

THE PRESSURED PLAYER: THE COLLEGE ATHLETE’S
STRUGGLE WITH MENTAL HEALTH

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INTRODUCTION

Katie Meyer's life seemed perfect.¹ Just hours before her death, Katie's parents Facetimed her and described her as happy and in good spirits, even though she may have had a lot on her plate.² Later, Katie was found in her dorm room after taking her own life.³ Although her parents believed she was the "usual jovial Katie," it seemed that nobody knew just how deep her torment went.⁴ Ultimately, Katie was unable to find the help she needed on campus.⁵

Mental health involves our emotional, psychological, and social well-being and affects the way we think, act, handle stress, and interact with others.⁶ For student-athletes, maintaining mental health is especially important because of the stress of balancing school, scholarships, and schedules.⁷ Sadly, because student-athletes struggle to balance these commitments, they are at a greater risk for developing anxiety,

1. See Scott Stump, *Parents of Stanford soccer team captain Katie Meyer Speak out about her death*, TODAY (Mar. 4, 2022, 7:37 AM), <https://www.today.com/news/sports/katie-meyer-death-parents-interview-rcna18694> [<https://perma.cc/7SGE-AJYC>] (discussing the tragic story of Katie Meyer's suicide at Stanford University where she was a star soccer goalie for the women's team).

2. See *id.* (discussing Katie's parents' description of her on the phone right before her death).

3. See Elisha Fieldstadt, *Parents of Stanford soccer captain found dead in dorm say they 'had no red flags'*, NBC NEWS (Mar. 4, 2022, 8:06 AM) <https://www.nbcnews.com/news/us-news/parents-stanford-soccer-captain-found-dead-dorm-say-no-red-flags-rcna18700> [<https://perma.cc/G2XF-V7DK>] (discussing Katie Meyer's tragic death).

4. See Stump, *supra* note 1 (discussing Katie's parents' description of her right before her death).

5. See Kyle Bonagura, *Parents of Stanford women's soccer goalie Katie Meyer, who died from suicide, push for 'Katie's Save' policy*, ESPN (May 31, 2022), https://www.espn.com/college-sports/story/_/id/34013887/parents-stanford-goalie-katie-meyer-died-suicide-push-katie-save-policy-additional-safety-net [<https://perma.cc/SX3E-BKF2>] (discussing how Katie's parents are pushing for a new mental health policy for students and how extra support may have saved Katie's life).

6. See *About Mental Health*, CDC, <https://www.cdc.gov/mentalhealth/learn/index.htm> [<https://perma.cc/FZ4T-PJ9K>] (last visited June 28, 2021) (explaining the importance of mental health at every stage of a person's life).

7. See *College Student-Athlete Health and Well-being*, TIMELY MD (Aug. 30, 2021), <https://timely.md/blog/student-athlete-mental-health/> [<https://perma.cc/CH4G-NDQT>] ("Student-athletes are college students, with all the daily life challenges that young adults face. And as college athletes . . . these students carry the hopes and expectations of their campus and community. Their wins and losses are seen by all, questioned by many, and criticized publicly."); see also Eric Lindberg, *Let's Talk About the Quiet Crisis in College Sports: Mental Health*, USC (2021), <https://news.usc.edu/trojan-family/college-athlete-mental-health-usc-sports-psychologists/> [<https://perma.cc/7878-L5UP>] (finding student-athletes face academic pressure, social challenges, and stress from coaches and parents who emphasize performance over personal growth).

depression, eating disorders, and substance abuse problems compared to non-athletes.⁸ The COVID-19 pandemic only exasperated student-athletes' struggle with mental health.⁹ Specifically, athletes lost the social connection involved with being on a team.¹⁰ Because social connection relates to relationships with others, it is understandable that student-athletes struggled more with mental illness once social connection decreased during the pandemic.¹¹ In 2020, the University of North Texas found that more than 20% of 6,000 National Collegiate Athletic Association (NCAA) athletes experienced clinical depression.¹² In another NCAA survey, one in ten of the over 30,000 student-athletes surveyed "were having difficulty functioning because of depression."¹³ These athletes were struggling with issues such as, "housing instability, food insecurity and lack of access to health care and appropriate facilities to maintain their training while gyms were closed."¹⁴ Alarming, only

8. See *College Student-Athlete Health and Well-being*, supra note 7 (discussing how college athletes are two percent more likely to suffer from severe mental illness compared to regular college students and how they "are at greater risk of substance abuse, social anxiety, and eating disorders" such as anorexia and bulimia); see also Barbara Bickford, *The Legal Duty of a College Athletics Department to Athletes with Eating Disorders: A Risk Management Perspective*, 10 MARQUETTE U. SPORTS L.J. 87, 88 (1999–2000) (according to NCAA, eating disorders are a serious issue in virtually every sport and disordered eating is a huge issue because of its connection to beauty ideals). The Comment further explains how eating disorders are the "gravest health problem facing female athletes" in particular and provides an in-depth analysis of the different types of eating disorders, *id.* at 91 (explaining the impact of eating disorders and its connection to athletes' obsessions with perfecting body image).

9. See Chris Burt, *Mental health care support crucial for college athletes*, UNIV. BUS. (Aug. 20, 2020), <https://universitybusiness.com/mental-health-care-support-crucial-for-college-athletes/> [<https://perma.cc/R2NN-5RZB>] ("Empty stadiums. Abandoned locker rooms. Scrapped schedules. The loss of camaraderie. The potential loss of scholarships. And an uncertain future."). The article discusses how athletes are already balancing practice, games, and celebrations, but now have to add the difficult effects of the pandemic to their plates, *id.* (discussing the stress of adding the pandemic to the mix). The sense of loss these athletes have felt during the pandemic will require more support for them to "express and process their feelings," *id.* (discussing the need for mental health support now more than ever because of pandemic).

10. See Ana Soares et al., *Mental Health and Social Connectedness During COVID-19 Pandemic: An Analysis of Sports and E-Sports Players*, FRONTIERS IN PSYCH. (May 25, 2022), (Numerous studies done found that in the beginning of Covid-19, team-sport athletes were more anxious and exhibited depressive symptoms most likely because of social isolation). The pandemic harmed student-athletes' mental health because social connection is vital to maintaining good mental health, *id.* (discussing importance of social connection for mental health).

11. See *id.* (Social connection is "connecting to a specific group or person and to the generalized ability to connect" within a social society).

12. See Gwen Aviles, *As college sports programs pivot, mental health becomes bigger priority*, NBC (Aug. 31, 2020, 10:44 AM), <https://www.nbcnews.com/pop-culture/pop-culture-news/college-sports-programs-pivot-mental-health-becomes-bigger-priority-n1238468> [<https://perma.cc/V93S-MCTG>] (providing mental health statistics of college-athletes during pandemic).

13. See *id.* (providing mental health statistics of college-athletes during pandemic).

14. See *id.* (explaining difficult reality for many student-athletes during pandemic).

10% of college athletes sought out mental health support even though 85% of college students struggled with stress during the pandemic.¹⁵ Unsurprisingly, student-athletes were struggling with mental illness at increased rates given the sudden end to their seasons and the looming sense of dread over an uncertain future.¹⁶ These statistics make it even more imperative that mental health initiatives are implemented and strengthened by the NCAA and universities to protect athletes—even in a post-pandemic world.¹⁷

This Comment discusses the mental health issues that student-athletes face and further discusses the importance of addressing these issues to eliminate the stigma surrounding mental illness.¹⁸ Section I provides an overview of NCAA mental health policies, athlete mental health issues, and proposed federal legislation.¹⁹ Section II then provides an analysis of organizations' remedial measures for more mental healthcare for student-athletes and how the federal government can step in under the Interstate Commerce Clause.²⁰ Section III finally concludes by discussing the future of mental health within collegiate student athletics.²¹

I. THE ANXIOUS ATHLETE: BACKGROUND ON NCAA POLICIES AND ADDRESSING THE PSYCHOLOGICAL AND SEXUAL ABUSE STUDENT-ATHLETES FACE

A. *Play Ball: An Overview of NCAA Mental Health Policies*

The NCAA has partnered with several of the leading mental-health organizations across the country to create and develop the *Interassociation Consensus Document: Best Practices for Understanding and Supporting Student-Athlete Mental Wellness*, which provides recommendations to university athletic departments “for supporting and

15. See Burt, *supra* note 9 (providing mental health statistics of college-athletes during pandemic).

16. See *id.* (“Empty stadiums. Abandoned locker rooms. Scrapped schedules. The loss of camaraderie. The potential loss of scholarships. And an uncertain future.”). The author discusses how these students have trained hard for most of their lives and it is devastating that it has been taken from them, *id.* (discussing negative impact of pandemic for student-athletes).

17. For further discussion of NCAA mental health resources, see *infra* notes 22–43 and accompanying text.

18. For further discussion of how student-athletes are struggling with their mental health and the stigma, see *infra* notes 44–85 and accompanying text.

