A Gap in Coverage: How the NCAA and College Athletics Policies are Lacking in the Wake of Dobbs

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A GAP IN COVERAGE: HOW NCAA AND COLLEGE ATHLETICS POLICIES ARE LACKING IN THE WAKE OF DOBBS

I. Kickoff: The Impact of Unintended Pregnancy on the Lives of College Athletes

In 1991, Crissy Perham, a student-athlete at the University of Arizona, won a national championship in the 100-meter butterfly event. This hard-fought win catapulted Perham’s swimming career, as she would go on to win the National Collegiate Athletic Association (NCAA) title the following year and attend the 1992 Barcelona Olympics. Perham (née Ahmann), co-captain for the United States’ swim team, won three medals in Barcelona, two of which were gold. What many did not know was just seven months prior to Perham’s first NCAA win, she was a nineteen-year-old woman sitting in a Planned Parenthood office, waiting to obtain an abortion for an unintended pregnancy. Perham did not fit into societal stereotypes surrounding women in need of abortion care, as she was on birth control, and in

3. See Gregory, supra note 2 (stating Perham’s success at 1992 Olympics); see also Hansen, supra note 2 (noting Crissy competed under her maiden name, Ahmann). Perham and her teammates broke the world record for the women’s 4x100-meter medley relay during the 1992 Olympics. See Christine Ahmann-Leighton, supra note 2 (detailing Perham’s biography and Olympic results).
a committed relationship. Now, over thirty years later, Crissy credits abortion access in part for her success in athletics, academics, and motherhood. If Crissy Perham was unable to compete in and win the 100-meter butterfly in 1991, her future achievements might not have been possible.

Unintended pregnancy can wreak havoc on anyone’s life. Young women, who are sexually active, spend a substantial portion of their lives focused on preventing unwanted pregnancy. Nearly half of recorded pregnancies in the United States are unplanned.

5. See Gregory, supra note 2 (providing background on Crissy’s life leading up to her unplanned pregnancy). Perham describes struggling academically and athletically prior to her abortion. See id. (noting how Perham’s abortion propelled her to make better life for herself). Stereotypes surrounding women facing unintended pregnancies include “promiscuity,” and “irresponsibility.” See Whitney Smith, Janet M. Turan, Kari White, Kristi L. Stringer, Anna Helova, Tina Simpson & Kate Cockrill, Social Norms and Stigma Regarding Unintended Pregnancy and Pregnancy Decisions: A Qualitative Study of Young Women in Alabama, 48 PERSPECTIVES ON SEXUAL & REPROD. HEALTH 73, 76 (2016) (finding research study participants’ commonly held stereotypes towards unintended pregnancy).

6. See Brief for Over 500 Women Athletes, the Women’s National Basketball Players Association, the National Women’s Soccer League Players Association, and Athletes for Impact Who Have Exercised, Relied On, or Support the Constitutional Right to Abortion as Amici Curiae in Support of Respondents at 5, Dobbs v. Jackson Women’s Health Org., 597 U.S. 215 (2022) [hereinafter Amici Curiae Brief] (“I made the choice that was right for me and my future, and I stand by my decision. That choice ultimately led me to being an Olympian, a college graduate, and a proud mother today.”).

7. See id. (detailing how Perham’s abortion changed her life trajectory). If Perham was forced to continue her pregnancy, she would not have been able to compete in the 1991 NCAA championship which led to her Olympic career. See Gregory, supra note 2 (“My life would be drastically different if I had been pregnant and forced to sit that race out, because that race changed the course of my life.”).

8. See Unintended Pregnancy, Ctrs. for Disease Control & Prevention (Mar. 27, 2023), https://www.cdc.gov/reproductivehealth/contraception/unintendedpregnancy/index.htm#:~:text=Unintended%20pregnancy%20is%20associated%20with%20the%20health%20of%20the%20baby [https://perma.cc/ZUK3-9548] (“Unintended pregnancy is associated with an increased risk of problems for the mom and baby.”). Unintended pregnancy is defined as a pregnancy that is unwanted or mistimed. See id. (providing information on unintended pregnancy and pregnancy prevention methods). This Comment uses gendered language and terms like “women” and “female” because those are the terms frequently utilized by the law and scholars in this area, but this Comment acknowledges that people of all gender identities can get pregnant and seek abortions. See Gender Inclusive Language Statement, INNOVATING EDUC. REPROD. HEALTHCARE, https://www.innovating-education.org/2021/01/gender-inclusive-language-statement/#:~:text=We%20recognize%20that%20people%20who%20become%20pregnant%20and%20seek%20abortions. [https://perma.cc/A7NR-VNQP] (last visited Nov. 1, 2023) (indicating need for reproductive healthcare for people of all genders).


10. See Erika Guenther, Elizabeth Sorensen & Lance Champagne, Title IX Information Increases Female Collegiate Athletes’ Intent to Seek Help, 16 J. INTERCOLLEGIATE SPORT 54, 55 (2023) (finding about forty-five percent of U.S. pregnancies are unintended).
While unintended pregnancy disproportionately impacts various demographics, it is most common in women ages eighteen to twenty-four.\textsuperscript{11} In the United States, the average age of a full-time college student is 22.5 years of age.\textsuperscript{12} Studies have shown that ten percent of women have an unexpected pregnancy while in college, and a majority of students that have children while enrolled in college drop out.\textsuperscript{13} While unintended pregnancy can result from practicing safe and consensual sex, as was the case with Crissy Perham, sexual assault is also prevalent in colleges and universities, resulting in many unintended pregnancies.\textsuperscript{14}

Access to abortion has historically helped women excel in college athletics.\textsuperscript{15} As Title IX catapulted women’s participation in sports, just a year later the Supreme Court decided \textit{Roe v. Wade}\textsuperscript{16} and established a woman’s right to choose whether to have an

\textsuperscript{11} See \textit{Unintended Pregnancy}, supra note 8 (reporting unintended pregnancy rates per 1,000 women). Unintended pregnancy was most common in low-income women, those without a high school diploma, Black women, and those unwed living with a partner. See \textit{id.} (indicating groups with higher rates of unintended pregnancy).


