

# United States Senate

WASHINGTON, DC 20510

August 15, 2017

The National Collegiate Athletic Association  
NCAA Commission to Combat Campus Sexual Violence  
700 W. Washington Street  
P.O. Box 6222  
Indianapolis, Indiana 46206-6222

Dear Commissioners:

Campus sexual violence is one of the most critical issues facing college campuses around the country and there is still much to be done to ensure that all students are safe on campus. As many of the National Collegiate Athletic Association's (NCAA's) member colleges and conferences continue to change their policies to address prospective student-athletes with serious misconduct violations, we urge the commission to make recommendations that enable the NCAA to create a strong, uniform policy that addresses all prospective student-athletes.

As you know, due to the alarming rates of sexual assault on college campuses, many schools, athletics departments, and conferences have changed their transfer policies. For example, last year, the Pac-12 implemented a policy that transfer student-athletes are ineligible to receive athletic aid or participate in athletics if they are unable to re-enroll at a previous institution due to student misconduct.<sup>1</sup> This policy is enforced through self-disclosure by the student-athlete. University of Oregon (UO) has also implemented a standard practice to promote student safety, which goes further than only relying on self-disclosure, and requires all transfer student-athletes to provide consent for UO to check their conduct records at prior institutions. In addition, to be considered for admission as a transfer student, all applicants must be eligible to return to any previously attended institution.<sup>2</sup>

Some institutions have also revised their policies to encompass not just transfer athletes, but all prospective athletes. Notably, Indiana University recently revised its policy to make any prospective student-athlete who has been convicted of or pled guilty or no contest to a felony involving sexual violence, or has been found responsible for sexual violence by formal disciplinary action at any previous collegiate or secondary school, ineligible for athletically-related financial aid, practice, and competition.<sup>3</sup> In addition to specifically asking prospective student-athletes about any previous arrests, convictions, protective orders, probations, suspensions, expulsions, or other discipline involving sexual violence, Indiana University also conducts a criminal background check and internet search on every prospective student-athlete.<sup>4</sup>

Each of these policies represents challenges with finding the right balance of accountability while still protecting the rights of prospective student-athletes. As schools work to develop policies that will keep their students safe, it is imperative that the NCAA create a uniform policy so that students are protected regardless of where they go to college and what NCAA team they root for. We hope

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<sup>1</sup> Pac-12 Conference, "Pac-12 Announces New Policy Dealing with Misconduct Issues of Transfer Student-Athletes," <http://pac-12.com/article/2016/03/12/pac-12-announces-new-policy-dealing-misconduct-issues-transfer-student-athletes>

<sup>2</sup> See <https://admissions.uoregon.edu/transfer/requirements>

<sup>3</sup> IndyStar, "New IU Policy Bans Athletes With History of Sexual Or Domestic Violence," <http://www.indystar.com/story/sports/college/indiana/2017/04/19/indiana-hoosiers-sexual-violence-athlete-ban-fred-glass/100660758/>

<sup>4</sup> IndyStar, "New IU Policy Bans Athletes With History of Sexual Or Domestic Violence," <http://www.indystar.com/story/sports/college/indiana/2017/04/19/indiana-hoosiers-sexual-violence-athlete-ban-fred-glass/100660758/>

that you will review policies like the Pac-12's, University of Oregon's and Indiana University's, assess their strengths and weaknesses, and consider the following questions when making recommendations to the NCAA Board of Governors to establish policies around sexual assault:

1. How should universities ensure that any incidences of sexual assault or other serious misconduct by prospective student athletes, transfer or not, are reported and considered as a part of the school's admission process?
2. How should universities handle students who have been accused of sexual assault and other serious misconduct after they have already been accepted at an institution?
3. How can universities ensure that any policies regarding student-athletes' misconduct do not lead to fewer on-campus adjudications resulting in conduct violations? What steps should athletics departments take to ensure that student athletes are not held to a lower standard of accountability than the rest of the student body?
4. How should universities respond to ongoing investigations at other institutions involving an accepted prospective student-athlete?
5. How can universities ensure the accuracy and privacy of student-athletes' data? Should universities institute a criminal background check, request student conduct records, and ask students for self-disclosed data? Additionally, if you do recommend a policy that universities should request student conduct records, how will student privacy rights be protected?

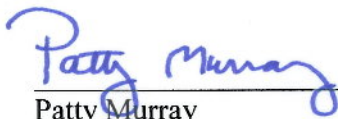
All students deserve the opportunity to obtain a higher education free from sexual harassment and violence and to feel safe on campus. We hope that you will continue to engage with sexual assault survivors, victims' rights groups and other appropriate advocacy organizations, and specifically ask them for their input as you work to make recommendations to the NCAA to help create a strong, uniform policy on prospective student-athletes and student athletes.

Thank you for your consideration of this matter.

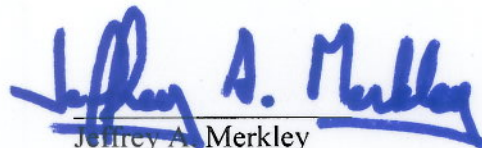
Sincerely,



Ron Wyden  
United States Senator




Patty Murray  
United States Senator



Jeffrey A. Merkley  
United States Senator



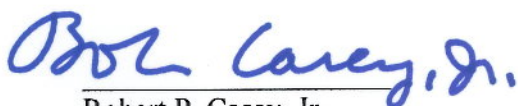
Al Franken  
United States Senator



Margaret Wood Hassan  
United States Senator



Richard Blumenthal  
United States Senator



Robert P. Casey, Jr.  
United States Senator



Kirsten Gillibrand  
United States Senator