19. For further discussion of NCAA policies, athletes' struggles, and legislation see *infra* notes 26–123 and accompanying text.

20. For further discussion of the effectiveness of NCAA policies and how the federal government can step in, see *infra* notes 118–61 and accompanying text.

21. For further discussion of the future of mental health and collegiate student-athletes, see *infra* notes 162–96 and accompanying text.

promoting student-athlete mental health.”²² The NCAA has addressed the importance of mental health for young adults including student-athletes.²³ The organization understands that a collaborative process between campus and community resources is the best way to serve athletes’ mental well-being.²⁴ The NCAA has identified its ideal “Best Practices” which are split into four components.²⁵

1. “Clinical Licensure of Practitioners”²⁶

The NCAA has identified the athletic trainer as the first point of contact for a student with mental health concerns.²⁷ The team physician should provide holistic physical and mental care and management for the athlete.²⁸ However, if a student-athlete requires a formal evaluation, the team physician should make a referral to a licensed practitioner.²⁹ It is important that the practitioner is easily accessible to athletes; the NCAA

22. *See Interassociation Consensus Document: Mental Health Best Practices*, NCAA https://ncaaorg.s3.amazonaws.com/ssi/mental/SSI_MentalHealthBestPractices.pdf [<https://perma.cc/8UQR-7W49>] (revised Jan. 2020) (discussing the history of consensus document and the purpose of providing recommendations to universities for supporting the mental health of student-athletes).

23. *See id.* (“Emerging adulthood is an important and sometimes difficult developmental period . . . The sport environment has both risk and protective factors for mental health disorders . . . Mental and physical health are inextricably linked . . . Mental health is a key component of student- athlete wellness.”); *see also* AP, *ACC, Big Ten, Pac-12 launch mental health initiative*, USA TODAY (Nov. 30, 2021, 12:41 AM), <https://www.usatoday.com/story/sports/ncaab/2021/11/29/acc-big-ten-pac-12-launch-mental-health-initiative/49453415/> [<https://perma.cc/YM3L-8KA5>] (explaining the ACC, Big Ten, and Pac-12’s new alliance to raise awareness of mental health with student-athletes). The purpose of the alliance is to share best mental health practices across the forty-one universities and three conferences, *id.* (identifying purpose of alliance); *see also* Maureen A. Weston, *The Anxious Athlete: Mental Health and Sports’ Duty and Advantage to Protect*, 13 HARV. SPORTS & ENT. L.J. 1, 49 (2021) (describing NCAA’s guidebook on mind, body, and sports following suicide of two student-athletes in 2018). The guidebook serves as an important resource for athletes and schools because it includes personal stories of students and identifies factors impacting student-athlete mental health, *id.* (discussing the importance of NCAA guidebook for athletes).

24. *See Interassociation Consensus Document: Mental Health Best Practices*, *supra* note 22 (engaging and integrating campus and community resources is the best way to serve student-athletes and their mental health).

25. *See id.* at 4 (breaking down the consensus into four key components).

26. *See id.* at 5 (providing the name of first key component).

27. *See id.* (explaining how “evaluation and treatment” of students should be coordinated through the primary athletic health care providers which are the athletic trainer and team physician).

28. *See id.* (explaining how the team doctor oversees and coordinates different aspects of student’s overall health including both physical and mental health).

29. *See id.* (discussing the qualifications of licensed practitioners in providing mental health services and conducting formal evaluations and treatments for student-athletes). Registered dietitians should also be included for athletes with eating disorders, *id.* (identifying licensed practitioners—including dietitians—who should evaluate student-athletes).

recommends that the practitioner is provided with office space on or near campus.³⁰ Lastly, the NCAA “Best Practices” recommends each school to establish an interdisciplinary team consisting of the athletic trainer, team physician, psychologists, social workers, and others, whose combined role is to support student-athlete mental health.³¹

2. “Procedures for Identification and Referral of Student-Athletes to Qualified Practitioners”³²

University athletic departments are suggested to have procedures for the “management of emergency mental health situations” and “routine mental health referral.”³³ The NCAA provides a list of considerations and suggestions for schools as they develop protocols for emergency and non-emergency situations.³⁴ The NCAA also advocates that schools are transparent with students and families about these protocols and encourages the use of handbooks and websites to maintain open communication.³⁵

30. *See id.* at 6 (“[T]his practitioner should be easily accessible to student-athletes, which includes being accessible through establishment of a self-referral process. Ensuring that all student-athletes receive mental health care . . . may require hiring relevant personnel, or helping support the dedicated service of an on-campus practitioner . . .”).

31. *See id.* at 5 (providing a list of interdisciplinary team members that each school should have and explaining how each team member has their own role in supporting athletes’ mental health); *see also* Brian Gearity & Whitney Moore, *National Strength and Conditioning Association’s Endorsement of the National Collegiate Athletic Association Sport Science Institute’s “Mental Health Best Practices: Inter-Association Consensus Document: Best Practices for Understanding and Supporting Student-Athlete Mental Wellness,”* 39 NAT’L STRENGTH AND CONDITIONING J. 1, 2 (2017) (finding CSCS (Certified Strength and Conditioning Specialists) spend many hours per week with student-athletes and need to understand and support mental health besides athlete performance).

32. *See Interassociation Consensus Document: Mental Health Best Practices, supra* note 22, at 8 (providing the name of second key component).

33. *See* Brian Hainline, *An introduction to Mind, Body, and Sport*, NCAA, <https://www.ncaa.org/sports/2014/11/3/an-introduction-to-mind-body-and-sport.aspx> [<https://perma.cc/Q7WE-2AG7>] (last visited Oct. 27, 2022) (discussing the various chapters of NCAA’s best practices including “the role and perspective of sports medicine staff in identification and referral”); *see also* Gearity & Moore, *supra* note 31 (discussing the important role of primary athletic providers because of substantial interaction with student-athletes); *see also* *Interassociation Consensus Document: Mental Health Best Practices, supra* note 22 (explaining that athletic departments should work with licensed practitioners and sports medicine personnel in developing written protocols for emergency and non-emergency mental health situations).

34. *See Interassociation Consensus Document: Mental Health Best Practices, supra* note 22, at 6 (listing suggestions including contacting trained on-call counselor, training coaches and staff on identifying symptoms of mental health crisis and identifying cultural differences of student-athletes to better create protocols that support those differences).

35. *See id.* (encouraging transparency between athletes and parents about protocols and providing communication through handbooks, websites, and more).

3. “Pre-Participation Mental Health Screening”³⁶

The primary athletic providers and licensed practitioners should implement pre-participation screening questionnaires to be able to identify at-risk student-athletes.³⁷ The NCAA recommends including a series of nine specific questions in the survey but recognizes that these are just a starting point.³⁸ It is important to note that these screening questionnaires should not be the sole tool for screening mental illness.³⁹

4. “Health-Promoting Environments That Support Mental Well-Being and Resilience”⁴⁰

Lastly, student-athletes should be supported by an environment that normalizes seeking care.⁴¹ Being open to communication about mental health shows a university’s commitment to the health and wellness of its students.⁴² To provide this care, it is important that primary athletic health care providers and practitioners meet annually to stay updated on mental health protocols and to communicate information to students and coaches.⁴³

36. *See id.* (providing the name of third key component).

37. *See* Hainline, *supra* note 33 (discussing the various chapters of NCAA’s best practices including an overview of clinical diagnoses). These clinical diagnoses address various student-athlete mental wellness issues such as depression, anxiety, eating disorders, and gambling addiction, *id.* (listing various clinical diagnoses); *See also Interassociation Consensus Document: Mental Health Best Practices*, *supra* note 22 (“The decision about what screening questionnaire approach will be used should be made in consultation with the primary athletics health care providers and the licensed practitioners who are qualified to provide mental health services to student-athletes.”).

38. *See Interassociation Consensus Document: Mental Health Best Practices*, *supra* note 22, at 28 (identifying “yes” to any of the nine questions in Appendix F should lead to discussion between athlete and member of the provider team). These questions include “I often have trouble sleeping” and “I struggle with being confident,” *id.* (listing questionnaire questions from appendix).

39. *See id.* at 27 (noting screening tools should be incorporated into the holistic pre-participation evaluation).

40. *See id.* at 12 (providing the name of fourth key component).

41. *See id.* (explaining importance of supporting student mental health by encouraging experiences of “personal growth, self-acceptance, autonomy, and positive relations with others”); *see* Hainline, *supra* note 33 (introducing the NCAA best practices and impact of mental illness on minority groups and cultural pressures).

42. *See Interassociation Consensus Document: Mental Health Best Practices*, *supra* note 22, at 12 (“The way we communicate about mental health can demonstrate our commitment to inclusion and wellness, and our support of all student-athletes . . .”).

