

Congress of the United States
Washington, DC 20515

March 14, 2022

Mr. Mark A. Emmert
President
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, IN 46206

Dear Mr. Emmert:

We write regarding the National Collegiate Athletic Association's (NCAA) inadequate progress in addressing historically disparate treatment of men and women student athletes. Despite a directive to "act urgently to address any organizational issues" that contribute to gender inequity within NCAA championship tournaments, you have failed to take meaningful steps to correct deficiencies identified by the Committee and by an outside review, and you have failed to ensure gender equity across NCAA's athletic programs.¹ Information obtained by the Committee shows that, as of February, the NCAA still has not addressed key recommendations from NCAA's external review, raising doubts about your commitment to gender equity in college athletics.

NCAA's lackluster response to key recommendations is particularly concerning in light of documents previously released by the Committee showing that NCAA ignored similar recommendations from at least four prior reviews over three decades.²

In March 2021, following public exposure of inequities between the men's and women's March Madness tournaments, NCAA retained the law firm Kaplan Hecker & Fink LLP (Kaplan) to conduct an "independent equity review" of its athletic programs. This review was designed to evaluate the organization's practices and policies and provide recommendations for improving gender equity across NCAA-administered sports.³

In July 2021, we wrote to you requesting documents and information regarding the troubling gender inequities uncovered at NCAA and the steps NCAA is taking to address these inequities, including in response to the Kaplan review.⁴

¹ *Report: N.C.A.A. Prioritized Men's Basketball "Over Everything Else,"* New York Times (Aug. 3, 2021) (online at www.nytimes.com/2021/08/03/sports/ncaabasketball/ncaa-gender-equity-investigation.html).

² Committee on Oversight and Reform, *Press Release: Maloney, Speier, and Sherrill Call on NCAA to Take Action to Address Gender Inequities Following Release of New Report* (Aug. 3, 2021) (online at <https://oversight.house.gov/news/press-releases/maloney-speier-and-sherrill-call-on-ncaa-to-take-action-to-address-gender>).

³ Kaplan Hecker & Fink, LLP, *NCAA Gender Review* (online at <https://ncaagenderequityreview.com/>) (accessed March 10, 2022).

⁴ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, Rep. Jackie Speier,

In August 2021, Kaplan released the first of two damning reports with concrete recommendations to improve gender equity issues, including many actions that NCAA could take immediately.⁵ Kaplan released the second report in October 2021, with additional findings and recommendations.⁶

One of Kaplan’s primary findings centered on the dramatically disparate financial investments NCAA has made in men’s and women’s athletics over the years. Kaplan found that “the resources allocated to men’s and women’s basketball differ significantly, even taking into account the differences in the size of the tournaments.”⁷

Internal NCAA documents obtained by the Committee confirm and provide additional detail on the disparities in these investments. A summary of Division I men’s and women’s basketball budgets obtained by the Committee shows how available budget dollars are allocated to men’s basketball and women’s basketball respectively. The document reveals that for eight years, beginning in Fiscal Year 2013-2014, the men’s Division I basketball budget was more than twice the size of the women’s basketball budget. In an email obtained by the Committee, Jeff O’Barr, Associate Director of Championships Finance, provided the following budget breakdown for the years 2013-2021:

Budget	Fiscal Year							
Project Rollup 1	FY 2020 - 2021	FY 2019 - 2020	FY 2018 - 2019	FY 2017 - 2018	FY 2016 - 2017	FY 2015 - 2016	FY 2014 - 2015	FY 2013 - 2014
DI Men's Basketball								
DI Women's Basketball								
Grand Total								
Percentages								
DI Men's Basketball	71%	71%	70%	69%	71%	70%	70%	69%
DI Women's Basketball	29%	29%	30%	31%	29%	30%	30%	31%

Mr. O’Barr noted in the email that, over time, “the split [between the men’s budget and the women’s budget] is consistently 70% / 30% (plus or minus one percent here or there).”⁸

and Rep. Miki Sherrill to Mark A. Emmert, President, National Collegiate Athletics Association (July 6, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-07-06.CBM%20Speier%20Sherrill%20to%20Emmert-NCAA%20re%20Gender%20Disparities.pdf>).