\textsuperscript{14} See \textit{Hogshead-Makar & Sorensen}, supra note 13, at 14 (asserting that pregnancy can occur when practicing safe sex); see also \textit{Amici Curiae Brief}, supra note 6, at 29 (finding “nearly one in five women are sexually assaulted during their time in college”); \textit{Pregnancy Resulting from Rape}, \textit{CZRS. FOR DISEASE CONTROL & PREVENTION} (June 1, 2020), \url{https://www.cdc.gov/violenceprevention sexualviolence/understanding-RRP-inUS.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fviolenceprevention%2Fdatasources%2FunderstandingRRP-inUS.html} [\url{https://perma.cc/QVX9-5Q2}] (“Almost 3 million women in the U.S. experienced rape-related pregnancy during their lifetime.”). For further discussion of Crissy Perham’s experience, see supra notes 1–7 and accompanying text.

\textsuperscript{15} See \textit{Amici Curiae Brief}, supra note 6, at 2 (“Amici are united in their deeply-held belief that women’s athletics could not have reached its current level of participation and success without the constitutional rights recognized in \textit{Roe v. Wade}, 410 U.S. 113 (1973) and \textit{Planned Parenthood of Southeastern Pennsylvania v. Casey}, 505 U.S. 833 (1992).”).

abortion.\textsuperscript{17} Athletes have spoken about the need for abortion access during their time in college, noting that they would not have been able to excel in their athletic careers after college without access to reproductive healthcare, and abortion specifically.\textsuperscript{18} There are also privacy concerns surrounding college athletes, as they are required to provide medical data in more extensive detail than the average student.\textsuperscript{19} State-specific abortion restrictions may have even greater consequences on student-athletes, many of whom are attending college on scholarship and may have fewer funds to travel out of state for reproductive healthcare.\textsuperscript{20}

This Comment analyzes the response — or lack thereof — to changes in reproductive healthcare laws by the NCAA and college athletics.\textsuperscript{21} In Section II, this Comment offers background on the impact of unplanned pregnancy on college athletes, and Title IX regulations on pregnancy discrimination.\textsuperscript{22} Section II also provides background on reproductive healthcare in the United States and the impact of the \textit{Dobbs v. Jackson Women’s Health Organization}\textsuperscript{23} decision on college admissions.\textsuperscript{24} In Section III, this Comment analyzes the NCAA’s 2008 Pregnancy and Parenting Policy as well as current college athletics policies on reproductive healthcare, arguing for updates that support pregnant student-athletes.\textsuperscript{25} Finally, in Section IV, this Comment concludes that the NCAA and college

\textsuperscript{17} See Amici Curiae Brief, \textit{supra} note 6, at 16 (explaining Title IX and \textit{Roe v. Wade}’s proximity in timing and interaction). Both Title IX and the Court’s decision in \textit{Roe} focused on “women’s liberty and equality.” See \textit{id}. at 16–17 (“Indeed, Title IX’s implementing regulations directly connect reproductive freedom to gender equality.”).

\textsuperscript{18} See Gregory, \textit{supra} note 2 (describing Crissy Perham’s decision to receive abortion care during college, going on to win three Olympic medals in 1992).


\textsuperscript{20} See \textit{id}. (quoting college athletic department official from state with abortion ban) (“The general student body here has enough money to get out of state if they need to. Our student-athletes don’t necessarily have that money.”).

\textsuperscript{21} For further discussion of the fallout from \textit{Dobbs}, see \textit{infra} notes 69–85 and accompanying text.

\textsuperscript{22} For further discussion of impacts of unplanned pregnancy on student-athletes and Title IX protections, see \textit{infra} notes 27–51 and accompanying text.


\textsuperscript{24} For further discussion of reproductive healthcare in the United States and the impact of changing laws on college athletics, see \textit{infra} notes 52–85 and accompanying text.

\textsuperscript{25} For further discussion of current policies and the ways in which the NCAA can support its athletes, see \textit{infra} notes 86–211 and accompanying text.
athletics should provide updated guidance and work to support their athletes’ access to reproductive healthcare.  

II. PRESEASON INJURIES: BACKGROUND ON PREGNANCY DISCRIMINATION, ABORTION POLICIES, AND COLLEGE ADMISSIONS

A. The Effect of Unplanned Pregnancies on College Athletes

An unplanned pregnancy in a college athlete’s life brings additional challenges. College athletes utilize their bodies to obtain an education, and for some, a professional sports career. As such, an unplanned pregnancy can interfere with an athlete’s vehicle for success. Pregnant athletes have an increased risk of injury compared to nonpregnant athletes. Pregnancy also reduces an athlete’s ability to perform during the prepartum and postpartum period.
At the very least, an athlete who becomes pregnant may lose their starting position.\footnote{See Hogshead-Makar & Sorensen, supra note 13, at 40–41 (declaring post-pregnancy, student-athletes “need not necessarily be reinstated to a specific position she formerly held, such as being a starter”).} Additionally, unintended pregnancy can have massive psychological impacts on athletes of all genders.\footnote{See id. at 14 (finding pregnancy can increase risk of depression); see also Talking Title IX and College Sports, supra note 27, at 28:54 (discussing how unintended pregnancies are “psychological crisis” for student-athletes).} When a pregnancy ends in a miscarriage or abortion, those who have lost or terminated the pregnancy will likely need to grieve.\footnote{See Kimberly Drake, Coping with Grief and Depression After an Abortion, PsychCentral (July 25, 2022), https://psychcentral.com/depression/understanding-abortion-grief-and-the-recovery-process [https://perma.cc/9FKJ-V7PR] (noting how people that experience abortion may go through five stages of grief). The Centers for Disease Control and Prevention (“CDC”) reported that in 2021, over 600,000 legally induced abortions were performed in the United States. See Jeff Diamant, Besheer Mohamed & Rebecca Leppert, What the Data Says About Abortion in the U.S., Pew Res. Ctr. (Mar. 25, 2024), https://www.pewresearch.org/short-reads/2023/01/11/what-the-data-says-about-abortion-in-the-u-s-2/ [https://perma.cc/4LJL-CHHN] (providing yearly abortion statistics, changing abortion rates, and most common abortion types).} Pregnancies that continue full-term can impact a woman’s body image, which may be particularly detrimental to a student-athlete.\footnote{See Hogshead-Makar & Sorensen, supra note 13, at 14–15 (stating that weight gain from pregnancy may impact athlete’s body image and identity). Non-pregnant student-athletes, especially ones participating in gymnastics, figure skating, and diving, face problems with body image. See Student Athletes - Body Image/Disordered Eating, UNIV. MICH. COUNSELING & PSYCH. SERVS., https://caps.umich.edu/content/student-athletes-body-imagedisordered-eating [https://perma.cc/BQ64-6P7U] (last visited Nov. 1, 2023) (referring to risk factors for disordered eating and unhealthy body image).} An athlete’s identity can be even more shaken when the athlete goes from “body as self” to “body as host to another.”\footnote{See GOALS Study: Understanding the Student-Athlete Experience, NCAA (2019), https://ncaorg.s3.amazonaws.com/research/goals/2020AWRES_GOALs2020con.pdf [https://perma.cc/2QA4-HE99] (finding “[n]early 30% of female student-athletes compared to one-quarter of male student-athletes have felt difficulties piling up so high that they could not overcome them in the month prior to taking the survey.”).} Unintended pregnancy and abortion may exacerbate the mental health issues many student-athletes already face.\footnote{See Hogshead-Makar & Sorensen, supra note 13, at 15 (detailing various psychological transitions athletes must undergo when pregnant). Pregnant women may feel a loss of identity when starting to envision themselves as a mother. See Chiara Ionio, Martina Smorti, Eleonora Mascheroni, Giulia Ongaro, Elena Cattaneo, Angelo Gemignani, Silvia Von Wunster & Lucia Bonassi, What is the Role Played By Pregnancy in the Construction of a Woman’s Identity and Her Association With Her Child-To-Be?, 59 J. Reprod. & Infant Psych. 250, 251 (2021) (describing pregnancy as “complex” transition for women).} Unplanned pregnancy can also impact the mental health of male athletes whose partners become pregnant, in part because they may
have to take on new responsibilities which can put additional strain on their careers.38