43. *See id.* (recommending that the team meet annually to discuss school’s mental health protocols and “should have the explicit endorsement of the team coaches because coaches help foster a culture about the importance of seeking mental health care when needed”). Because coaches have frequent interactions with student-athletes, they can help identify athletes who need mental health resources, can normalize care seeking, and support “mental well-being and resilience,” *id.* (discussing importance of coach’s role for struggling student-athletes).

B. *Hitting Below the Belt: Male Athletes' Struggles with Mental Health*

Men's mental health is often overlooked.⁴⁴ The stigma surrounding mental health affects men more because of the deeply engrained cultural concept that they must always be "macho" and "tough."⁴⁵ Thus, male athletes are often less aware of their mental health and more reluctant to share these issues with friends and family.⁴⁶ Men are also less likely to seek out mental health resources and support, despite experiencing higher suicide rates than women.⁴⁷ Male and female athletes commonly experience depressive symptoms.⁴⁸ Specifically, depressive symptoms decrease athletes' focus and motivation while also creating intrusive thoughts and fear of failure.⁴⁹ For men, in particular, these depressive symptoms lead to overtraining which in turn affects hormone levels, the immune system, and performance.⁵⁰ It is also common for student-athletes to struggle with disordered eating.⁵¹ Athletes are constantly pressured to be physically perfect and to maintain an ideal body shape.⁵² For male athletes—especially young male athletes—59% are dissatisfied with their body with 19% of male athletes having an eating disorder.⁵³ Lastly, men are more likely than women to resort to alcohol as a means of handling mental health symptoms.⁵⁴

Although men's mental health has been stigmatized, male athletes are still encouraged to seek help.⁵⁵ The stigma surrounding mental health makes people believe that mental toughness and mental health are rivals.⁵⁶ However, with proper support and the use of resources, mental

44. See Molly Knudsen, *Let's Talk About Mental Health in Male Athletes*, INSIDE TRACKER (June 29, 2021), <https://blog.insidetracker.com/lets-talk-about-mental-health-in-male-athletes> [<https://perma.cc/B8TA-7AP8>] (explaining the norm of ignoring men's mental health in research and culture).

45. See *id.* (discussing the stigma surrounding mental health, especially for men).

46. See *id.* (discussing the effects of stigma for male athletes).

47. See *id.* (identifying that suicide rates for men are three point seven times higher than for women).

48. See *id.* (discussing the depressive symptoms of male and female athletes).

49. See *id.* (discussing the impact of depressive symptoms on mental health).

50. See *id.* (explaining that overtraining is excessive exercise without enough recovery).

51. See Gary Souter et al., *Men, Mental Health and Elite Sport: a Narrative Review*, 4 SPORTS MED.-OPEN 57 (2018) (discussing eating disorders for male athletes).

52. See *id.* (discussing the reasons for eating disorders).

53. See *id.* (sharing statistics surrounding eating disorders of male athletes); see also Knudsen, *supra* note 44 (sharing statistics on male athlete eating disorders).

54. See Knudsen, *supra* note 44 (discussing the prevalence of substance abuse among male athletes).

55. See Souter et al., *supra* note 51 (discussing the stigma for male athletes about mental health and encouraging them to seek help and resources).

56. See *id.* at 5–6 (discussing mental toughness).

toughness can be a positive indicator of mental health.⁵⁷ Attacking the stigma through increased education and awareness will allow male athletes to gain a “greater sense of emotional wellbeing.”⁵⁸

C. *Hitting Below the Belt Part 2: Female Athletes’ Struggles with Mental Health*

In 1972, the federal government passed Title IX, which states, “[n]o person . . . on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program.”⁵⁹ Society viewed this as a monumental measure because it promised gender equality in sports programs across the country.⁶⁰ However, even after all the progress made following the passage of Title IX, gender-based harassment and discrimination still exists.⁶¹ Gender-based harassment and discrimination have a significant effect on women’s mental health.⁶² Specifically, female athletes suffer from depression and anxiety at higher rates than male athletes.⁶³ Further, social media has had a negative effect on body image and a female athlete’s innate nature to strive for perfection.⁶⁴ Fortunately, several organizations are working to create a safer environment for women in sports.⁶⁵ For example, the Women’s Sports Foundation (WSF) was

57. *See id.* (discussing how mental toughness is a positive indicator of mental health because athletes are better able to address their needs and feel more confident and in control).

58. *See generally id.* (discussing the goal for mental health and male athletes to help them combat mental illness).

59. Title IX, 20 U.S.C. § 1681(a) (1972).

60. *See* Kathleen M. Pike, *Title IX is About More than Sports*, GLOB. MENTAL HEALTH PROGRAMS (Apr. 14, 2017), <https://kathypikephd.com/five-on-friday/title-ix-is-about-more-than-sports/> [<https://perma.cc/94RF-LVKZ>] (“There is no doubt that Title IX was a watershed moment in U.S. history . . . majority of colleges and universities around the country had become coed, bringing gender equality to classrooms and sports programs and everything in between.”).

61. *See id.* (explaining that the more women experience harassment and discrimination, the more they feel depressed and anxious and increase their use of drugs and alcohol).

62. *See id.* (explaining how women tend to suffer from self-blame, low self-esteem, anger, disgust, and lower life satisfaction).

63. *See* Christina P. Herrero et al., *The psychology of the female athlete: how mental health and wellness mediate sports performance injury and recovery*, 6 *Annals of Joint* 1, 3 (2021) (discussing mental health statistics of female athletes compared to male athletes).

64. *See id.* (discussing the negative effects of social media as a source of body dissatisfaction); *see also* Devi Jags, *There’s a mental health crisis in college sports. I know it firsthand*, WASH. POST (Apr. 29, 2022, 12:07 PM), <https://www.washingtonpost.com/lifestyle/2022/04/29/mental-health-crisis-college-sports/> [<https://perma.cc/9D5D-CB3Z>] (discussing women athletes’ struggle with perfectionism and tendency to fear judgment). Female athletes “tend to magnify their mistakes and shortcomings, and feel relieved instead of joyful when they succeed,” *id.* (discussing female athletes’ self-image struggles).

65. *See generally* *Training and Education*, U.S. CTR. FOR SAFE SPORT, <https://uscenterforsafesport.org/training-and-education/> [<https://perma.cc/P98R-3UHT>] (last visited Aug. 10, 2022) (discussing efforts to end “sexual, physical, and emotional abuse” for

established in 1974 to advocate equality for women and girls in sports.⁶⁶ WSF provides funding and research on gender disparity and offers resources on participation, leadership, body image, and more.⁶⁷ Additionally, Champion Women is a nonprofit organization that provides legal support to women athletes.⁶⁸ This organization conducts research on the implementation of Title IX in educational institutions, provides petitions to end sexual abuse in sports, and contains numerous other resources for athletes.⁶⁹ Lastly, SafeSport is a nonprofit organization committed to creating a safe community for athletes.⁷⁰ The organization has numerous training courses and outreach initiatives for athletes, families, and coaches.⁷¹ SafeSport also has a webpage for reporting abuse.⁷² Although organizations like SafeSport have made positive strides toward creating a safe and equal environment for athletes, there is still more work to do.⁷³ For example, many athletes feel that SafeSport initiatives do not do enough to eliminate microaggressions and discrimination surrounding race, gender, and sexuality.⁷⁴ Through education, advocacy, and community engagement, SafeSport can better promote a culture of equity and inclusion.⁷⁵ Recommendations include coaching seminars, the use of pronouns when introducing oneself, and the use of social media to advocate for minority groups.⁷⁶

athletes); *see also* *Girl Serving Programs*, WOMEN'S SPORTS FED'N, https://www.womenssportsfoundation.org/wsf_program_categories/girl-serving-programs/ [<https://perma.cc/P8UL-5XVB>] (last visited Aug. 10, 2022) (discussing efforts to create a safer environment for female athletes); *see also* *Champion Women: Advocacy for Girls and Women in Sport*, CHAMPION WOMEN, <https://championwomen.org/> [<https://perma.cc/CLV4-B9WL>] (last visited Aug. 10, 2022) (discussing efforts to advocate on behalf of female athletes).

66. *See* *Girl Serving Programs*, *supra* note 65 (discussing the history of WSF).

67. *See id.* (discussing the purpose of WSF).

68. *See* *Champion Women: Advocacy for Girls and Women in Sport*, *supra* note 65 (discussing the background of Champion Women).

69. *See id.* (discussing the purpose of Champion Women).

70. *See* *Training and Education*, *supra* note 65 (quoting the mission for athletes is to “work and learn together free of emotional, physical and sexual abuse and misconduct”).

71. *See id.* (identifying numerous resources on website).

72. *See id.* (identifying the webpage to report abuse).

73. *See* Joseph Gurgis et al., ‘*Safe Sport Is Not For Everyone*’: *Equity-Deserving Athletes’ Perspectives of, Experiences and Recommendations for Safe Sport*, FRONTIERS IN PSYCH. (Mar. 7, 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8934877/> [<https://perma.cc/99WV-4PGP>] (discussing a research study of black, white, gay, queer, male, and female athletes and their experiences with SafeSport).

