

United States Senate  
WASHINGTON, DC 20510

June 24, 2020

Mr. Mark Emmert  
President  
National Collegiate Athletic Association (NCAA)  
700 W Washington Street  
Indianapolis, IN 46026

Dear Mr. Emmert:

We write out of grave concern regarding reports that multiple NCAA member schools are forcing their athletes to sign away their right to hold their school accountable in the event they contract COVID-19 as a result of their participation in college sports. We urge you to prohibit schools from requiring or coercing their students to sign these waivers.

Over the past few months, COVID-19 has swept across the country, leaving no state unscathed. The pandemic has claimed the lives of over 120,000 Americans and wrought untold economic disaster to every industry. Public health experts have even explicitly stated that it is not safe for college athletes to start playing again. In an interview with CNN, Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases (NIAID), stated that “unless players are essentially in a bubble insulated from the community and they are tested nearly every day, it would be very hard to see how football is able to be played this fall” – underscoring the very real threat that COVID-19 poses to college athletes, and the responsibility that schools have to protect their athletes from this threat.<sup>1</sup>

According to New York Times reporting, a growing number of schools are requiring college athletes to sign liability waivers that acknowledge their risk of contracting COVID-19 while participating in team activities.<sup>2</sup> In one particularly egregious case, Southern Methodist University (SMU), located in Dallas, Texas, “requires its athletes to absolve the school or its employees from *any* legal claims related to Covid-19.”<sup>3</sup> Students at Ohio State University are required to sign a similar waiver in order to access the school’s athletic facilities. If a student

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<sup>1</sup> Gupta, Sanjay. “Football May Not Happen at All This Year, Fauci Warns.” CNN. Cable News Network, June 18, 2020. <https://www.cnn.com/2020/06/18/us/football-happen-fauci-spt-trnd/index.html>.

<sup>2</sup> Witz, Billy, “Welcome Back to Football (Terms and Conditions Apply),” New York Times, June 17, 2020, <https://www.nytimes.com/2020/06/17/sports/ncaafootball/coronavirus-college-football-waivers.html> (emphasis added).

<sup>3</sup> *Ibid.*

refuses to sign away their rights or fails to abide by the terms of these exploitative waivers, they can be cut from their teams – putting their athletic scholarships in jeopardy.<sup>4</sup>

These broad liability waivers are not only legally dubious, they are morally repugnant. Many students depend on their athletic scholarships to attend college. Threatening to revoke athletes' scholarships if they do not sign away their rights forces these students into making an impossible decision: risk contracting COVID-19 or give up on their college education. That is completely unacceptable.

As students struggle to pursue their education in the midst of the greatest global health crisis since 1918, and face major economic uncertainty as they face the prospect of graduating into the greatest economic crisis since the Great Depression, schools should be doing everything they can to support them. While these waivers are disappointing, they are not surprising—they are only another example of the NCAA and its member schools prioritizing their own economic self-interest above the health and well-being of their athletes.

The NCAA must work together with its member schools to ensure that colleges and universities understand the important role they must play in protecting college athletes. We urge you to immediately prohibit the use of liability waivers by your member schools to exempt their responsibility to keep college athletes safe. Further, we request that you commit to working with the Center for Disease Control and Prevention (CDC) to develop a health and safety plan that prioritizes the safety of college athletes, including prohibiting schools from requiring or allowing students to participate in athletics before it is safe for them to do so.

Thank you for your attention to this matter. We respectfully request a response confirming that you are prohibiting these waivers and developing health and safety guidelines no later than July 7, 2020.

Sincerely,



Richard Blumenthal  
United States Senator



Cory A. Booker  
United States Senator

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<sup>4</sup> Zachary Zagger, "NCAA Teams' COVID-19 Risk Forms May Fall Flat In Court," Law360, June 19, 2020, <https://www.law360.com/articles/1283174/ncaa-teams-covid-19-risk-forms-may-fall-flat-in-court>.