B. Title IX Pregnancy Discrimination

The United States Congress enacted Title IX of the Education Amendments of 1972, prohibiting sex discrimination in education, concerning most colleges and universities.39 Title IX protects students from discrimination or exclusion from educational activities “on the basis of . . . pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom.”40 Under Title IX, pregnancy must be treated like “any other temporary disability,” and pregnant students cannot “be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under” any education program receiving federal funds.41 Students also cannot be harassed for “pregnancy and related conditions” under Title IX.42 While “related conditions” includes pregnancy termination, there have been few cases focused on this aspect of Title IX.43

38. See Hogshead-Makar & Sorensen, supra note 13, at 7 (considering how male athletes may disagree with their partner’s decision about carrying child).


41. See 45 C.F.R. § 86.40(b)(4) (2024) (announcing how pregnancy related conditions should be treated by educational programs); see also Protecting Students With Disabilities, U.S. Dep’t Educ. (July 18, 2023), https://www2.ed.gov/about/offices/list/ocr/504faq.html [https://perma.cc/D75N-PDML] (providing text for Section 504); OCR Complaint No. 08-22-2021, U.S. Dep’t Educ. 1, 3 (June 14, 2022), https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08222021-a.pdf [https://perma.cc/826A-BBEU] (“Although a normal, healthy pregnancy is generally not considered a disability, a pregnant student may become temporarily disabled and thus entitled to the same rights and protections of other students with a temporary disability.”).

42. See Discrimination Based on Pregnancy and Related Conditions, supra note 40, at 1 (explaining Title IX protections against harassment).

43. See Brake & Grossman, supra note 9, at 178 (finding limited attention focused on abortion in Title IX enforcement). There is sparse case law surrounding Title IX and abortion because students are likely to keep this information private, and religious universities have exemptions to Title IX including exemptions for the provision on pregnancy and pregnancy termination. See id. (describing reasons for limited caselaw on abortion and Title IX).
Educational institutions do not have to provide abortion services or aid a student in obtaining them under Title IX. Moreover, institutions “controlled by a religious organization” do not have to comply with Title IX provisions if such compliance is inconsistent “with the religious tenets of such organization.” Under Title IX, students must be given leave for pregnancy or termination of pregnancy and must be reinstated after the leave. The Department of Education’s Office for Civil Rights (“OCR”), tasked with enforcing Title IX compliance, has clarified the protections available to pregnant athletes to include scholarship protection. Nevertheless, advocating for their protections under Title IX may not be a priority or a necessarily comfortable experience for athletes facing an unexpected pregnancy.

There appears to be a lack of knowledge amongst student-athletes about protections for pregnancy and related conditions under Title IX. Almost half of NCAA Division I athletes surveyed believed that if they informed their athletic staff about their pregnancy and their intention to keep the child, they would be cut from their sport.

44. See id. at 172 (explaining “legislative compromise” around “an abortion carve-out”). Abortion is not recognized as a sex equality issue under Title IX. See id. at 173 (observing how abortion carve-out impacts sex equality). Educational institutions do not have to provide support for students seeking abortions under Title IX. See id. at 179 (stating that schools are not obligated to provide “referrals to abortion providers, education about abortion as an option, or access to abortion as part of a student health services plan”).

45. See 34 C.F.R. § 106.12(a) (2024) (providing exemptions for private schools controlled by religious organizations).

46. See Hogshead-Makar & Sorensen, supra note 13, at 40 (detailing leave procedures for pregnant athletes).

47. See Deborah L. Brake, The Invisible Pregnant Athlete and the Promise of Title IX, 31 HARV. J.L. & GENDER 323, 329 (2008) (summarizing Dear Colleague letter sent by OCR on protections for pregnant athletes). This clarified guidance was issued in part because of a 2007 ESPN “Outside the Lines” episode which exposed discrimination of pregnant athletes, including having their scholarships taken away. See id. at 327 (describing “Outside the Lines” episode “Pregnant Pause”). Pregnant athletes cannot have their scholarship taken away because of their pregnancy. See Stephanie J. Monroe, Dear Colleague Letter, U.S. Dep’t Educ. (June 25, 2007), https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20070625.html [https://perma.cc/XQ3F-F5RD] (responding to media reports about colleges terminating scholarships based on pregnancy).

48. See Brake, supra note 47, at 363 (acknowledging how shame may influence pregnant student-athlete actions).

49. See Guenther et al., supra note 10, at 54 (indicating unfamiliarity amongst student-athletes about their pregnancy rights).