74. *See id.* (discussing discrimination faced by athletes on teams).

75. *See id.* (noting how SafeSport can improve).

76. *See id.* (sharing athletes’ recommendations).

D. *Hitting Below the Belt Part 3: Transgender Athletes' Struggles with Mental Health*

The Biden administration has recently proposed new rules to add to Title IX that would prohibit harassment and discrimination based on gender identity and sexual orientation.⁷⁷ This proposal is in response to several states passing laws that target transgender student-athletes.⁷⁸ Transgender athletes should be included in Title IX because of the disproportionate level of harassment they face, which can severely affect their mental health.⁷⁹ In general, transgender people are at an increased risk for substance abuse, depression, anxiety, post-traumatic stress disorder, and eating disorders.⁸⁰ Currently, the NCAA requires trans-athletes to regularly report testosterone levels and provide additional documentation that demonstrates they are meeting certain standards to compete in their sport.⁸¹ Although the NCAA is striving for inclusiveness and fairness in all sports, there is still a great deal of opposition to trans-athletes' participation in collegiate sports, which undoubtedly has a negative impact on trans-athletes' mental health.⁸²

77. See Meghan Brink, *Protections for Trans Athletes in Title IX Proposal Still Unknown*, INSIDE HIGHER ED (July 5, 2022), <https://www.insidehighered.com/news/2022/07/05/title-ix-transgender-athletes-be-considered-separately> [<https://perma.cc/P3MS-H3M8>] (discussing Biden's proposed Title IX rules regarding transgender student-athletes).

78. See *id.* (identifying the twenty states that have passed laws that restrict transgender student involvement in sports); see also Melissa Block, *Idaho's Transgender Sports Ban Faces A Major Legal Hurdle*, NPR (May 3, 2021, 7:36 PM), <https://www.npr.org/2021/05/03/991987280/idahos-transgender-sports-ban-faces-a-major-legal-hurdle> [<https://perma.cc/UJ76-LAKW>] (Alabama, Arkansas, Idaho, Mississippi, Tennessee, and West Virginia have signed bills that essentially ban transgender females from competing on teams that align with the gender they identify with). Currently, Idaho's law calling for an invasive and humiliating process of female sex verification is being questioned in *Heckox v. Little* where the plaintiff is a transgender female track and cross-country player at Boise State University, *id.* (discussing an Idaho case brought by a transgender athlete).

79. See Brink, *supra* note 77 (“[T]rans athletes have reported facing a disproportionate level of bullying and harassment compared to their cisgender peers.”); see also *Understanding The Mental Health of Transgender Athletes*, BETTER HELP (Jan. 19, 2023), <https://www.betterhelp.com/advice/general/understanding-the-mental-health-of-transgender-athletes/> [<https://perma.cc/B89Q-XAGE>] (“Transgender athletes often face several distinct barriers that cisgender counterparts may not.”).

80. See *Understanding The Mental Health of Transgender Athletes*, *supra* note 79 (listing numerous mental health issues that transgender people face a heightened risk of). Specifically, transgender people are more likely to experience heightened PTSD because of previous trauma from “intimate partner violence or adverse childhood experiences,” *id.* (discussing the PTSD triggers of transgender people).

81. See Brink, *supra* note 77 (explaining new NCAA guidance that will be fully implemented in August 2023).

82. See *id.* (explaining the NCAA's commitment to an inclusive and fair environment for athletes and discussing state bills targeting trans-athletes). The states that have proposed or already introduced these bills are harming the mental health of student-athletes through their

Athlete Ally is a nonprofit organization that promotes trans-athletes' rights.⁸³ It is a large organization that advocates for equality within sports regardless of sexual orientation or gender identity.⁸⁴ Athlete Ally educates sports governing bodies, teams, and athletes on inclusion and works with the NCAA to create policies that are inclusive of trans-athletes.⁸⁵

E. *Out of Left Field? NCAA Faces Numerous Lawsuits*

The psychological and sexual abuse faced by student-athletes is a prevalent issue across universities in the country.⁸⁶ In 2020, Wichita State's men's basketball coach, Gregg Marshall, was paid \$7.75 million to resign after he was investigated for player abuse.⁸⁷ Multiple players accused Marshall of verbal and physical abuse including punching a player in the back and making racially derogatory remarks.⁸⁸ Furthermore, this past March, the University of San Francisco's baseball coach, Nino Giarratano, was fired for sexually abusive behavior after plaintiffs filed a class action against him.⁸⁹ The plaintiffs alleged that Giarratano created an "intolerable sexualized environment for over 22 years."⁹⁰ Giarratano allegedly gave players sex toys, discussed sexual fantasies with players, and retaliated against players who refused to "participate in the sexualized atmosphere."⁹¹ The athletes experienced

invasive techniques to verify sex and the humiliation that comes with targeting a certain group of students. *id.* See Block, *supra* note 78 (discussing the invasive process of sex verification).

83. See generally ATHLETE ALLY, <https://www.athleteally.org> [<https://perma.cc/L3W9-6NQU>] (last visited Sept. 6, 2022) (discussing efforts and initiatives to create an inclusive environment for LGTBG+ athletes).

84. See *id.* (discussing the purpose of organization).

85. See *id.* (discussing how the organization is working towards creating an inclusive environment).

86. For further discussion of player abuse, see *infra* notes 87–108 and accompanying text.

87. See Nick Bromberg, *Wichita State coach Gregg Marshall gets \$7.75M to resign after investigation into player abuse* allegations, YAHOO! SPORTS (Nov. 17, 2020), <https://sports.yahoo.com/wichita-state-coach-gregg-marshall-gets-775-m-to-resign-after-investigation-into-player-abuse-allegations-165414974.html> [<https://perma.cc/FYY7-L5FR>] (discussing Marshall's resignation which became inevitable after the allegations).

88. See *id.* (describing the allegations as "downright awful" such as when Marshall put his hands around a staffer's neck and was accused of racial verbal abuse by a Native American player).

89. See Aaron Tolentino, *12 former USF baseball players file lawsuit against coaches, school, NCAA for alleged abuse*, KRON 4 (July 15, 2022, 7:11 PM), <https://www.kron4.com/news/bay-area/12-former-usf-baseball-players-file-lawsuit-against-coaches-school-ncaa-for-alleged-sexual-abuse/> [<https://perma.cc/G3M5-8KTU>] (discussing the class action lawsuit by former USF baseball players against the head coach and associate head coach).

90. See *Doe v. NCAA*, No. 3:22-CV-01559-LB, 2023 U.S. Dist. LEXIS 1186, at *2 (N.D. Cal. July 15, 2022) (quoting the allegations).

91. See *id.* (listing the allegations).

severe emotional distress from the abuse.⁹² Many considered suicide.⁹³ Further, in 2020, Erin Aldrich and two other female track athletes filed suit against their former coach, John Rembao, for sexual abuse.⁹⁴ Aldrich alleged that Rembao began grooming her when she was a junior in high school and that Rembao initiated a sexual relationship with her when she was in college; it was not until later that Aldrich realized she was a victim of abuse.⁹⁵ The resultant stress caused her to be hospitalized.⁹⁶

Unfortunately, sexual abuse of players at the hands of coaches is a common occurrence that stems from the close relationships formed between the two.⁹⁷ Coaches play an integral role in training and protecting athletes and often become their source of dependency because of the incredible amount of stress and scrutiny athletes have to perform.⁹⁸ Coaches also “set the social and cultural environment” and are “primary gatekeepers in regard to attitudes and beliefs that most heavily influence mental health service utilization among their student-athletes.”⁹⁹ Because

92. *See id.* (“... wielded their power to subject their players to recurring sexual harassment and psychological abuse resulting in emotional distress...”).

93. *See id.* (“... resulting in emotional distress so severe that multiple players contemplated suicide.”).

94. *See Aldrich v. NCAA*, 484 F. Supp. 3d 779, 784–87 (N.D. Cal. 2020) (describing allegations made by three former female track players at University of Texas in Austin); *see* Paula Lavigne, *NCAA sued by 7 women for failure to protect in alleged sexual assaults*, ESPN (Apr. 29, 2020), https://www.espn.com/college-sports/story/_/id/29114869/ncaa-sued-7-women-failure-protect-alleged-sexual-assaults [<https://perma.cc/TG7F-TXVC>] (listing other sexual abuse lawsuits filed by female athletes against universities and NCAA for failing to protect them and not taking action against perpetrators).

95. *See Aldrich*, 484 F. Supp. 3d at 785 (describing Aldrich only later discovered her abuse while watching documentary on boys sexually abused by Michael Jackson). The plaintiffs allege that Rembao would inappropriately touch and massage them, make sexual remarks, call them at night, and would invite them over his house to engage in sexual activity, *id.* at 784–87 (discussing the horrifying allegations made against Rembao).

