

THE COLLEGE ATHLETE RIGHT TO ORGANIZE ACT

Introduced by Senators Chris Murphy (D-Conn.) and Bernie Sanders (I-Vt.), the *College Athlete Right to Organize Act* affirms that college athletes are employees who are entitled to the most fundamental labor rights – the rights to organize and collectively bargain for fair compensation and better working conditions.

Representative Jamaal Bowman (D-N.Y.-16) introduced companion legislation in the U.S. House of Representatives.

College athletes are already treated like employees: they provide a valuable service in exchange for compensation in the form of scholarships that they lose if they do not perform the job as strictly specified by their colleges. Yet, colleges, conferences, and the NCAA refuse to recognize athletes as employees because it would mean giving up the amateurism business model that allows them to keep revenues for themselves and exert near-absolute control over athletes' lives.

Through organizing and collective bargaining, college athletes can demand the NCAA and its members treat them fairly. College athletes are already beginning to realize their power, and Congress must affirm and expand their labor rights and protect them from retaliation and intimidation by their colleges.

Empowering college athletes to collectively bargain will help save college sports from itself. The NCAA and its members' strategy of burying their heads in the sand has deepened the inequalities that have long-plagued this system. From determining a revenue-sharing arrangement to establishing uniform NIL policies and implementing real health and safety protections, collective bargaining would help resolve these issues without the need for micromanagement by Congress.

For generations, the NCAA and its members have exploited athletes, withholding billions in compensation while failing to protect their health and academic opportunities. It is past time for the athletes to have a seat at the table.

The *College Athlete Right to Organize Act* would:

- Amend the National Labor Relations Act (NLRA) to define any college athlete as an employee of their college if they receive direct compensation from their college, whether via grant-in-aid or other forms of compensation, and that compensation requires participation in intercollegiate sports. This expanded definition will make it easier for athletes across sports and programs to file union petitions successfully by clarifying what an employment relationship under the NLRA looks like for athletes.
- Amend the NLRA to define public colleges, alongside private institutions, as employers within the context of intercollegiate sports, allowing athletes to collectively bargain at any college, regardless of state laws that restrict their basic labor rights or potential state laws that define athletes as non-employees.
- Facilitate multiemployer bargaining units for college athletes by directing the National Labor Relations Board (NLRB) to consider the colleges within an athletic conference as part of a bargaining unit with

Senator Chris Murphy (D-CT)

which college athletes can negotiate, helping athletes negotiate across programs and within their respective conferences without having to organize unions at each school within a conference.

- Assert the NLRB's jurisdiction over all institutions of higher education within the context of intercollegiate athletics, and on all collective bargaining and representation matters as well as labor disputes, which gives college athletes the ability to petition the NLRB to handle any issues that may arise in the process of collective bargaining. This will make it easier for athletes to resolve disputes with colleges, especially if colleges try to undermine the athletes' organizing efforts.
- Prohibit any agreements, such as scholarship agreements, which waive the right of athletes to collectively bargain. This will prevent colleges from undercutting athletes' labor rights via language hidden in often-lengthy scholarship agreements (i.e. contracts).
- Ensure the current tax status of college athletes' scholarships and other benefits does not change due to their employment status, nor does it affect their eligibility for financial aid. Athletes are students first and like other student employees on college campuses, athletes' ability to access a college education should not be more difficult due to their employment relationship with a college.

FAQs

How would this bill change college athletes' current labor rights?

This bill clarifies athletes' employment status under the NLRA, regardless of whether they attend public or private colleges. It also makes it easier for athletes' unions to get to the bargaining table by asserting the NLRB's ability to establish a bargaining unit across programs within an athletic conference. That provision facilitates bargaining agreements that span entire athletic conferences, not just at individual programs. Further, by asserting the NLRB's jurisdiction over all representation matters and labor disputes that may come up during a collective bargaining process, college athletes will be assured that they can bring petitions to the NLRB and expect a timely resolution.

How could athletes collectively bargain under this bill?

College athletes would have full freedom to organize and collectively bargain as they see fit. They could organize at their individual colleges, either by sport or across sports, or organize across colleges to negotiate collective bargaining agreements within their athletic conferences. They could negotiate for a suite of items, including but not limited to compensation beyond a scholarship, rules and standards related to their health and safety, and expanded educational opportunities.

Would this bill force colleges to pay athletes a minimum wage and take on other employer responsibilities under federal and state labor laws?

No. The bill addresses athletes' employee status under the NLRA, which solely affects employees' ability to collectively bargain with their employer and could include negotiating for a set wage for their labor. Those negotiations and resulting collective bargaining agreement could include a number of changes to how athletes receive compensation for their labor.

Would this bill make all athletes employees, including at small programs?

No. Whether an athlete is an employee of their given school, athletic conference or athletic association (i.e. the NCAA) depends on the nature of their relationship with their college, conference, and association. If a college treats their athletes like employees, specifically by providing them with compensation that is dependent on their participation in collegiate athletics, then they are considered employees under this bill. Many athletes already meet the current definition of employee under the NLRA. Schools, conferences, and the NCAA exercise strict control over how an athlete performs their work – from controlling daily schedules to the amount and timing of travel athletes have to do each season. In turn, athletes receive compensation from their schools, often in the form of scholarships and stipends, which the athletes can lose if they do not follow the strict rules and conditions imposed by the colleges, conferences, and associations. This bill clarifies that this relationship is an employment relationship for the purposes of organizing and collective bargaining.

Would collective bargaining with athletes force colleges to cut sports?

No. Athletes collectively bargaining with their schools and conferences would actually help preserve sports by including athletes in the decision-making process whenever a college considers cutting a sport. Colleges have already been cutting sports without input from athletes and without seriously attempting to adjust their budgets to keep those programs intact. While some athletes will bargain for a share of the revenues they produce, they will not negotiate in a vacuum. Negotiations involving pay for athletes would exist within the context of budget constraints and a collective interest by athletes to expand opportunities for their peers, not limit them. Colleges routinely spend far more on coaches' salaries, recruiting, and facilities than all the athletics-based aid they provide for all their athletes. Where athletes successfully negotiate for a revenue-share arrangement, it will also come with other decisions around an athletic department's budget that should and likely will include cutting the salaries and positions of overpaid coaches, trainers, and administrators, along with cutting other excesses.