⁵ *NCAA Hires Law Firm to Assess Gender Equity at Championships*, Associated Press (Mar. 25, 2021) (online at <https://apnews.com/article/indianapolis-basketball-mark-emmert-gender-issues-indiana-ecefe72779f42338917a5db9310b7eda>); Kaplan Hecker & Fink LLP, *NCAA Gender Review* (online at <https://ncaagenderequityreview.com/>) (accessed March 10, 2022).

⁶ Kaplan Hecker & Fink LLP, *NCAA Gender Review* (online at <https://ncaagenderequityreview.com/>) (accessed March 10, 2022).

⁷ NCAA External Gender Equity Review, *Phase I: Basketball Championships* (Aug. 2, 2021) (online at <https://kaplanhecker.app.box.com/s/6fpd51gkx9ki78f8vbhqcqh0b0o95oxq>).

⁸ Email from Jeff O’Barr, NCAA, to Attorney at Kaplan Hecker & Fink LLP (July 13, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/ORC-008538%20Redacted.pdf>).

Kaplan also made several findings related to gender inequities revealed in the 2021 March Madness championship tournament. Kaplan found that “gender inequities were baked into the very fabric of the tournaments and how the tournaments were viewed by the NCAA,” from the NCAA’s announcement of the men’s and women’s basketball tournament dates and locations to the food served to the men’s and women’s teams, health and safety protocols administered, and gifts and mementos distributed throughout the tournament.⁹

For example, Kaplan found that NCAA staff had declined offers from corporate sponsors to donate food or food-related gift cards ahead of the women’s basketball tournament, while failing to ensure the women’s basketball teams had adequate amounts of food for players and staff during the tournament.¹⁰ Kaplan found that, even after the tournament began, NCAA women’s basketball staff rejected offers of food from certain sponsors because they were concerned about “conflicts with existing corporate sponsor relationships.”¹¹ Kaplan also found that NCAA spent more than twice as much per player on gifts and mementos for student athletes participating in the men’s tournament as student athletes participating in the women’s tournament—spending \$125.55 per male athlete compared to \$60.42 per female athlete.¹²

Internal NCAA communications obtained by the Committee shed further light on the organization’s response to complaints that were raised once the tournaments began.¹³

- Following complaints by women’s basketball players and coaches that they had received pre-packaged meals containing less food, of a lower quality and variety, compared to the buffet service available to the men’s basketball players and coaches, NCAA officials decided to decline an offer from Los Angeles Sparks player Chiney Ogwumike to provide DoorDash gift cards to the 64 teams competing in the women’s tournament to avoid upsetting corporate partners.¹⁴
- On March 19, 2021, Ellen Lucey, Director of Championship Engagement at NCAA, wrote, “All day I have fielded calls from partners really upset with the situation and wanting to help. We have declined them all.” Ms. Lucey continued, “I hate to think we have a non-partner come in to save the day.” Ms. Lucey acknowledged that NCAA had “declined offers before the tournament in a

⁹ NCAA External Gender Equity Review, *Phase I: Basketball Championships* (Aug. 2, 2021) (online at <https://kaplanhecker.app.box.com/s/6fpd51gxxk9ki78f8vbhqcqh0b0o95oxq>).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, Rep. Jackie Speier, and Rep. Mikie Sherrill to Mark A. Emmert, President, National Collegiate Athletics Association (July 6, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-07-06.CBM%20Speier%20Sherrill%20to%20Emmert-NCAA%20re%20Gender%20Disparities.pdf>).

¹⁴ NCAA External Gender Equity Review, *Phase I: Basketball Championships* (Aug. 2, 2021) (online at <https://kaplanhecker.app.box.com/s/6fpd51gxxk9ki78f8vbhqcqh0b0o95oxq>); Email from Christopher Termini to Lynn Holzman and Dan Gavitt (Mar. 19, 2021).

number of areas.” She also noted that NCAA had distributed gift bags provided by corporate sponsor Unilever “differently” among the men’s and women’s teams. She wrote: “Sorry I failed to mention Unilever, who sent the same items as to the men but we have chosen to distribute differently.” She continued, “They are [sic] feel great pressure and are scrambling to send additional gift bags to everyone.”¹⁵

- On March 20, 2021, Ms. Lucey reiterated her position that NCAA should reject the DoorDash offer, noting, “[W]e need to be cautious accepting offers for donations when we have declined so many CCP [Corporate Champions and Partners] offers.” Later that same day, the Associate Director of Championships and Alliances, Broadcast Services dismissed the DoorDash offer as “ambush marketing.”¹⁶
- In response to the outcry, Ms. Lucey suggested NCAA “engage CCP’s in the solve,” noting, “We can put together an ask and come up with a mutually beneficial solution.” She later circulated a list of proposed donations and services from several corporate partners, including Wendy’s, Pizza Hut, POWERADE, and AT&T.¹⁷

