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Position: FAV

The University of Maryland Student Government Association
Testimony for SB439
Education, Health, and Environmental Affairs Committee, Thursday, Feb. 25, 2021
Jordan McNair Safe and Fair Play Act
POSITION: FAVORABLE

My name is Dan Alpert and I am the Student Body President at the University of Maryland, College Park. I'd like to start by thanking Chair Pinsky and all the members of the Education, Health, and Environmental Affairs Committee for the opportunity to share our thoughts on this vital bill. Thank you to Senators Ready and West for sponsoring this legislation, which will level the playing field for student athletes, bestowing upon them those rights and protections necessary to their unique status, and in many cases already afforded to other students.

During the summer between my freshman and sophomore year, College Park suffered a tragedy in the loss of Jordan McNair, in which multiple preventative measures could have been taken to ensure Jordan would still be alive. Jordan is one of more than thirty college football players who have died during an NCAA-sanctioned workout since 2000. Jordan McNair's preventable death laid bare the vulnerabilities that our student athletes face and the unfair practices that are unique to them.

This bill protects the health, safety, and future of student athletes in three key ways: first, by creating stronger injury protocols; second, by protecting scholarships if there is a break in play, and third, by ensuring that student athletes have all the necessary resources to succeed in their academic and professional lives, both during and after their playing career. The bill packages these in a broader "student athlete bill of rights", a comprehensive list of mandates for schools to keep our student athletes safe.

This bill also follows the lead of more than twenty other states by allowing student athletes to earn an income off the use of their name, image, and likeness. This ensures that student athletes, who dedicate hours of time and put their bodies on the line for the university and for their education, are receiving reasonable and fair benefits as they represent the university.

As a student who has previously worked for our athletics department, I know that many of our student athletes and those who work within the department are not comfortable speaking out on issues that relate to athletics. In fact, when we reached out to student athletes, many were not comfortable with testifying on this bill, proving the importance of the anti-retaliation clause. We need our student athletes to know that not only is their health and financial security being protected, but that their words and actions will not be monitored by the athletics department.

Our goal should always be to make the community a more fair and equitable place. This bill does exactly that, by keeping student athletes safe and allowing them to be appropriately compensated. It is for these reasons that we, the Student Government Association at the University of Maryland, urge you to vote yes on the Jordan McNair Safe and Fair Play Act.

Sincerely,
Dan Alpert, *Student Body President*
Ben Baitman, *Director of Government Affairs*

AFSCME_FAV_SB439.pdf

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Patrick Moran - President

Testimony
SB 439 – Public Institutions of Higher Education – Student Athletes
(Jordan McNair Safe and Fair Play Act)
Education, Health & Environmental Affairs
February 25, 2021
Support

AFSCME Council 3 urges you to give favorable support to SB 439.

AFSCME Council 3 represents 30,000 State and University employees in Maryland. Our members keep Maryland running – and they are also parents of students and alumni of many of our local colleges and universities.

As the union for university workers in Maryland, we have all too often seen institutions of higher education take their workforce for granted – at best - and at worst mistreat those very people who make their campuses function. Our members have been subject to this firsthand, especially during the pandemic as we were expected to perform our jobs per usual but often were not provided adequate PPE or health and safety protocols.

Our members have often felt like their schools treat them a disposable. Sadly we also see this play out with student athletes, young men and women who bring pride – and significant revenues – to higher education institutions. Colleges and universities need to treat all people with greater care and respect. SB 439 aims to ensure that athletes who are seriously hurt, injured or fall ill are not discarded. Furthermore, the bill creates important guidelines to protect student-athletes and makes the institution more responsible and for their necessary care. These are goals we are striving to also achieve for employees. It is high time that more protections are put in place for student-athletes to ensure these horrific outcomes never happen again.

AFSCME strongly supports SB 439 and we hope for a favorable report.

Every AFSCME Maryland State and University contract guarantees a right to union representation.
An employee has the right to a union representative if requested by the employee.
800.492.1996

SB439NameImageLikeness

Uploaded by: Ready, Senator Justin

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Support of SB439 - The Jordan McNair Safe & Fair Play Act

February 25, 2021
Education, Health, and Environmental Affairs Committee

Chairman Pinsky and member of the Education, Health, and Environment Committee,

What this bill does

As amended, Senate Bill 439 follows the lead of 5 other states that have laws on the books (California, Florida, Nebraska, New Jersey, and Colorado) and many other states with similar proposals in ensuring that intercollegiate student athletes at public universities are not prohibited from using their name, image, or likeness to earn income.

