



The Drake Group, INC.
ACADEMIC INTEGRITY IN COLLEGIATE SPORT

PRESS RELEASE

March 11, 2021

Donna A. Lopiano, Ph.D.

President

The Drake Group

Donna.Lopiano@gmail.com

www.TheDrakeGroup.org

Moran Legislation is Another NCAA Reform Proposal that Deserves a Closer Look

New Haven CONN: The Drake Group shares observations on the Amateur Athletes' Protection and Compensation Act of 2021 proposed by Senator Jerry Moran (R-KN) on February 24, 2021 (Moran Bill").

The Moran Bill permits intercollegiate athletes to monetize their names, images, and likenesses (NILs) and at its core is similar to recent proposals put forth by Senators Chris Murphy (D-CT) and Cory Booker (D-NJ) and Richard Blumenthal (D-CN). The bill also mirrors many of The Drake Group proposals, including broad NIL rights for college athletes governed by a national standard with few restrictions, a one-time transfer exemption for all athletes in all sports, post eligibility medical coverage for athletic injuries, and the ability to have agent representation.

The Moran Bill also calls for the creation of a government nonprofit corporation, the Amateur Intercollegiate Athletics Corporation (AIAC), which would help create and enforce rules and settle disputes. The AIAC would be granted power to subpoena witnesses. The organization would be run by a 15-person board of directors with at least five of those seats filled by current or former athletes. The AIAC, which would not receive federal taxpayer funding, would be able to create sanctions or fines for parties who break rules. The Federal Trade Commission would be given the power to sanction rule breakers. At this point, it is unclear how the FTC would have this authority to adjudicate disputes, as the FTC typically does not have jurisdiction over most non-profit organizations. However, it does have oversight of other non-profits that in actuality operate for profit, a condition that may be deemed applicable to the NCAA and some of its member schools and conferences.

The Drake Group has long advocated third party oversight in enforcement and infractions operations and movement away from what has been historically an insular and unfair NCAA enforcement process. With regard to NIL monitoring, we also believe this is the correct approach and that the schools, conferences and NCAA national office should not be involved in any way. There is no reason why

college athletes' outside employment should be controlled by the NCAA, conferences, or their institutions any more than other students who earn NIL or other outside employment income and are not controlled by the schools.

As long as an athlete is contracting with third parties at fair-market value, The Drake Group believes that other restrictions are unnecessary. While it is arguable that contracts with alcohol and gambling companies should be restricted, the NCAA does not restrict its member colleges from signing deals with such companies for ethical reasons and neither should it be permitted to impose such restrictions on college athletes. The Drake Group believes the only restriction should be on competing sponsorships during official events that the athlete is competing in.

The Moran bill stresses the continuation of amateurism and the principle that athletes not be employees of the schools, nor allowed to receive NIL inducements in the recruiting process, but be free to enter into third-party deals at fair-market value similar to what other students on campus can do. The Moran Bill does not have the revenue sharing proposal that is included in the Booker/Blumenthal Bill. The Drake Group opposes such revenue sharing except for scholarships that deliver education-related expenses with no limits. If college athletes are allowed to enter into employment contracts with their schools (rather than only with third parties), then their relationship with the school is transformed from an educator/student relationship to an employer/employee one.

A transformation like this could undermine the primacy of educational purpose. In addition, if college athletes are compensated in non-educational coin by schools or indirectly by conferences, the contract's terms become subject to Title IX since universities benefit from \$130 billion of federal government subsidies annually. Compensation schemes based on sport revenue production will primarily reward male athletes and, hence, violate core principles of gender equity.

We support the Moran Bill's liberalization of post-eligibility medical coverage for athletic injuries but believe that it, like current NCAA rules, does not go far enough. As stated in our college athlete health protection position paper, college athletes should have lifetime health insurance coverage for athletic injuries, not just the few years proposed in this bill.

Other positive highlights of the Moran Bill include an athlete's ability to return to college after declaring for a professional sports' draft, full transparency during the recruitment process to include exact terms and length of an athletic grant-in-aid, and full disclosure of all athlete out-of-pocket expenses such as health insurance and uncovered medical expenses. Currently, most athletic department insurance policies act as a secondary provider with the parents' or athlete's individual policies picking up the bulk of the expense. The Drake Group believes athletic departments and the NCAA should provide all athletic injury-related insurance and medical coverage during eligibility of the athlete that are not covered by a parent's insurance policy to include any co-pays and deductibles and anything not covered by other health insurance.

While The Drake Group has some concerns with the Moran Bill, such as limiting medical payments, as with the recently filed Booker/Blumenthal and Murphy Bills, we very much welcome the Bill's broad assertion of athlete rights that goes well beyond those proposed in other legislation such as the Rubio, Gonzales, and Wicker federal bills, as well as the plethora of state bills and the tightly constrained

proposals that the NCAA recently put forward and then withdrew prior to its January legislative convention. Senator Moran's Amateur Athletes Protection and Compensation Act of 2021 expands athlete rights and independent governance oversight that can ultimately help foster a more meaningful and equitable system for college athletes in the United States.

For the most current information on The Drake Group, follow us on [Twitter](#) and [Facebook](#) or visit us at www.thedrakegroup.org. *For high school and college athletes and their parents only: Follow @AskDocEmmett on Twitter and @AthleteRights101 on Instagram for trustworthy info and where athletes can safely ask questions.*

Media queries on the issue of name, image, and likeness, may be directed to Drake Past-President, David Ridpath (ridpath@ohio.edu)

Share This Email



The Drake Group is a national organization of faculty and others whose mission is to defend educational integrity in higher education from the corrosive aspects of commercialized college sports.
