed June 15, 2020) (challenging NCAA bans on athlete compensation); *Smart v. NCAA*, No. 23-cv-00425, 2023 WL 4827366 (E.D. Cal. July 27, 2023) (artificially capping volunteer coaching salaries at \$0).

As currently conceived, this is not a bill that protects college sports. It is a bill that protects the NCAA's ability to abuse its power over college athletes. A vote for the PCSA is a vote against college athletes. It tells them their rights are trivial when a billion-dollar entity like the NCAA starts making demands.⁴ It even gives the NCAA the ability to exclude conferences and schools from championships and tournaments—like the College Football Playoffs, March Madness, and the College World Series—free of the antitrust laws' restrictions. **Unless these sweeping antitrust exemptions and broken, unworkable enforcement structure are significantly improved, we urge you to oppose this legislation.**

Sincerely,

Organizations

American Economic Liberties Project
American Family Voices
Center for Law and Social Policy
Committee to Support the Antitrust Laws
Consumer Federation of America
Courage California
Demand Progress
Economic Security Project Action
Groundwork Collaborative
Open Market Institute
P Street
Service Employees International Union
United College Athletes Association

⁴ Contrary to the narrative in Title II, for which there is no public evidence, the Power 4 are not under-monetized or leaving money on the table by any means. For the next decade, the conferences have safely secured a \$3 billion deal with SEC–ESPN, a \$7 billion Big Ten deal with Fox, CBS, and NBC, and an \$8.8 billion March Madness deal with CBS and Turner Sports. Michael Johnson, *Power conferences dominate NCAA media landscape*, S&P GLOBAL (Dec. 2, 2024), <https://www.spglobal.com/market-intelligence/en/news-insights/research/power-conferences-dominate-ncaa-media-landscape>; Adam Rittenberg, *Big Ten completes 7-year, \$7 billion media rights agreement with Fox, CBS, NBC, ESPN* (Aug. 18, 2022), https://www.espn.com/college-football/story/_/id/34417911/big-ten-completes-7-year-7-billion-media-rights-agreement-fox-cbs-nbc; Matt Norlander, *NCAA, CBS, Turner extend NCAA Tournament deal through 2032*, CBS SPORTS (Apr. 12, 2016), <https://www.cbssports.com/college-basketball/news/ncaa-cbs-turner-extend-ncaa-tournament-deal-through-2032/>.

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