Right now, on every campus in America, every college student who is not an NCAA athlete has the right to earn money in any legal way they want... whether that's inventing a social media website, selling artwork, or performing. This bill will ensure that all students have this right. The bill also requires schools to adopt certain health and safety guidelines to prevent and treat injury.

Traditionally, state legislatures around the country have outsourced treatment of their state's college athletes to the NCAA. This reliance is outdated. The NCAA itself asserts it has no duty to protect athletes from injuries or guarantee an athlete medical coverage for sports-related injuries; has no legal duty to ensure academic integrity or the quality of an athlete's education; and has not held university athletic departments responsible for failures to ensure the safety and wellbeing of college athletes. Therefore, **states have started to take matters into their own hands, passing name/image/likeness legislation and forcing schools and the NCAA to do better for our college athletes. It is time for the Maryland General Assembly to take action on critical issues previously left to the NCAA.**

This legislation will help ensure our student athletes are treated fairly and that their health and safety are prioritized. About 67% of college athletes suffer a major college sports injury and 50% suffer chronic injuries. Athletic trainers admit to knowingly returning players with concussions to the same game. The guidelines in this bill help ensure accountability for schools developing strong safety policies.

Importantly, this legislation will also ensure that student athletes are not excluded from the right to earn income from their name, image or likeness. Athletic coaches and administrators earn millions and are some of the highest paid state employees, while the athletes themselves are denied the right to earn any outside income related to their sport. This **unnecessary and anti-competitive restriction** exacerbates student athletes' financial challenges and is particularly unfair to the majority of male athletes and nearly all female athletes who lack professional sports opportunities and are therefore prohibited from earning an income during their prime athletic years. Further, many student athletes come from low-income households (over 80% of college athletes are living below the federal poverty level), and are the first in their family to attend college. Scholarships are wonderful but they are not the same as income. The NCAA has had years to get ahead of this issue but continues to drag its feet. Student athletes should be able to run sports camps in the summers, sign sponsorship deals with local businesses, or sell gear with their name or signature to build their financial future. An art student at a Maryland university is not prohibited from selling their art. Why do we treat this class of students differently?

This bill, important any year, is now even more urgent in light of the COVID-19 pandemic - when students played their sport despite pandemic.

It is time for the Maryland General Assembly to stand up to the NCAA and support our Maryland student athletes - both their ability to earn income from their name/image/likeness, and protecting their health and safety. **This bill will truly make a difference in the lives of Maryland student-athletes.**

Testimony for Senate Bill 439.pdf

Uploaded by: Young, Ron

Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 439 - Public Institutions of Higher Education – Student Athletes (Jordan McNair Safe and Fair Play Act)

SPONSOR: Senators Ready and West

HEARING DATE: February 25, 2021

COMMITTEE: Education, Health, and Environmental Affairs

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS Senate Bill 439**, which would require all public 4-year institutions of higher education with athletic programs to provide a student athlete with scholarships for academics, athletics, or both, for 5 years or until the student athlete completes an undergraduate degree, whichever occurs first. It also requires an athletic program to renew the athletic scholarship if a student athlete suffers an incapacitating injury or illness under certain circumstances; prohibiting public institutions of higher education from taking certain actions against student athletes.

The sports world, along with our state, was shaken on July 16, 2018, when Baltimore native Jordan McNair, a four-star recruit, ranked in the top 25 nationally in his position, died from heat stroke while at football practice as a student athlete at the University of Maryland. The circumstances and tragedy following, what can only be described as negligence in the caring of our state's student athletes, leads us to the remedy provided by the proposed legislation.

Keeping our student athletes safe should be our number one priority. A vital part of that mission to keep them healthy, is creating an environment where they feel comfortable seeking medical attention or rest when their bodies demand it. The culture of playing through pain and injury has been fueled by the fear that some students feel, that when they are injured, they will lose their scholarships and with it, their chance of making a career out of their sport or obtaining a 4-year degree.