50. See id. at 63 (finding 46.6% would expect to be “released or cut from the team”). Almost half reported they were “unsure” if they would be able to return to their sport after childbirth. See id. at 63, 67 (finding “a lack of knowledge about healthy pregnancy, healthy athletic participation while pregnant, and federal protections for pregnant individuals” amongst study participants).
Athletes were even less likely to know about NCAA protections for pregnancy.\textsuperscript{51}

C. Access to Reproductive Healthcare in the United States

In 1973, the United States Supreme Court held in \textit{Roe v. Wade}, that the Fourteenth Amendment’s protections for privacy guarantee the right to an abortion of a pre-viable pregnancy.\textsuperscript{52} As a result, the state could not place any restrictions on abortion during the first trimester of a pregnancy.\textsuperscript{53} The Court found that the fetus lacked constitutional personhood and the state’s interest in the life of the fetus began at viability.\textsuperscript{54} At the time of the Court’s ruling, over sixty percent of Americans believed that the decision as to whether to have an abortion or not should be made between a woman and her doctor.\textsuperscript{55}

In 1980, the Supreme Court held in \textit{Harris v. McRae}\textsuperscript{56} that abortion funding for Medicaid recipients did not have to be provided by either state or federal government.\textsuperscript{57} As a result of the Hyde Amendment, upheld in \textit{Harris}, Medicaid recipients, who are disproportionately people of color and members of the LGBTQ+ community, do not have the same access to abortion as affluent women.\textsuperscript{58} This inequity is exacerbated by the fact that Black women

\begin{footnotesize}
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\item See id. at 63 (finding 90.3\% were unaware of NCAA’s rules on pregnancy). For further discussion of NCAA’s bylaws on pregnancy, see \textit{infra} notes 86–104 and accompanying text.
\item See \textit{Roe v. Wade}, 410 U.S. 113, 150 (1973) (balancing women’s privacy rights with state rights to protect women and fetus health); \textit{see also} Brake & Grossman, \textit{supra} note 9, at 210 (providing background for right to privacy framework established in \textit{Griswold v. Connecticut}).
\item See \textit{Roe}, 410 U.S. at 164 (explaining trimester framework).
\item See Brake & Grossman, \textit{supra} note 9, at 210–11 (providing explanation of majority opinion in \textit{Roe v. Wade}).
\item See Linda Greenhouse & Reva B. Siegel, \textit{Before (and After) Roe v. Wade: New Questions About Backlash}, 120 Yale L.J. 2028, 2067 (2011) (finding that in 1972, more Republicans than Democrats believed abortion decision making should be between woman and her doctor).
\item Harris v. McRae, 448 U.S. 297 (1980).
\item See id. at 326 (holding “the funding restrictions of the Hyde Amendment violate neither the Fifth Amendment nor the Establishment Clause of the First Amendment”).
\end{enumerate}
\end{footnotesize}
and indigent women have a disproportionate likelihood of facing unintended pregnancies.\textsuperscript{59}

The Supreme Court continued to narrow abortion access in 1992.\textsuperscript{60} In \textit{Planned Parenthood v. Casey},\textsuperscript{61} the Court affirmed the right to abortion but broadened states’ regulatory authority.\textsuperscript{62} The Court utilized an undue burden standard, meaning that a law would be unconstitutional if it creates a “substantial obstacle” in the way of a woman’s ability to abort a nonviable fetus.\textsuperscript{63} Based on this decision, states began to pass abortion restrictions which could be upheld under the undue burden framework.\textsuperscript{64}

The issue of abortion access faced the Court again in 2021, when the Supreme Court in \textit{Dobbs} weighed in on the constitutionality of Mississippi’s Gestational Age Act.\textsuperscript{65} While the case was before the Supreme Court, over 500 women athletes filed an amici brief to the Court in support of maintaining access to abortion.\textsuperscript{66} The amici stated that there would be severe consequences to women’s athletics if the Court were to eliminate protections for access to reproductive healthcare.\textsuperscript{67} The majority not only upheld the Mississippi law but

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\item \textsuperscript{59} See Brake & Grossman, \textit{supra} note 9, at 214–15 (“Black women are more than twice as likely to have unintended pregnancies as non-Hispanic white women, and poor women are more than five times as likely as women at the highest income level.”). Reduced access to abortion reduces Black women’s college enrollment. See Shelly J. Lundberg & Dick Startz, \textit{The End of Roe Creates New Challenges in Higher Education}, Brookings (Aug. 9, 2022), https://www.brookings.edu/articles/the-end-of-roes-creates-new-challenges-in-higher-education/ [https://perma.cc/SQ95-8P9] (providing evidence that lack of abortion access harms Black women’s educational opportunities).
\item \textsuperscript{60} See Brake & Grossman, \textit{supra} note 9, at 211 (discussing reasoning in \textit{Planned Parenthood v. Casey}). The Court in \textit{Casey} granted more influence on the states over child birthing decision making. See \textit{id.} (recognizing state’s interest in “fetal life”).
\item \textsuperscript{62} See \textit{id.} at 878 (“[T]he State may enact regulations to further the health or safety of a woman seeking an abortion. Unnecessary health regulations that have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion impose an undue burden on the right.”).
\item \textsuperscript{63} See \textit{id.} at 877 (defining undue burden standard).
\item \textsuperscript{64} See \textit{Historical Abortion Law Timeline: 1850 to Today, supra note 58} (summarizing fallout from \textit{Casey}). The restrictions upheld in \textit{Casey} include a twenty-four-hour waiting period provision and an informed consent provision. See Deepa Shivaram, \textit{Roe Established Abortion Rights. 20 Years Later, Casey Paved the Way for Restrictions}, NPR (May 6, 2022, 5:00 AM), https://www.npr.org/2022/05/06/1096883897/roe-established-abortion-rights-20-years-later-casey-paved-the-way-for-restrictions [https://perma.cc/5EWY-WMSW] (listing various restrictions upheld under standard).
\item \textsuperscript{66} See Amici Curiae Brief, \textit{supra} note 6, at 2 (announcing athletes’ support for abortion access).
\item \textsuperscript{67} See \textit{id.} at 32 (detailing dire consequences for athletes who lack access to reproductive healthcare). Lack of access to reproductive healthcare may hinder sexual assault survivors’ recovery and retraumatize them. See \textit{id.} at 29–30 (including
also overturned Roe and Casey, finding no federal constitutional right to abortion at any stage of pregnancy.\textsuperscript{68}

D. Dobbs’ Impact on College Admissions and Athletics

A majority of Americans disapproved of the Court’s decision in Dobbs.\textsuperscript{69} The decision was even less popular with college-aged Americans, as nearly seventy percent of Americans aged eighteen to thirty-four consider themselves pro-choice.\textsuperscript{70} This sentiment amongst college students has impacted college decision making.\textsuperscript{71} A recent study reported that a significant majority of students consider state reproductive health laws when deciding whether to enroll, or remain enrolled, in a university.\textsuperscript{72} A vast majority of students want to attend a university where there is more access to reproductive healthcare, rather than less.\textsuperscript{73}

story of Division I field hockey player who was sexually assaulted). Without abortion access, many female athletes would be unable to excel in their sports resulting in a long-term decline of women in sports. See id. at 18 (describing how lack of access to reproductive healthcare could reverse “gender equality in sports”).