96. *See id.* at 785 (stating Aldrich’s hospitalization after her realization).

97. *See* Sonja Gaedicke et al., *Sexual Violence and Coach-Athlete Relationship- a Scoping Review From Sport Sociological and Sport Psychological Perspectives*, FRONTIERS IN SPORTS AND ACTIVE LIVING (May 13, 2021), <https://www.frontiersin.org/articles/10.3389/fspor.2021.643707/full> [<https://perma.cc/2TYM-4P2Y>] (discussing the intense relationship formed between a player and a coach and how it carries risks for “negative dependencies, misuse of trust, and commission of abuse”).

98. *See id.* (“Coaches undoubtedly perform a key function in the training, promotion, and safeguarding of athletes.”). The author discusses the negative dependencies that form within this relationship, *id.* (discussing the power imbalances and negative dependencies formed within coach-athlete relationships).

99. *See* Jesse Steinfeldt et al., *How College Football Coaches Perceive Sport Psychology Services*, ADU, <https://athleticdirector.com/articles/how-college-football-coaches-perceive-sport-psychology-services/> [<https://perma.cc/A7PA-4PJU>] (explaining the role coaches play for student-athletes).

of this intense relationship, it can be easy to exploit that trust.¹⁰⁰ The power imbalance between these two roles can create a relationship of dominance and submissiveness.¹⁰¹ “Sexual grooming” is a process in which a perpetrator, usually in a position of power, “gains a person’s or organization’s trust with the intent to be sexually abusive.”¹⁰² In a sports context, abusive coaches use the trust to create friendships and build upon their personal relations with athletes to then engage in sexual activities.¹⁰³

Additionally, college athletics have had trouble addressing emotional abuse because of the unclear standards for what constitutes abusive coaching.¹⁰⁴ Where does one draw the line between tough coaching and straight abuse?¹⁰⁵ A clearer definition may be when a coach uses an athlete’s identity to fuel their criticism of the player’s performance.¹⁰⁶ Emotional abuse only aggravates athletes’ mental health struggles.¹⁰⁷ Abusive coaching can also lead to revoked scholarships which leave a student’s tuition, food, and housing completely in the hands of the controlling coach.¹⁰⁸ Undoubtedly, this would have a severe impact on the athlete’s mental health.¹⁰⁹

100. See Gaedicke et al., *supra* note 97 (discussing the misuse of trust that occurs once a boundary is crossed in a relationship).

101. See *id.* (explaining how coaches take on an authoritarian role by ignoring the needs of players and relying on sexual harassment and abuse to qualify their power).

102. See Daniel Pollak & Andrea MacIver, *Understanding Sexual Grooming in Child Abuse Cases*, A.B.A. (Nov. 1, 2015), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/november-2015/understanding-sexual-grooming-in-child-abuse-cases/ (discussing the key elements of sexual grooming including targeting and isolating a victim and gaining their trust).

103. See *id.* (explaining the “grooming” process); see also *Aldrich v. NCAA*, 484 F. Supp. 3d 779, 784–87 (N.D. Cal. 2020) (describing Rembao grooming girls through conversations and compliments that turned into sexual abuse).

104. See Katie Lever, ‘A Mental Health Battle’: How Abusive Coaching Impacts College Athletes, *GLOB. SPORT MATTERS* (May 24, 2022), <https://globalsportmatters.com/culture/2022/05/24/mental-health-battle-how-coach-impacts-college-athletes/> [<https://perma.cc/ZBQ5-9XUH>] (“The industry lacks a clear definition of what constitutes abusive coaching, especially when it involves emotional instead of physical harm.”).

105. See *id.* (asking this question and identifying researcher’s findings of certain “tells” and patterns of behavior that indicates abuse). Behaviors like belittling, humiliating and isolating are only a few indicators of abuse, *id.* (listing some indicators of coaching abuse).

106. See *id.* (discussing Jonathan Katz’s definition of coaching abuse). Jonathan Katz is a clinical and sports psychologist *id.* (identifying Jonathan Katz).

107. See *id.* (explaining how abuse aggravates athletes’ existing feelings of anxiety, insecurity, and depression). Abusive coaching can also lead to controlling behaviors such as eating disorders and self-harm, *id.* (explaining the consequences of abuse coaching).

108. See *id.* (explaining how coaches have the power to revoke scholarships and how an athlete’s lack of control makes it easy for coaches to control basically everything including scholarships, room and board, and playing time).

109. See *id.* (discussing how removing scholarships threatens athletes with negative consequences for reporting abusive coaching).

F. *The Ball is in Your Court: Potential Federal Legislation*

In a March 2022 virtual panel discussion on inequities within the NCAA, Senators Chris Murphy, Richard Blumenthal, and Cory Booker addressed the issue of student-athlete mental health.¹¹⁰ In December 2020, the senators introduced federal legislation that would create a bill of rights for student-athletes.¹¹¹ The College Athletes Bill of Rights would include health and safety standards and fair compensation where schools are required to share revenues with athletes.¹¹² The senators believed that college athletes' mental health is "fundamentally a civil rights and economic rights issue" warranting federal intervention.¹¹³ The proposed bill focused on empowering these athletes by providing them with the tools they will need to protect their health, safety, and economic rights.¹¹⁴ It also calls out the NCAA for only protecting compensation for an athlete's name, image, and likeness rather than focusing on protecting the athletes themselves.¹¹⁵

110. See Dean Golembeski, *College Athletes' Mental Health Concerns Draw Congressional Attention*, BEST COLLEGES (Apr. 5, 2022), <https://www.bestcolleges.com/news/2022/04/04/ncaa-college-athletes-mental-health-safety-congress/> [<https://perma.cc/4JSV-STND>] (discussing three democratic senators' virtual panel on NCAA and student-athlete mental health where students were invited to speak on their experiences, including previous UMass tennis player, Brittany Collens).

111. See Booker, *Senators Announce College Athletes Bill of Rights*, CORY BOOKER (Aug. 13, 2020), <https://www.booker.senate.gov/news/press/booker-senators-announce-college-athletes-bill-of-rights> [<https://perma.cc/T8QF-VFZE>] (describing proposed legislation that would create more rights and protections for student-athletes).

112. See *id.* (listing rights and protections as "fair and equitable compensation," enforcing "evidence-based health, safety, and wellness standards," improving "educational outcomes and opportunities," providing "comprehensive health care coverage and support with sport-related injuries," enforcing "accountability across college sports," and providing for "an oversight panel that gives athletes a real voice"). The proposed legislation would include holding coaches accountable for abusive decision-making, providing financial assistance for athletes, and requiring schools to release detailed annual public reporting on their programs and revenues, *id.* (listing protections and opportunities for student-athletes in Democrats' proposed legislation).

113. See Golembeski, *supra* note 110 (quoting Senator Murphy on importance of student-athlete mental health).

114. See *id.* (calling the NCAA an exploitative industry that ignores student-athlete health and injuries); see also Booker, *Senators Announce College Athletes Bill of Rights*, *supra* note 111 (discussing that proposed legislation will not only provide for fair and equitable compensation for students but also create enforceable standards of care).

115. See Golembeski, *supra* note 110 (" . . . the NCAA needs to do more to help athletes than just allowing them to cash in on their name, image, and likeness . . . college athletes called on the NCAA to prioritize their health and safety."); see also Booker, *Senators Announce College Athletes Bill of Rights*, *supra* note 111 (discussing \$14 billion industry of college athletics where NCAA profits off "literal blood, sweat, and tears of student athletes" and how there should be fair compensation for athletes to market and profit off their name, image, and likeness). There are many restrictions on athletes profiting off their NIL and the proposed legislation would give them autonomy to determine their NIL agreements while also protecting their mental health, *id.* (explaining NIL protections within proposed legislation).

Furthermore, the National Labor Relations Board (NLRB) recently published a memo that reflects their favorable position that student-athletes at private universities should be considered employees under federal labor law.¹¹⁶ If officially declared, this would afford student-athletes the right to numerous protections, including the right to unionize.¹¹⁷ For private school athletes, this would mean progress toward the fight for mental health change at their institutions.¹¹⁸ However, the NLRB's position does not seem to extend to student-athletes at public institutions.¹¹⁹ Therefore, many student-athletes will most likely remain reliant on the NCAA to address their mental health struggles for the foreseeable future.¹²⁰

The federal government's last "hail mary" play to regulate student-athlete mental health resources is through the Interstate Commerce Clause.¹²¹ Since Congress has the ability to regulate individuals in interstate commerce and any economic activities that may potentially impact interstate commerce, it is possible that NCAA mental health resources could fall within these controlled activities.¹²² Thus, if sport organizations, proposed federal legislation, and the NLRB are not successful in their movements towards promoting and protecting student-athletes' mental health, Congress could potentially intervene through its Interstate Commerce power.¹²³

II. THE STRESSED SPORTSMAN: NCAA IMPROVEMENT AND THE INTERSTATE COMMERCE CLAUSE

This Section analyzes remedial measures that can be implemented to protect student-athletes' mental health.¹²⁴ Subsection A discusses

116. See Maria Carrasco, *Treating Private Athletes Like the Pros*, INSIDE HIGHER ED. (Sept. 30, 2021), <https://www.insidehighered.com/news/2021/09/30/nlrp-decision-paves-way-college-athlete-rights> [<https://perma.cc/YL6Z-4LW7>] (discussing the NLRB's new change for student-athletes at private institutions).

