



Max L. Forer
max.forer@millernash.com
503.205.2473 (direct)

Max Forer's Testimony In Support of HB 4119 2/6/2024

Chair Lively and Members of the House Higher Education Committee. My name is Max Forer and I'm a former student-athlete, and partner at Miller Nash, and I'm here today to testify in support of HB 4119 on behalf of Oregon Student Athletes First. Oregon Student Athletes First's mission is to make the State of Oregon the national leader in protecting Oregon's student-athletes in the new name, image and likeness era.

As additional background, I'm a former student athlete myself and played football at the University of Oregon from 2006-2011. After playing football, I went to the University of Oregon School of Law, where worked for Octagon Sports Agency and worked for the student athlete development department for Oregon, where I tutored and mentored student-athletes to prepare them for life after sports.

As a partner at Miller Nash, I lead the sports, entertainment & media team, providing advice to name, image, and likeness (NIL) businesses, colleges and universities, professional sports teams, agencies, management companies, amateur and professional athletes, and other sports and entertainment individuals and businesses. In addition, I have been providing legal and strategic advice regarding NIL matters since December 2019, almost a year and a half before NIL rules went into effect.

Based on my experience as a student-athlete and attorney in the college sports industry, it is vital to pass HB 4119 to protect Oregon's student-athletes and its colleges and universities.

HB 4119 will provide clear and consistent guidance for both student-athletes and colleges and universities in Oregon and protect them from unfair and arbitrary investigations and enforcement policies.

The NCAA had over two and ½ years to move from its 'interim guidance' to a comprehensive and fair framework for NIL but has failed to do so in a meaningful

California
Oregon
Washington

manner. Because of this, colleges and universities lack clear guidance on how to manage NIL activities and support their student-athletes. These problems have been exacerbated by recent changes to NCAA investigative rules that deprive student-athletes and colleges and universities of due process by requiring them to prove their innocence when faced with allegations that are circumstantial (e.g., an anonymous tip or news story). Unless HB 4119 is passed, the NCAA has broad authority to use circumstantial evidence to determine an Oregon student-athlete to be ineligible to compete in athletic competition and impose punitive sanctions against Oregon colleges and universities, including, post-season bans, reduction in scholarships, suspending coaches, recruiting restrictions, and fines.

If Oregon fails to act in this 2024 session, Oregon student-athletes will be at greater risk of meritless and unsubstantiated enforcement actions and Oregon colleges and universities will be at a competitive disadvantage when recruiting against schools – big or small – located in states that passed similar legislation, **threatening their economic contribution to the State of Oregon and communities in which they support**. In the 2023 session, 6 states (Arkansas, Oklahoma, Texas, Missouri, New York, and Colorado) enacted similar amendments to their NIL bill. Currently there are at least an additional 5 more states (Nebraska, Wisconsin, Virginia, Utah, and Mississippi) in the process of enacting substantially similar bills to keep their state’s student athletes and institutions protected and competitive.

Because the NCAA often focuses **major infractions on smaller schools** to set an example for the rest of their member institutions, this amendment is equally important for all Oregon colleges and universities.

By passing HB 4119, Oregon will make important technical amendments to SB5 and SB1505, further clarifying the original intent of past legislation to allow Oregon student-athletes to be able to obtain compensation from their NIL rights. In the event the NCAA tried to intervene, interfere, threaten, or penalize such actions, Oregon student-athletes are protected by Oregon’s NIL statutes.

The State of Oregon has always stood at the forefront of protecting its student athletes and colleges and universities. We are standing at a crossroads, where we need Oregon to act and lead and make sure Oregon student-athletes and its colleges

and universities stay ahead of the evolving college sports landscape. I urge your support of HB 4119.

I'd also like to mention that in the record, there are letters of support for HB 4119 from Sport Oregon and the Oregon colleges and universities.

Thank you for your time and consideration and I'm happy to answer any questions.