In light of these findings, the Kaplan reports identified 39 recommendations for actions NCAA should take to restore gender equity across its athletic programs and within the organization. In October 2021, NCAA began publishing on its website a “Gender Equity Updates” webpage, which identifies “next steps for how issues outlined in the [Kaplan] report may be addressed.”¹⁸ However, the webpage is not comprehensive and provides too few details to allow for a meaningful understanding of NCAA’s progress toward each recommendation, including whether recommendations have been rejected by NCAA.¹⁹

The Committee has obtained internal information from NCAA showing that, as of last month, NCAA had not only failed to implement several key recommendations identified by Kaplan, but had failed to *commit* to implementing recommendations that would immediately improve longstanding structural inequities within the organization. For example, since October

¹⁵ Email from Ellen Lucey to Cari Van Senus and Jo An Scott (Mar. 19, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/ORC-012725%20Redacted.pdf>).

¹⁶ Email from Ellen Lucey to Cari Van Senus, et al. (Mar. 20, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/ORC-012725%20Redacted.pdf>).

¹⁷ Email from Ellen Lucey to Zandria Conyers, et al. (Mar. 20, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/ORC-012725%20Redacted.pdf>).

¹⁸ National Collegiate Athletic Association, *Gender Equity Updates* (online at www.ncaa.org/sports/2021/9/27/genderequityupdates.aspx) (accessed March 10, 2022).

¹⁹ See e.g., *NCAA Men’s and Women’s Final Fours Will be Conducted Separately*, The Athletic (Feb. 18, 2022) (online at <https://theathletic.com/news/ncaa-mens-and-womens-final-fours-will-be-conducted-separately/52wCjWIsrtMc/>) (discussing NCAA’s decision to reject Kaplan’s recommendation to “hold the men’s and women’s Final Fours together in the same city”).

2021, NCAA appears to have made no progress toward changing the leadership structure of Division I basketball to ensure that women's basketball leadership has the same level of seniority as men's basketball leadership and requiring that both men's and women's basketball report to a Head of Championship who is responsible for ensuring gender equity across championship tournaments.²⁰

NCAA has also failed to create or commit to creating a chief business officer role to “oversee NCAA’s media partner relationships with CBS/Turner and ESPN, the Corporate Partner Program, and branding and marketing for all championships” which, according to Kaplan, have historically devalued and deprioritized women’s basketball, resulting in inequitable student-athlete experiences.²¹ These are only two of the key recommendations that NCAA has failed to implement or commit to implementing, and for which you, as President, have ultimate decision-making authority.

NCAA appears to have prioritized implementing recommendations related to higher visibility college sports, such as the March Madness basketball championships, while failing to address gender inequities in sports with lower public visibility. Although NCAA has taken some short-term steps to avoid repeating the public relations catastrophe during last year’s March Madness championships, it has been notably slow to commit to or implement recommendations that will ensure structural, long-term changes to advance gender equity.

Congress enacted Title IX of the Educational Amendments Act of 1972 to promote gender equity in educational settings, including athletics. In creating and perpetuating structural inequities between men’s and women’s post-season championships, and failing to implement substantive changes that would rectify these inequities, NCAA is violating the spirit of gender equity as codified in Title IX.

With the 2022 March Madness tournaments commencing in the coming days, we urge NCAA’s leadership to publicly commit to the rapid implementation of the remaining Kaplan recommendations to advance gender equity across all of the organization’s athletic programs and ensure that no student athlete has to endure the inequities exposed during last year’s tournaments.

²⁰ NCAA External Gender Equity Review, *Phase I: Basketball Championships* (Aug. 2, 2021) (online at <https://kaplanhecker.app.box.com/s/6fpd51gkx9ki78f8vbhqcqh0b0o95oxq>).

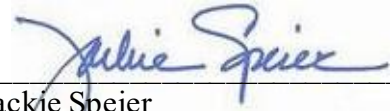
²¹ *Id.*

Mr. Mark A. Emmert
Page 6

Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Jackie Speier
Member of Congress



Mikie Sherrill
Member of Congress

cc: The Honorable James Comer, Ranking Member
Committee on Oversight and Reform