117. See *id.* (discussing the implications of change).

118. See Jayce Born, *National Protection of Student-Athlete Mental Health: The Case for Federal Regulation over the National Collegiate Athletic Association*, 92 IND. L. J. 1221, 1233 (2017) (discussing the NLRB's positive change for private student-athletes).

119. See *id.* (discussing the gap it creates for public student-athletes).

120. See *id.* at 1234 (explaining that more needs to be done at federal level to create positive mental health change for all student-athletes).

121. For further discussion of how Congress can use its commerce power to regulate mental health resources, see *infra* notes 151–61 and accompanying text.

122. For further discussion of the activities Congress can regulate, see *infra* notes 152–58 and accompanying text.

123. For further discussion of the Interstate Commerce Clause as the strongest solution for regulation of student-athlete mental health resources, see *infra* notes 190–96 and accompanying text.

124. For further discussion of remedial measures, see *infra* notes 128–61 and accompanying text.

measures the NCAA and other organizations have taken and how these measures may be improved.¹²⁵ Subsection B discusses how the federal government can step in through the Interstate Commerce Clause.¹²⁶ Finally, the last Section concludes by discussing the future of mental health within collegiate student athletics.¹²⁷

A. Dropped the Ball: NCAA and Organizations Must Step Up Their Game

Although the NCAA recently instituted concussion protocols in light of litigation and social awareness surrounding athlete concussion-based deaths, the organization refuses to tackle mental health with the same passion.¹²⁸ Student-athletes surveyed on the prevalence of mental health issues and NCAA effectiveness identified that female athletes were not aware of any NCAA resources despite the fact that they are “nearly twice as likely as men to develop depression, anxiety, and eating disorders.”¹²⁹ Additionally, 10% to 15% of NCAA athletes require counseling to address severe psychological issues.¹³⁰ These alarming statistics indicate that the NCAA must approach mental health just as aggressively as it does concussions.¹³¹ The self-declared mission of the NCAA is “protecting student athletes and providing a safe environment for

125. For further discussion of measures taken by NCAA and organizations, *see infra* notes 128–42 and accompanying text.

126. For further discussion of how the federal government can use the Interstate Commerce Clause to address student-athlete mental health, *see infra* notes 151–61 and accompanying text.

127. For further discussion of the future of college athlete mental health, *see infra* notes 162–96 and accompanying text.

128. *See* Born, *supra* note 118, at 1224 (finding athletes deserve more than what the NCAA has done for mental health and they cannot wait for litigation attention like the NCAA has done with the concussion issue).

129. *See* Matt Gonzalez, *How the NCAA Is Tackling Mental Health*, THE RECOVERY VILLAGE (May 11, 2022), <https://www.therecoveryvillage.com/mental-health/ncaa-tackling-mental-health/> [<https://perma.cc/DY2N-DVN9>] (finding that female athletes view NCAA more negatively than males and only twenty-three percent of men and thirteen-percent of women who were surveyed thought NCAA provided enough mental health resources). Even with the enactment of Title IX, athletic departments on average spend twice as much on programs for men than women which results in a discrepancy in counseling resources between the programs, *id.* (discussing inequity between athletic programs).

130. *See* Born, *supra* note 118, at 1223 (providing NCAA athlete statistics on mental health). The article also notes that suicide is the third-leading cause of death for student-athletes and that a study from the University of Pennsylvania found that out of the entire NCAA student-athlete population of 460,000 students about 40,600 would have contemplated suicide, *id.* (listing suicide statistics of student-athletes).

131. *See id.* at 1224 (discussing the need for a more aggressive approach to mental health); *see also* Gonzalez, *supra* note 129 (finding that although the NCAA provides educational resources to athletes and coaches, and counseling is more prevalent in athletic departments, many NCAA campuses are still lacking).

them.”¹³² Although the NCAA has many resources and services on student-athlete mental health, further research is necessary to actually verify the effectiveness of these “Best Practices.”¹³³

Furthermore, although SafeSport serves as an advocate for equality and inclusion and is a positive resource for training and best practices, it still has room for improvement.¹³⁴ SafeSport (the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act) has the authority to address abuse and misconduct within the U.S. Olympics and Paralympics.¹³⁵ Given SafeSport’s limited authority to just those two organizations, it is clear why the NCAA may not be utilizing SafeSport resources or enforcing their reporting requirements.¹³⁶ A solution to bolstering mental health resources is to allow SafeSport to partner with the NCAA and other collegiate sports organizations in changing and developing better mental health policies and initiatives for student-athletes.¹³⁷

Although the NCAA has had a slow start in addressing the mental health crisis, many universities have taken the lead.¹³⁸ For example, the

132. See Born, *supra* note 118, at 1224 (quoting the NCAA mission statement).

133. See Andrea Stamatis et al., *Can Athletes Be Tough Yet Compassionate to Themselves? Practical implications for NCAA mental health best practice no. 4*, NAT’L LIBR. OF MED. (Dec. 31, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7774983/#:~:text=Recent%20tragic%20events%20and%20data,against%20stressors%20associated%20with%20sports> [https://perma.cc/QBY9-N26H] (stating NCAA’s “best practices provide general goals, but they do not clarify the specific skills and education needed for their realization.”).

134. See Gurgis et al., *supra* note 73 (discussing issues with SafeSport for certain groups of athletes).

135. See *Training and Education*, *supra* note 65 (discussing the history of SafeSport and how it has oversight authority over the U.S. Olympic & Paralympic Committee).

136. See *id.* (discussing SafeSport’s authority over the Olympics and Paralympics but nothing about the collegiate level); see also *Understanding Mandatory Reporting Obligations for NCAA Coaches: Title IX & SafeSport*, GLOB. SPORTS ADVOC., <https://www.globalsportsadvocates.com/blog/mandatory-reporter-obligations-for-ncaa-coaches.cfm> [https://perma.cc/Z9EB-PH3F] (last visited Oct. 27, 2022) (discussing SafeSport’s only requirement for NCAA coaches is to report sexual abuse and this requirement only applies to coaches who are members of a National Governing Body under the USOPC); see also Scott Reid, *Why aren’t college coaches subject to SafeSport bans for sexual misconduct?*, DAILY BULLETIN (Jan. 22, 2020, 2:07 PM), <https://www.dailybulletin.com/2020/01/22/why-arent-college-coaches-subject-to-safesport-bans-for-sexual-misconduct/> [https://perma.cc/4J2J-Z3K5] (discussing how the NCAA does not enforce “SafeSport and NGB sanctions for sexual and physical abuse for coaches or athletes”). This indicates that if the NCAA is not even required to enforce abuse, then it will not use nor require SafeSport training and education, *id.* (discussing NCAA lack of enforcement for SafeSport sanctions).

137. See Reid, *supra* note 136 (discussing how NCAA does not enforce sanctions for abuse). This indicates that SafeSport should work with or have more authority over NCAA to ensure player safety and mental health., *id.* (discussing how the NCAA always evades and ignores problems).

138. See Lindberg, *supra* note 7 (discussing the USC’s strides in addressing mental health); see also Hank Kurtz Jr. & Erica Hunzinger, *College athletes push mental health to the forefront*,

University of Southern California (USC) has a team of sport psychologists who are dedicated to helping student-athletes thrive.¹³⁹ These sports psychologists provide individual therapy sessions, educate coaches and players on mental health and substance abuse, and respond to suicidal crises.¹⁴⁰ The team identified ‘performance-based identity’ as the root of the problem— i.e., if “you aren’t achieving, you don’t perceive yourself to have value . . . [t]hen when you do achieve something, it may be experienced as relief more than joy.”¹⁴¹ The stable mental health support that USC has provided for its student-athletes has resulted in students feeling better, improving their performance, and quashing the stigma surrounding mental health.¹⁴²

B. *Reach Your Goal: How the Federal Government Can Step In*

1. Get the Ball Rolling: Democrats’ Bill Needs Improvement

Although the College Athletes Bill of Rights, as proposed, is a positive step towards reform, it is too broad—the proposed legislation encompasses multiple aspects of student-athletes’ lives and does not adequately address mental health issues.¹⁴³ While it seeks to improve athletes’ health and safety, it focuses more on the educational and economic opportunities for students.¹⁴⁴ Specifically, the bill calls for more educational resources for athletes to earn their degrees as well as the ability for them to profit off their games.¹⁴⁵ Student-athletes deserve

THE SAN DIEGO UNION TRIB. (June 4, 2022, 7:36 AM), <https://www.sandiegouniontribune.com/news/california/story/2022-06-04/college-athletes-push-mental-health-to-the-forefront> [https://perma.cc/42QM-CP3Q] (discussing how Nova Southeastern and Colorado are addressing the mental health crisis). Nova Southeastern teaches athletes how to integrate mental health into their lives and Colorado has increased its budget to go towards a crisis hotline and hiring more staff, *id.* (discussing college programs’ efforts to address student-athlete mental health).