The proposed legislation ensures students do not intentionally have to risk their health, their body, or in the case of McNair, their life to preserve their scholarship, pursue their degree or one day play professional sports.

Our universities and colleges should be encouraging play, fun, teamwork, morals, commitment and safety in our athletic programs, and that begins with university leadership, athletic staff and coaches.

The proposed legislation seeks to remove the fear of retaliation from students already suffering from injuries, some life threatening. We should be encouraging their recovery and rehabilitation, not seeking retaliatory actions. It is time we get behind our students by supporting both their success and health, on and off the field.

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS Senate Bill 439** and asks for a **FAVORABLE** report.

SB 439 USM testimony.pdf

Uploaded by: Page, Robert

Position: UNF



UNIVERSITY SYSTEM *of* MARYLAND

Thursday, February 25, 2021

Senate Bill 439 –Jordan McNair Safe and Fair Play Act Testimony
Maryland Senate Education, Health, and Environmental Affairs Committee
Robert Page, USM Associate Vice Chancellor for Financial Affairs

Chair Pinsky, Vice Chair Kagan and members of the committee, the University System of Maryland (USM) offers the following testimony to be considered in the deliberations over the proposed Senate Bill 439.

The USM Board of Regents places the highest priority on the health and well-being of all its students—including those who participate in intercollegiate athletics. Over the past year the Board has worked with leadership at USM institutions to identify issues and areas for improvement, and institutions have responded with enhancements to programs related to the care and training of student-athletes.

The USM shares the values, intentions and motivations behind Senate Bill 439. The past 32 months have been tragic and difficult for all impacted by the passing of Jordan McNair. The System continues to work to improve oversight of intercollegiate athletics, and USM institutions have worked diligently to adopt and implement the recommendations of both internal and independent reviews of athletics and the associated medical care provided to student-athletes, not just at University of Maryland, College Park (UMCP), but at each of the USM institutions with athletics programs.

In November 2020, the Board of Regents, led by Chair Linda Gooden, approved the establishment, effective July 1, 2021, of a new Board of Regents standing committee on Intercollegiate Athletics and Student-athlete Health and Welfare, addressing the recommendation of the Association of Governing Boards to improve transparency of oversight of intercollegiate athletics, while also expanding the scope of oversight of athletics and student-athlete issues of health and well-being, areas also the focus of provisions of the proposed Senate Bill 439.

Provisions relating to student-athletes use of name, likeness, or image

The USM and its institutions share the values and intent of the proposed legislation relating to student-athletes' ability to benefit from the use of name, likeness, and image. Across the country, a number of states are considering, or already have adopted, legislation relating to student-athletes' use of their names, likeness, or image. At the same time, there is strong interest in Congress to adopt federal legislation that would affect and compel NCAA and conference rule changes, and some legislative action is expected. The prospect of a patchwork of federal law and individual, differing state requirements is concerning to the USM, and we believe that any

legislative initiative is best handled at a federal, rather than state, level so that there is a clear and consistent set of standards devoid of conflicts between differing legislative initiatives in different legislative bodies.

Further, the implementation of rule changes adopted by the NCAA and the various conferences are matters where institutional decision-making will balance the concerns and needs of the entire campus community.

Lastly, issues like the impact of compensation received by student-athletes for the use of name, likeness, or image may have implications for federal financial aid processes and calculations, and potentially accreditation matters that are better addressed through federal legislative processes.

The NCAA is currently considering updates to its name, image and likeness rules, working in conjunction with the US Justice Department. There is a concern that the proposed Senate Bill 439 would put USM institutions at odds with NCAA rules, jeopardize NCAA membership status and therefore jeopardize the revenue distributed by the NCAA or athletic conferences. The potential for conflicts between state and NCAA requirements could also result in potential legal costs to navigate the differences between Maryland state law and NCAA rules. Additionally, Congress is currently reviewing possible federal legislation and the US Supreme Court has agreed to hear a case that could be impactful. The proposed legislation should adopt a recognition of the timing, relevance and authority of rule-setting at the federal level, and by the NCAA.