68. See Dobbs, 597 U.S. at 302 (overruling cases previously upholding limited access to abortion).


73. See id. (“[M]ore than eight in 10 currently enrolled students (81%) and unenrolled students (85%) say they would prefer to attend a university in a state with greater access to reproductive health services, while fewer than two in 10 would prefer to attend college in a more restrictive state.”).
Unfortunately, it may be hard to attend a university in a state with both access to reproductive healthcare and an elite sports program. Upon the Dobbs decision, thirteen states had trigger laws in place which immediately banned abortion. Twenty-two states and counting now have abortion bans, or heavily restricted access to abortion, forcing women who can afford it to cross state lines in order to obtain access to reproductive healthcare. States with abortion access are home to only one of the top ten women’s volleyball programs, and four of the top twenty-five women’s basketball and softball programs. These statistics may continue to worsen as more states pass abortion restrictions.

While the reaction to the Dobbs decision was widespread, college athletics officials stayed largely silent. When asked, the NCAA stated that they would continue to monitor the fallout from the decision and suggested schools obey state laws and support their athletes. This minimal reaction differed from that of the National

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74. See Hensley-Clancy, supra note 19 (observing concentration of elite sports programs in states where abortion is limited). States with top athletic programs and limited reproductive access include Oklahoma, Texas, and more. See id. (explaining prominence of softball in Oklahoma and prominence of gymnastics, soccer, and more in Texas).


76. See Oriana González, Where Abortion Has Been Banned Now That Roe v. Wade is Overturned, Axios (Aug. 23, 2023), https://www.axios.com/2022/06/25/abortion-illegal-7-states-more-bans-coming# [https://web.archive.org/web/20240509182924/https://www.axios.com/2022/06/25/abortion-illegal-7-states-more-bans-coming] (describing current landscape of abortion access). Abortion is banned or restricted in the following states: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin. See id. (listing states that, as of August 23, 2023, banned or restricted abortion); see also Debbie Elliott & Sarah McCammon, A Year After the Dobbs Abortion Ruling, the Impact Nationwide Has Been Dramatic, NPR (June 23, 2023, 5:12 AM), https://www.npr.org/2023/06/23/1183951379/a-year-after-the-dobbs-abortion-ruling-the-impact-nationwide-has-been-dramatic [https://perma.cc/P4DQ-R897] (finding “Americans, on average, now have to travel more than three times farther than they did one year ago to get to a facility that provides abortions”); Hensley-Clancy, supra note 19 (describing current state landscape of abortion access).

77. See Hensley-Clancy, supra note 19 (surveying abortion access in states with top women’s athletic programs).

78. See González, supra note 76 (concluding twenty-four states will likely ban abortion).

79. See Hensley-Clancy, supra note 19 (recounting lack of response from NCAA).

80. See id. (providing NCAA’s statement to Washington Post).
Basketball Association (NBA) and the Women’s National Basketball Association (WNBA), whose commissioners stated their support for reproductive freedom and that they would work to promote their employees’ access to reproductive healthcare nationwide.81

Some college coaches stated that they were nervous to speak out against the Dobbs decision, worrying about the professional and political ramifications of doing so.82 Other coaches expressed concern as to why there was such little reaction.83 Some applauded the Dobbs decision, like famed college and professional football coach, Jim Harbaugh.84 Some, like Michigan State University softball coach, Jacquie Joseph, were left wondering what to do.85

III. The Passing Game: NCAA Pregnancy and Parenting Policies, College Policies, and Recommendations

A. NCAA 2008 Pregnancy and Parenting Policy

In 2008, the NCAA released a Pregnancy and Parenting Policy which has not been updated in the sixteen years following its release.86 At the time, the NCAA acknowledged that a vast majority of schools did not have any policy on student-athlete pregnancy.87 The document included a synopsis of the law and NCAA bylaws,

81. See Anne M. Peterson, Athletes React to the Supreme Court’s Abortion Decision, SEATTLE TIMES (June 25, 2022, 4:51 AM), https://www.seattletimes.com/sports/college/athletes-react-to-the-supreme-courts-abortion-decision/ [https://perma.cc/8JMQ-4PML] (providing responses from athletes and commissioners to Dobbs).


82. See id. (providing story of Coach Randy Lane, who tried but failed to get other colleagues to sign statement about Dobbs).

83. See id. (indicating concern from Division I coaches who spoke anonymously to Washington Post).

84. See Hensley-Clancy, supra note 19 (indicating concern from Division I coaches who spoke anonymously to Washington Post).

85. See id. (reporting Michigan State University coach expressing concern).

86. See Hogshead-Makar & Sorensen, supra note 13, at 5 (“The NCAA Model Pregnancy and Parenting Policy (“Model Policy”) is designed to provide information and resources to member institutions and their student-athletes to effectively meet the needs of student-athletes dealing with a pregnancy.”); see also Talking Title IX and College Sports, supra note 27, at 26:25 (detailing NCAA’s history of slow responses). The Model Policy was distributed to every NCAA school. See Guenther et al., supra note 10, at 8 (discussing method of providing policy to schools in paper and electronic copies).

87. See Hogshead-Makar & Sorensen, supra note 13, at 8 (recounting lack of pregnancy and parenting policies in NCAA schools).
a model policy, and a model statement.88 Throughout the policy, there is repeated focus on the athlete having the right to choose whether or not to continue a pregnancy.89 The policy recommends providing “neutral counsel” on the student-athlete’s pregnancy to “empower” the student’s decision making.90

The NCAA policy discusses the Title IX protections for pregnancy and related conditions.91 Pregnancy or related conditions can allow for a “red-shirted” year so the athlete can have another year of athletic eligibility.92 The policy notes that the pregnant student’s athletic scholarship will be protected.93 However, the NCAA states that upon return to their sport, the athlete does not have to be reinstated to their previous position or starting position.94

Regarding abortion specifically, the policy holds that a school cannot penalize a student for having a legal abortion.95 The NCAA provided a model decision flow chart for pregnancy, which starts off with the formation of a “decision-making team,” including doctors, counselors, and coaches.96 The flow chart then suggests