139. *See* Lindberg, *supra* note 7 (“USC is really a model . . . [w]e collaborate a lot, and . . . is a national leadership voice for mental health.”).

140. *See id.* (discussing everything USC is doing for student-athlete mental health and battling stigma by telling students it is okay to ask for help).

141. *See id.* (quoting a sport psychologist on student-athletes’ dangerous mindset).

142. *See id.* (sharing stories of USC athletes and how far they have come with their mental health since starting at the school). The students share how it has “been a complete game changer, being able to speak to someone with no judgment” and the importance of therapy for everyone, *id.* (discussing USC athletes’ stories of struggling and overcoming mental health issues with the help of athletic department).

143. *See* Booker, Blumenthal, Schatz, Wyden, Padilla *Introduce College Athletes Bill of Rights*, INSIDER NJ (Aug. 3, 2022, 10:08 PM), <https://www.insidernj.com/press-release/booker-blumenthal-schatz-wyden-padilla-introduce-college-athletes-bill-of-rights/> [https://perma.cc/68FP-FS53] (explaining the numerous issues within collegiate athletics bill hopes to address).

144. *See id.* (“This issue is about fairness and justice, which is why athletes deserve . . . increased educational resources . . . the right to financially benefit from their hard work.”).

145. *See id.* (quoting above footnote regarding what bill hopes to achieve).

legislation that also solely focuses on addressing mental health.¹⁴⁶ This would break the mental health stigma and provide more resources for suffering student-athletes.¹⁴⁷

Additionally, the bill's lack of timeliness presents potential flaws.¹⁴⁸ Notably, it has already been almost two years since the bill was proposed.¹⁴⁹ Due to the difficulty of passing laws in a bipartisan system, perhaps a more effective solution for federal oversight of student-athlete mental health is through the Interstate Commerce Clause.¹⁵⁰

2. Hail Mary: The Interstate Commerce Clause

Article 1, Section 8, Clause 3 of the U.S. Constitution gives Congress the power to “regulate commerce . . . among the several states” under the Interstate Commerce Clause.¹⁵¹ The U.S. Supreme Court has gradually expanded the meaning of the commerce power to define the types of activities that Congress may regulate.¹⁵² Today, “Congress can (1) regulate the “channels of interstate commerce (2) regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce . . . and (3) regulate economic or commercial activities that “substantially affect interstate commerce.”¹⁵³

Given the constantly evolving “tests” of the commerce power, it may seem difficult to envision how the federal government could regulate NCAA student-athlete mental health resources.¹⁵⁴ However, the NCAA

146. See Born, *supra* note 118, at 1224 (stating student-athletes “deserve an aggressive approach to providing greater mental health resources”).

147. See *id.* (discussing the importance of providing more mental health resources to student-athletes); see also Lindberg, *supra* note 7 (discussing the stigma of mental health).

148. See Booker, *Senators Announce College Athletes Bill of Rights*, *supra* note 111 (showing the proposed bill was made two years ago).

149. See Ross Dellenger, *Five Senators to Reintroduce Sweeping College Athlete Bill of Rights in Congress*, SPORTS ILLUSTRATED (Aug. 3, 2022), <https://www.si.com/college/2022/08/03/college-athlete-bill-of-rights-congress-transfers-nil> [<https://perma.cc/Y78K-FLPZ>] (discussing democrats reintroducing the bill to Congress with changes since 2020).

150. See *Good Question: Why Is It So Hard To Pass A Law?*, CBS NEWS MINN. (June 23, 2016, 10:56 PM), <https://www.cbsnews.com/minnesota/news/good-question-passing-bills/> [<https://perma.cc/X33G-JYCK>] (describing Congress as a graveyard because of the extreme difficulty of passing laws in a partisan system); see also Born, *supra* note 118 (introducing possible solution for federal regulation through Interstate Commerce Clause).

151. See U.S. CONST. art. 1, § 3, cl. 1 (quoting the Interstate Commerce Clause).

152. See Born, *supra* note 118, at 1241 (discussing the evolution of Commerce Clause jurisprudence).

153. See *id.* (quoting three circumstances of the Commerce Clause test where Congress has power); see also *United States v. Lopez*, 514 U.S. 549, 558–59 (1995) (listing three categories where Congress may regulate interstate commerce).

154. See Born, *supra* note 118, at 1241 (questioning how the NCAA mental health resources could fall under commerce power due to rapidly changing development of the Commerce Clause “tests”).

runs its own business.¹⁵⁵ In fact, college athletics is a \$14 billion industry.¹⁵⁶ As such, it is apparent that an industry that profits off the success of individuals who cross state lines to compete, would undoubtedly fall under the Commerce Clause.¹⁵⁷ Further, university athletic departments and the NCAA could also be considered “instruments of interstate commerce” within the meaning of the “test.”¹⁵⁸ By using this power, Congress can promptly pass regulatory legislation that has enforcement over all states and organizations—including the NCAA.¹⁵⁹ This would be an extremely fruitful and inexpensive means of initiating change.¹⁶⁰ Thus, Congress should use its Interstate Commerce power to oversee and regulate NCAA mental health resources for athletes.¹⁶¹

III. NOT TIME TO THROW IN THE TOWEL: THE FUTURE OF STUDENT-ATHLETE MENTAL HEALTH

This Comment recognizes the lack of protective action toward the student-athlete mental health crisis.¹⁶² The NCAA—as the leading organization in college athletics—must create stronger guidelines and standards for schools to follow.¹⁶³ Furthermore, the federal government should utilize the Interstate Commerce Clause to regulate mental health initiatives.¹⁶⁴ In the meantime, it is vital that campuses make mental health resources accessible for student-athletes, implement pre-participation screenings to monitor at-risk athletes, and openly debunk

155. *See id.* (“The NCAA is often said to be running its own business.”).

156. *See Booker, Senators Announce College Athletes Bill of Rights*, *supra* note 111 (discussing how student-athletes are fueling the \$14 billion industry of college athletics).

157. *See Born*, *supra* note 118, at 1242 (discussing how the NCAA could fall under federal regulation because of athletes crossing state lines and the amount of revenue schools are making off of them).

158. *See id.* (fitting the NCAA, athletic departments, and athletes into the three component “test” of the Interstate Commerce Clause).

159. *See id.* at 1237 (discussing how Congress can use broad authority of commerce power to pass “swift-acting legislation in the public interest”).

160. *See id.* (discussing how this as an efficient and cost-saving way to create change and would cause minimal disruption to the NCAA).

161. *See id.* at 1242 (concluding that Congress using its commerce power to enforce student-athlete mental health regulations on the NCAA and colleges will not violate federalism nor the Constitution).

162. *See Gonzalez*, *supra* note 129 (providing statistics on student-athletes’ perceptions of and attitudes towards the NCAA resources). Forty-nine percent of those surveyed felt that the NCAA was not providing enough resources for student-athletes to treat their mental health issues, *id.* (identifying statistics on how athletes felt about the NCAA resources).

163. *See Born*, *supra* note 118, at 1224 (stating that students “deserve an aggressive approach to providing greater mental health resources” from the NCAA and they can no longer wait).

164. *See id.* at 1237 (considering how Congress could regulate student-athlete mental health resources through the Interstate Commerce Clause).

the stigma so that student-athletes feel comfortable opening up about their mental health.¹⁶⁵

The NCAA has admitted that there is a mental health epidemic.¹⁶⁶ On the surface, it seems the best approach is to leave initiatives to the NCAA because of its mission statement and the research and recommendations of its Sport Science Institute.¹⁶⁷ However, if its movement to implement mental health initiatives is anything like its handling of concussion protocols, there may not be any effective solutions to the crisis anytime soon.¹⁶⁸ In fact, Mary Wilfert, Associate Director for the Sport Science Institute, declared that mental health intervention “cannot come out of the national office” because the NCAA is “not a medical organization.”¹⁶⁹ Clearly, the NCAA has more work to do.¹⁷⁰

Although the NCAA provides some guides and educational tools for students and schools, it lacks stringent training for athletic departments.¹⁷¹ Training coaches and trainers in addressing mental health concerns are essential because of the close relationship between trainers and athletes.¹⁷² Athletic trainers serve as “confidants, motivators, encouragers, and even friends,” and there is a unique level of trust that is built between trainers and athletes.¹⁷³ Accordingly, given their important role, it is essential that these athletic trainers quickly catch any mental

165. See *Interassociation Consensus Document: Mental Health Best Practices*, *supra* note 22 (providing the NCAA’s guide of recommendations to athletic departments “for supporting and promoting student-athlete mental health”); see also Lindberg, *supra* note 7 (sharing USC student-athletes’ stories on struggles with mental health and a sport psychologists’ strategy for fighting the stigma).