Provisions mandating student-athlete scholarships and additional benefits

Several terms and provisions should be redefined, and / or taken into account practically. The definition of Graduation Success Rate should be defined to conform with the calculation used by institutions established by the NCAA. The proposed bill defines the graduation success rate as similar to the Federal Graduation Rate. We believe that using the Graduation Success Rate, as used by the NCAA in its expectations of institutions, would be more consistent and reduce conflicts and inconsistency. Further there should be some recognition that in applying the criteria at the individual sport level, that there will be wide variability in the impact of one or two student-athletes falling short academically between a sport with five team members, as compared with sports with large numbers of student-athletes like football. There should be some recognition of the small team size in assessing the minimum graduation success rate.

There are questions as yet unanswered about the implications of some provisions of the proposed bill in terms of financial aid requirements.

Other provisions in the Senate Bill 439 mandate or require particular scholarship and student-athlete funding arrangements, or require additional reporting processes for Title IX specifically focused on intercollegiate athletics, or increase insurance spending specifically for student-athletes. Most USM institutions fund intercollegiate athletics principally through mandatory student athletics or activities fees, and work within long-standing state public policy expectations and Board of Regents policy requirements that spending be restricted to resources of the athletic

program, forcing increases in student activity or athletics fees charged to all students. The provisions requiring institutions to cover health insurance and copays, and the separate, athletic department specific reporting on compliance with Title IX requirements should be removed to avoid increases in student fees funding intercollegiate athletics.

The USM has institutions that participate in NCAA Division 1, others that participate in NCAA Division 2 and yet others that participate in NCAA Division 3. Where NCAA rules prohibit or limit particular scholarship and student-athlete benefits or funding, the requirements of the proposed bill would place the institution in conflict between state requirements imposed by the proposed bill, and requirements of the NCAA for institutions participating in NCAA Divisions 2 or 3. Exceptions for the provisions of the legislation mandating scholarships and other student-athlete support for those institutions participating in NCAA divisions where a conflict with NCAA requirements should be included.

The proposed legislation could also result in athletic departments and individual student-athletes competing for the same sponsorships in circumstances where an organization or company decides to invest their marketing dollars in the student-athletes instead of institution athletic departments. These issues, in addition to other provisions of Senate Bill 439 could reduce outside revenue for the athletic department and increase expenses. Most USM institutions with athletic departments have limited access to new revenue sources and as a result, the proposed Senate Bill 439 could result in increased pressure to raise student fees to resolve the resulting funding gap associated with reduced marketing resources or increased costs. USM institutions should, subject to NCAA and federal constraints, be allowed to adopt rules governing access of the institution and its student-athletes to common marketing resources.

In summary, the University System of Maryland appreciates the collaborative effort to introduce a bill that reflects common values and goals and the progress being achieved in adjusting the previously introduced House Bill 125, which the System believes addresses all of the issues raised, but reflecting the concerns and exceptions detailed above, the University System of Maryland requests the committee report unfavorably on Senate Bill 439.

SB 439 - Student Athletes (Jordan McNair Safe and

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Position: INFO

Senate Bill 439
Public Institutions of Higher Education - Student Athletes
(Jordan McNair Safe and Fair Play Act)
Senate Education, Health, and Environmental Affairs Committee
February 25, 2021

Letter of Information

Chair Pinsky, Vice-Chair Kagan, and Members of the Committee,

St. Mary's College has concerns with Senate Bill 439, the Jordan McNair Safe and Fair Play Act. The Bill creates challenges for St. Mary's College as a school that participates in NCAA Division III athletics.

The proposed Bill states that every student-athlete is required to receive an athletic or academic scholarship. St. Mary's College is not permitted to award athletic scholarships due to NCAA Division III guidelines. Under this Bill, St. Mary's College would be required to award merit scholarships to all athletes, regardless of academic merit, which is inequitable. Additionally, it conflicts with NCAA Division III guidelines as well.

Senate Bill 439 also requires that all public institutions pay the healthcare costs for all of their student athletes. As a small Division III school, St. Mary's College does not generate large amounts of revenue from athletic programs. In fact, our athletic program is funded primarily through student revenue, not through the athletic program itself. Providing healthcare to all of our student athletes would require St. Mary's to depend on student revenue to handle the cost, and could result in the College passing those increased costs on to students through higher fees.

We request that amendments be introduced to the Bill that provides exemption from these provisions for St. Mary's College.

Thank you for your consideration and continued support of St. Mary's College of Maryland.



Tuajuanda C. Jordan, PhD
President