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88. See McArdle & de Mars, supra note 28, at 12 (analyzing NCAA guide format).
89. See Hogshead-Makar & Sorensen, supra note 13, at 14 (“The student-athlete must decide whether to continue or terminate the pregnancy.”). The policy stresses that the student needs time to make this decision. See id. at 17 (considering weight of decision of whether to maintain pregnancy).
90. See id. at 19 (“This ‘neutral counsel’ may include the Faculty Athletics Representative, professionals in nursing, medicine, counseling, women’s services, and student health services.”).
91. See id. at 32 (presenting background on federal law). For further discussion of Title IX protections regarding pregnancy, see supra notes 39–51 and accompanying text.
92. See Hogshead-Makar & Sorensen, supra note 13, at 34 (“These rules allow student-athletes to complete four seasons of competition during five consecutive calendar years after initial full time collegiate enrollment for Division I or four seasons of participation during the first 10 semesters or 15 quarters in which the student is enrolled in a collegiate institution in at least a minimum full-time program of studies for Divisions II and III.”); see also Guenther et al., supra note 10, at 58 (explaining NCAA Bylaw 12.8.1.5, which grants an additional year of eligibility).
93. See Guenther et al., supra note 10, at 58 (explaining NCAA Bylaw 15.3.4.3, protecting institutional financial aid); see also Hogshead-Makar & Sorensen, supra note 13, at 37 (announcing pregnant athletes are entitled to keep their scholarships).
94. See Hogshead-Makar & Sorensen, supra note 13, at 40–41 (stating athlete’s starting position may not remain theirs). But see id. at 67–68 (detailing how other students have gotten back to their original playing positions post-pregnancy).
95. See id. at 42 (“Institutions may not impose a penalty on a student, withhold a benefit or retaliate against her, because she is seeking, has received, or is recovering from a legal abortion.”).
96. See id. at 66 (providing model decision flow chart on how to respond to pregnancy); see also id. at 33 (“Where the opinions or recommendations of these professionals differ from those of team physicians or trainers, coaches should defer to the student-athlete’s health care providers who are obstetricians or other experts in pregnancy and related conditions.”).
student-athletes decide how to proceed with the pregnancy. The guide also provides suggestions for what athletic trainers should say in the case of a student-athlete coming to them about a pregnancy. These suggestions include telling the student-athlete that she has time to make her decision.

The 2008 NCAA guide prompted very little immediate response from educational institutions. In the year following the guide, less than five percent of female student-athletes reported knowing Title IX protections for pregnancy, and less than twenty percent reported knowing NCAA rules on pregnancy. A more recent study found that over ninety percent of female athletes still did not know any NCAA protections for pregnant athletes. There have been notable changes in the laws surrounding reproductive healthcare since 2008, especially around abortion care and the ability and time constraints around pregnant student-athletes. When asked about whether the guide would be updated in 2022, a spokesperson for the NCAA said they would not speculate but that the organization is continually focused on health issues that may impact their athletes.

B. Where is the NCAA?

Many collegiate athletic events occur in states where abortion now is prohibited or severely limited. For example, the softball
World Series is held each year in Oklahoma City where abortion is prohibited except in cases to save the mother’s life.106 The same is true for the gymnastics final, and the men’s and women’s basketball Final Fours.107 When pressed on the location of the Final Fours, NCAA leadership stated that they choose locations based on where their fans will feel safe.108 These events bring economic gain to states and cities where they are held.109 Many of the NCAA championships have already been scheduled for the next ten years, with a significant number scheduled to occur in states where abortion access is limited.110 Additionally, the NCAA headquarters is in Indianapolis, Indiana, where there is a total abortion ban.111

Some have called for the NCAA to move these events, but the prospect of doing so appears bleak.112 The risk of right-wing political backlash may be a reason for why the NCAA has not considered moving its events.113 Republican politicians could use the move as a way to attack the NCAA and portray it as a liberal organization.114

[https://perma.cc/N885-BFC4] (listing sporting events held in states with restrictive abortion laws post-Dobbs decision).


107. See Hensley-Clancy, supra note 19 (listing locations of events); Armour & Schnell, supra note 105 (noting basketball Final Fours were both held in Texas in 2023).


109. See id. (“The Dallas Sports Commission estimates a $30 million economic impact for the city from having the women’s Final Four at American Airlines Center . . .”).

110. See id. (“Of the 149 NCAA championships announced through 2035, 105 are scheduled to take place in states that restrict abortion and/or ban transgender athlete participation.”).

111. See Armour & Schnell, supra note 105 (stating location of NCAA headquarters and NCAA’s lack of comment on abortion laws); see also Indiana, Cir. for Reprod. Ris., https://reproductiverights.org/maps/state/indiana/ (explaining Indiana’s abortion ban).

112. See Armour & Schnell, supra note 105 (supporting calls to consider reproductive healthcare when choosing where to hold large events).

113. See Assimakopoulos, supra note 108 (noting how moving NCAA events may have limited impact).

114. See id. (suggesting Republican politicians may characterize NCAA as “woke”).
Another potential concern around moving events is the logistics, as many athletic events have restrictions based on weather and arena capabilities.\footnote{Another potential concern around moving events is the logistics, as many athletic events have restrictions based on weather and arena capabilities.}

C. Current College Policies

The lack of recent guidance from the NCAA has left universities and their athletic departments to establish their own policies.\footnote{The lack of recent guidance from the NCAA has left universities and their athletic departments to establish their own policies.} As a consequence of the \textit{Dobbs} decision, campuses will likely see higher rates of pregnancy, resulting in more questions for colleges to answer about handling pregnancy and more requests from college students and employees for leave and other accommodations.\footnote{As a consequence of the \textit{Dobbs} decision, campuses will likely see higher rates of pregnancy, resulting in more questions for colleges to answer about handling pregnancy and more requests from college students and employees for leave and other accommodations.} This Comment focuses on Division I Institution policies within states where abortion is either limited or banned.\footnote{This Comment focuses on Division I Institution policies within states where abortion is either limited or banned.} It is worth noting, however, that almost ninety-eight percent of Division I female student-athletes, from colleges nationwide, report their athletic department has not provided them with instructions of what to do in the event of pregnancy.\footnote{It is worth noting, however, that almost ninety-eight percent of Division I female student-athletes, from colleges nationwide, report their athletic department has not provided them with instructions of what to do in the event of pregnancy.}