166. See *Interassociation Consensus Document: Mental Health Best Practices*, *supra* note 22 (providing the NCAA’s recommendation guide for addressing student-athlete mental health). This guide as well as the other resources on the NCAA’s website indicates that the NCAA understands there is a student-athlete mental health issue, *id.* (identifying numerous mental health resources the NCAA provides).

167. See Born, *supra* note 118, at 1231–33 (discussing why NCAA would be the best organization to take lead because of its role in college athletics and its resources).

168. See *id.* (discussing the NCAA’s reluctance to take serious action on mental health is a serious downfall and students cannot wait around for litigation to kick NCAA into action).

169. See *id.* at 1232 (quoting Associate Director’s opinion on NCAA’s role in student-athlete mental health).

170. See *id.* at 1231 (calling NCAA to action).

171. See *id.* at 1242–43 (discussing need for more education and training in college athletics).

172. See Rachel Sharpe, *Solving the mental health puzzle*, NCAA, <https://www.ncaa.org/sports/2014/9/23/solving-the-mental-health-puzzle.aspx> [https://perma.cc/6UMH-FXWE] (last visited Sept. 6, 2022) (discussing the close relationship formed between athletes and coaches that “leads to a unique level of trust”). Locker rooms are a place of “comfort and camaraderie” where athletes can let their guards down for a moment, *id.* (explaining the relationship formation and vulnerability of athletes).

173. See *id.* (quoting language of relationship formed between trainer and athlete).

health issues with athletes.¹⁷⁴ To adequately assist the NCAA, collegiate schools should follow the NCAA's *Best Practices* guide.¹⁷⁵ However, this is only the bare minimum and schools should also follow the lead of other institutions like USC.¹⁷⁶ This includes developing and training a team of sports psychologists in providing therapy sessions and educating coaches and players on mental health.¹⁷⁷

Moreover, the NCAA suggests using pre-participation screening questionnaires to better identify at-risk student-athletes by proposing the use of nine specific questions.¹⁷⁸ However, these questionnaires leave great discretion to athletic departments which can create an inadequate and ineffective screening process across the board.¹⁷⁹ A better solution is to enforce pre-participation biannual or triannual screening across campuses to ensure that all athletes' mental health concerns are being caught.¹⁸⁰ This is especially important because athletes tend to ignore their mental health concerns.¹⁸¹

Finally, mental health screening should be combined with mental health education for athletes, families, and athletic departments because of the stigma surrounding mental health.¹⁸² Athletes constantly struggle

174. *See id.* (discussing how those dedicated to student-athlete wellness must “keep our eyes and ears open for conversations or changes in behavior suggesting that a deeper mental or emotional issue may be present”).

175. *See Interassociation Consensus Document: Mental Health Best Practices, supra* note 22, at 6 (“[T]his practitioner should be easily accessible to student-athletes, which includes being accessible through establishment of a self-referral process. Ensuring that all student-athletes receive mental health care . . . may require hiring relevant personnel, or helping support the dedicated service of an on-campus practitioner . . .”).

176. *See Lindberg, supra* note 7 (discussing USC's success in addressing mental health concerns).

177. *See id.* (listing USC's current initiatives).

178. *See Interassociation Consensus Document: Mental Health Best Practices, supra* note 22 (discussing that primary athletic providers and licensed practitioners should implement pre-participation screening questionnaires).

179. *See id.* (discussing that providers should implement screening of their choice).

180. *See Emily Kroshus, Variability in Institutional Screening Practices Related to Collegiate Student-Athlete Mental Health, NAT'L LIBR. OF MED.* (May 5, 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5013708/> [<https://perma.cc/P4EN-JRFS>] (identifying fewer than half of U.S. colleges have written plans for identifying mental health concerns of student-athletes). A 2005 study found that pre-participation screening varied widely among NCAA institutions with only thirty-two percent of schools requiring returning athletes to complete a questionnaire, *id.* (arguing that more investigation needs to be done into whether institutions follow up with student-athletes who have a positive screen for mental illness).

181. *See Lindberg, supra* note 7 (discussing the stigma of mental health and student-athletes' reluctance to speak out about their issues).

182. *See Athletes and Mental Health: Breaking the Stigma, CLEVELAND CLINIC* (Aug. 10, 2021), <https://health.clevelandclinic.org/mental-health-in-athletes/> [<https://perma.cc/34NR-LUZZ>] (discussing the stigma of mental health and the idea that you cannot be tough if you ask for help). The author shares that parents should keep an eye out on their children by listening with

with performance-based anxiety and their physical health usually takes precedence over their mental health.¹⁸³ Athletic departments and coaches must be aware of all the ways players are struggling—mentally and physically.¹⁸⁴ Once the stigma is eliminated and all those involved are educated more, teams and families can become better resources for struggling student-athletes.¹⁸⁵

Just three months after the tragic suicide of their daughter, Katie Meyer's parents have proposed a new policy at Stanford that could save other students' lives.¹⁸⁶ 'Katie's Save' would allow students to opt into a program that notifies an advocate if they are struggling with mental health or physical injury.¹⁸⁷ College students—especially student-athletes—juggle numerous responsibilities and may feel like they can handle everything on their own.¹⁸⁸ However, like Katie, student-athletes could benefit from extra support.¹⁸⁹ Furthermore, to ensure the protection of the lives of student-athletes, the NCAA and colleges need to provide more resources and enforce more standards for athletic departments to follow.¹⁹⁰ Mental illness is not disappearing anytime soon, and especially for student-athletes who are balancing numerous responsibilities, the issue will only become more prevalent unless stricter measures are taken.¹⁹¹ While the NCAA has created guides and procedures, they still had a slow start.¹⁹² Perhaps, the proposed federal legislation can be

an open mind and encouraging them to talk, *id.* (discussing the parental role within student-athlete mental health).

183. See Andrea Nguyen, *Stigma Surrounding Mental Health in College Athletics*, THE OBERLIN REV. (Apr. 22, 2022), <https://oberlinreview.org/26787/sports/stigma-surrounding-mental-health-in-college-athletics/> [<https://perma.cc/5AHY-K3LS>] (reasoning why athletes struggle and how their mental health is being ignored because of focus on their physical bodies).

184. See Lindberg, *supra* note 7 (discussing the importance of collaboration within an athletic department to better address mental health concerns).

185. See *id.* (sharing stories of student-athletes who struggled with mental health but who came out the other side because of athletic department's focus on breaking stigma).

186. See Bonagura, *supra* note 5 (discussing the 'Katie's Save' policy).

187. See *id.* (explaining how the program would allow students to choose whom their advocate is to notify in times of crisis).

188. See *id.* (discussing Katie's mom's thoughts on the struggles of college students).

189. See *id.* (discussing Katie's parents' belief that a program like 'Katie's Save' could have saved their daughter's life).

190. See Born, *supra* note 118, at 1243 (discussing the need for NCAA to do more and how federal legislation should focus on education and training for trainers, coaches, and student-athletes).

191. See Lindberg, *supra* note 7 (discussing the numerous responsibilities of college athletes and the seriousness of addressing their mental health concerns).

192. See Born, *supra* note 118, at 1224, 1242 (stating the NCAA acknowledges mental health crisis but cannot wait for litigation because students "deserve an aggressive approach to providing greater mental health resources.").

pushed through Congress.¹⁹³ The Interstate Commerce Clause may be an even stronger solution.¹⁹⁴ By regulating resources through the commerce power, Congress can create uniformity and increase support across all athletic departments in the way they address and treat athletes' mental health.¹⁹⁵ Together, all of the resources, organizations, and people who care about student-athletes can show them that mental illness is a contender they can face as a team.¹⁹⁶

193. See *Booker, Senators Announce College Athletes Bill of Rights*, *supra* note 111 (discussing the senators' proposed legislation); but see *Good Question: Why Is It So Hard To Pass A Law?*, *supra* note 150 (describing Congress as a graveyard because of extreme difficulty in passing laws in partisan system).

194. See *Born*, *supra* note 118, at 1242 (discussing how the NCAA could fall under federal government regulation because of athletes crossing state lines and the amount of revenue schools are making off of them). Athletic departments and the NCAA could be considered "instruments of interstate commerce" and as such, Congress could have a strong chance at using its commerce power to regulate the NCAA's mental health resources for athletes, *id.* (explaining how the NCAA could fall under Congress's commerce power based on the "test").

195. See *id.* at 1245 (discussing how the use of the commerce power on regulating mental health resources will create uniformity at a minimum cost to the NCAA).

196. See *id.* (discussing how the use of the commerce power and increasing support and change from the NCAA and organizations will show student-athletes that they are not alone in the battle against mental illness).