

AFL-CIO

LEGISLATIVE ALERT

June 12, 2024

The Honorable Virginia Foxx, Chair
The Honorable Bobby Scott, Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Foxx and Ranking Member Scott:

On behalf of the 12.5 million workers and 60 affiliate unions represented by the AFL-CIO, I urge you to reject Rep. Good's bill, the "Protecting Student Athletes' Economic Freedom Act" (H.R. 8534), scheduled for committee markup. This bill would prohibit college athletes from being defined as "employees" under any state or federal law, impacting universities, athletic conferences, and the National Collegiate Athletic Association (NCAA).

Students' athletic endeavors on behalf of their school have turned into a very big business, with athletic departments of NCAA colleges generating \$18.9 billion in revenue for their schools in 2019 alone. In 2022, one school's sports teams generated over \$250 million in revenue. The day-to-day rigors of that revenue-generating endeavor and the terms under which they are expected to perform can render college athletes employees of their college, entitling them to all the rights of other workers. It's very simple: if they are treated like employees, then they are employees. H.R. 8534 would carve out an exception to this rule when it comes to the most essential workers of the multi-billion-dollar collegiate sports industry: treat them like employees all you want, but they will never be entitled to the rights of employees. Whatever guardrails the existence of labor and employment law might provide to protect students from mistreatment and exploitation are summarily removed by H.R. 8534.

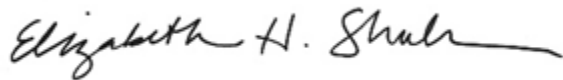
The fallacy that every college athlete is merely a student has finally begun to crumble. Recently, the NCAA and several lucrative conferences settled *House v. NCAA*, a significant antitrust class action lawsuit, agreeing to share revenue with athletes. While conceding to pay athletes, these organizations are doubling down on denying their employee status.

In February 2023, the United States Court of Appeals for the Third Circuit heard arguments in *Johnson v. NCAA*, where players are seeking employee status under the Fair Labor Standards Act. If the court sides with the players, they could gain eligibility for minimum wage and overtime protections for their work. The players are simply asking for the court to apply the same multi-factor test to determine their employee status as it would for any other worker. The NCAA, however, seeks to prevent this evaluation from taking place.

College athletes are making progress asserting their rights as employees in other venues. At Dartmouth College, basketball players recently won an election to form a union, being recognized as employees under the National Labor Relations Act. There, athletes have the freedom to pursue collective bargaining to improve their employment terms and working conditions. But H.R. 8534 would deny them this freedom and protect the big business of collegiate sports from the voices of the young people who generate its revenues.

The AFL-CIO and its Sports Council affiliates unanimously oppose any legislation that denies college athletes employee status. These athletes dedicate immense effort, endure rigorous schedules, and risk bodily injury daily for their schools. The labor movement stands in unwavering solidarity with students and firmly against this bill.

Sincerely,



Elizabeth H. Shuler
AFL-CIO

The AFL-CIO Sports Council includes:

- Major League Baseball Players Association (MLBPA)
- Major League Soccer Players Association (MLSPA)
- National Football League Players Association (NFLPA)
- National Women's Soccer League Players Association (NWSLPA)
- United Football League (UFL-USW)
- United Soccer League Players Association (USLPA-CWA)
- Women's National Basketball Players Association (WNBPA)
- National Hockey League Players Association (NHLPA)