In Florida, where abortion is now banned after six weeks, the University of Florida (“UF”) Athletic Department has tiptoed around the new reproductive landscape.\footnote{In Florida, where abortion is now banned after six weeks, the University of Florida (“UF”) Athletic Department has tiptoed around the new reproductive landscape.} One UF women’s basketball player reported that no one in the university’s Athletic Department has spoken to its athletes about reproductive healthcare following...
the *Dobbs* decision.\textsuperscript{121} UF’s student-athlete handbook includes ten pages on sports health, discussing issues like concussions, nutritional supplements, and substance abuse, but lacks any guidance on reproductive healthcare.\textsuperscript{122} The UF athletic staff has emphasized their commitment to student-athlete healthcare, noting that they aim “to empower student-athletes to take ownership of all facets of their lives....”\textsuperscript{123} However, these staff members ignore the fact that UF student-athletes are not empowered to make their own decisions when it comes to their reproductive health.\textsuperscript{124} A spokesperson for the university’s Student Health Care Center said that discussions of reproductive health are the same for students and student-athletes.\textsuperscript{125} This lack of distinction ignores the additional challenges athletes face when making decisions about their reproductive healthcare.\textsuperscript{126}

Conversely, Clemson University has some of the clearest guidance on pregnancy and childbirth for its students and student-athletes.\textsuperscript{127} This guidance may be in response to a 2007 scandal surrounding a Clemson track coach, whose comments reportedly led to seven athletes having abortions, due to fear of losing their scholarships.\textsuperscript{128} The school’s policy suggests that the pregnant student advise the

\textsuperscript{121.} See Douglas, *supra* note 104 (recounting experience of one UF athlete).


\textsuperscript{123.} See Douglas, *supra* note 104 (including response from Assistant Athletics Director Denver Parler, stating in part that “[s]tudent-athlete health and well-being are of the greatest importance to us, and our policies, commitment of resources, and care provided reflect that.”).

\textsuperscript{124.} See *Florida, supra* note 120 (reporting very limited abortion access for people living in Florida). For further discussion of reproductive healthcare access in Florida, see *supra* note 120 and accompanying text.

\textsuperscript{125.} See Douglas, *supra* note 104 (“We discuss reproductive health with student athletes in the same way we discuss it with students.”).

\textsuperscript{126.} For further discussion of the impact unintended pregnancy has on student-athletes specifically, see *supra* notes 27–38 and accompanying text.

\textsuperscript{127.} See *Title IX - Pregnancy and Childbirth, Clemson Univ.*, https://www.clemson.edu/campus-life/campus-services/access/title-ix/pregnancy.html#:~:text=Pregnant%20students%20cannot%20have%20their,doctor%20says%20it%20is%20necessary [https://perma.cc/C8FF-EYGA] (last visited Jan. 7, 2024) (outlining protections for pregnant or parenting students). Guidance from Clemson includes prompt notification of pregnancy and information about Title IX rights and mimics NCAA bylaws. See *id.* (explaining how Title IX can help protect pregnant and parenting students). For further discussion of NCAA bylaws, see *supra* notes 86–99 and accompanying text.

Title IX Coordinator of her pregnancy as soon as possible.\textsuperscript{129} The policy also details the rights that student-athletes have under Title IX and mimics NCAA bylaws, noting that athletes cannot lose their athletic scholarship due to pregnancy.\textsuperscript{130} Clemson states that athletic directors and coaches cannot pressure students to end their pregnancy, but it also does not say whether these individuals can assert pressure on students to continue said pregnancies.\textsuperscript{131} In 2008, the Clemson University Athletic Department also released a student-athlete pregnancy management manual.\textsuperscript{132} The manual notes that athletes should know their options according to state law.\textsuperscript{133} Clemson’s policy mirrors some of the language of the 2008 Pregnancy and Parenting Policy put forward by the NCAA.\textsuperscript{134}

Clemson’s website includes a link to an accommodations request form for pregnancy and pregnancy related conditions.\textsuperscript{135} The form states that along with providing reasonable accommodations, Clemson will not exclude students based on “termination of pregnancy.”\textsuperscript{136} The state of South Carolina, where Clemson University is located, bans abortions after six weeks.\textsuperscript{137}

\begin{footnotesize}
\begin{enumerate}
\item See Title IX - Pregnancy and Childbirth, supra note 127 (urging importance of communication between “the student, instructors, and the Title IX Coordinator”).
\item See id. (describing Title IX rights available to students at Clemson University). For further discussion of NCAA bylaws, see supra notes 86–99 and accompanying text.
\item See id. (“Professors, administrators, athletic directors, and coaches cannot pressure pregnant or parenting students to get an abortion or alter their educational plans.”).
\item See id. at 5 (providing guidance for student-athlete pregnancies).
\item See id. at 3 (noting rights of athletes who get pregnant and whose partners get pregnant).
\item See Hogshead-Makar & Sorensen, supra note 13, at 5 (“The NCAA Model Pregnancy and Parenting Policy (“Model Policy”) is designed to provide information and resources to member institutions and their student-athletes to effectively meet the needs of student-athletes dealing with a pregnancy.”).
\item See Pregnancy, Pregnancy Related Condition or Childbirth Accommodations Request Form, CLEMSON UNIV., https://cm.maxient.com/reportingform.php?ClemsonUniv&layout_id=42 [https://perma.cc/FX98-TK8S] (last visited Jan. 7, 2024) (including questions issue urgency, involved parties, and types of accommodations needed). Clemson University has five listed categories for accommodations including prenatal, postnatal, miscarriage/loss/termination, recent childbirth, and lactation support. See id. (asking “[w]hat condition are you seeking accommodations, action and/or support for with this request?”).
\item See id. (describing "welcoming, accessible, and inclusive environment" Clemson wants to create).
\item See South Carolina, CTR. FOR REPROD. RTS., https://reproductiverights.org/maps/state/south-carolina/ [https://perma.cc/5Q4K-PB4T] (last visited Jan. 7, 2023) (“In August 2023, the court allowed a six-week ban to stand, despite the acknowledgement that this ban infringes on the right to privacy and bodily autonomy, holding that a pregnant person’s interest in their bodily autonomy is outweighed by the state’s interest in fetal life.”).
\end{enumerate}
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Certain universities have not updated their policies to reflect accurate information on reproductive healthcare laws. Missouri State University approved a pregnant student-athlete policy in 2016. The policy requests that the pregnant student-athlete notify the athletic training staff of their pregnancy. The policy also notes that the athlete will bear all pregnancy related costs. The university states that the athletic trainer should be able to help the athlete access the resources they need. When the Court overturned Roe, the state of Missouri enacted a complete ban on abortion. However, Missouri State’s website providing information on what students should do when faced with an unexpected pregnancy, suggests students follow their own wishes, and lacks necessary updates based on changed abortion laws. The webpage then provides a link to the Planned Parenthood website. While there are multiple Planned Parenthood branches in Missouri providing care, due to Dobbs, these locations do not provide abortion services. If the student wishes

138. See Pregnancy, Mo. State, https://www.missouristate.edu/StudentConduct/pregnancy.htm [https://perma.cc/5KCS-CZFX] (last visited Sept. 22, 2023) (including information on pregnancy termination resources which are no longer available to Missouri residents because of updated Missouri law).


140. See id. ("For the medical safety of the student-athlete and the unborn child, [Missouri State University] athletic training staff and its team physician request that the student-athlete notifies the athletic trainer assigned to her team as well as the team physician immediately upon learning of the pregnancy.").


142. See Pregnant Student-Athlete Policy, supra note 139 (describing role of sports medicine staff at Missouri State). Resources available to students include counseling, and medical and obstetrical care. See id. (stating these resources may be through school or through off-campus services, as financial responsibility of athlete).


144. See Pregnancy, supra note 158 ("Only you can know what is right for you.").

145. See id. (listing resources for student’s faced with unintended pregnancy). The resources include Planned Parenthood, Medline Plus, Pregnancy, and Choices and Counseling Services. See id. (providing helpful websites).

146. See Rolla Health Center of Rolla, MO, PLANNED PARENTHOOD, https://www.plannedparenthood.org/health-center/missouri/rolla/65401/rolla-health-center-3876-90770 [https://perma.cc/SDC4-7W3K] (last visited Jan. 7, 2023) ("Unfortunately, due to state law, this health center is unable to provide abortion services at this time."); see also Central West End Health Center of Saint Louis, MO, PLANNED PARENTHOOD,
to legally and safely terminate the pregnancy, she must travel out of state to get this care, likely to Southern Illinois, where abortion is still legal. In an effort to stop such out of state conduct, Missouri representatives proposed a bill allowing residents to sue “anyone who helps a Missouri resident have an abortion.” This legislation was not passed, though there have been similar proposals made since. Some schools have updated their policies since the Dobbs decision. Butler University’s Pregnancy and Parenting webpage includes a statement about Indiana’s new abortion law and a frequently asked questions section. The site states that abortion is prohibited with limited exceptions in Indiana, and Butler acknowledges the difficulties state law may have on its students, affirming its commitment to student healthcare. Butler notes that accommodations must be made for abortion related travel and students should contact the University’s Title IX Coordinator. While the university


148. See id. (providing resources for pregnant students). These resources include pregnancy testing, contraception, long-acting reversible contraceptives, and more. See id. (answering “[w]hat sexual and reproductive health services does Butler provide for students?”).

149. See Anna Spoerre, With Most Abortions Illegal in Missouri, Few Expect New Bills Will Get Traction This Year, MO. INDEP. (Jan. 5, 2024, 10:00 AM), https://missouriindependent.com/2024/01/05/missouri-abortion-legislative-session/ [https://perma.cc/US5X-XXSN] (describing one proposal making “it illegal for employers to assist employees in getting abortions”).


151. See id. (providing resources for pregnant students). These resources include pregnancy testing, contraception, long-acting reversible contraceptives, and more. See id. (answering “[w]hat sexual and reproductive health services does Butler provide for students?”).

152. See id. (“I understand this new state law impacts our students differently and on deeply personal levels.”).

153. See id. (suggesting what students should do if they are seeking abortions). Butler University recommends that students reach out to the school’s Title IX Coordinator if they need to miss class for pregnancy termination, including the
states that accommodations and support for abortion care are required by Title IX, it also states that Butler is “proud” to do so.154 Butler provides various resources to all students, including care packages for pregnancy termination, a pregnant and parenting support group, and lactation rooms.155 However, Butler does not specify student-athletes in its policies and does not include any information on pregnancy or parenting in their student-athlete handbook.156 While Missouri and Indiana have similar state laws regarding abortion, the resources available to students and student-athletes at Missouri State and Butler University vary significantly.157

Other schools have taken a clear stance against student abortion access, even before the Court’s ruling in Dobbs.158 Creighton University, a Big East Conference school, is located in Omaha, Nebraska, where abortion is banned after twelve weeks.159 Creighton University includes its abortion policy in its student handbook as the first policy applicable to students.160 The policy states that abortion services are not provided by Creighton and affirms that the University
follows Catholic teachings. Interestingly, Creighton’s Student-Athlete Handbook from 2017–2018, the most recent edition available online, includes a pregnant student-athlete policy that provides a description of NCAA protections for pregnancy. The policy does not mention pregnancy loss or termination. Creighton states that it is mandatory for student-athletes to notify athletic staff of their pregnancy, a requirement which in today’s climate could cause complications and additional stress to a pregnant athlete.

D. Recommendations

At a minimum, the NCAA should update its pregnancy and parenting policy to reflect the laws of the post-Dobbs world. The policy must reflect the reality that many student-athletes will have little or no time to consider their options in regard to having a child. It will be hard for the NCAA to create a uniform policy given the differences in state law. However, it should modify its model policy to include guidance for schools where reproductive healthcare is (1) not limited, (2) limited, or (3) banned entirely. This information, combined with the rights of pregnant student-athletes through Title IX, could also be disseminated by the NCAA’s Committee on Women’s Athletics, which was created to ensure gender equity in college athletics. While the NCAA’s Sport Science Institute, which focuses on athlete safety and wellness, has a page on sexual assault and interpersonal violence, it does not include information about abortion. 

161. See id. (“Services for the purpose of abortion are not available to students through Creighton University. Creighton University, a Jesuit, Catholic University, is convinced that the hope of humanity is the ability of men and women to seek the truths and values essential to human life.”).


163. See id. at 60 (excluding abortion from pregnancy protections).

164. See id. (demanding athletes inform staff of pregnancy as early as possible as safety measure). For further discussion of student-athletes’ potential reluctance to disclose pregnancy, see infra notes 175–178 and accompanying text.

165. For further discussion of changing laws in the reproductive healthcare space, see supra notes 52–68 and accompanying text.

166. See Hensley-Clancy, supra note 19 (describing how choice has “disappeared” for college athletes in top programs).

167. See id. (providing statement from NCAA describing how reproductive healthcare occurs at local level).

168. For further discussion of how state law differs on abortion, see supra notes 75–76 and accompanying text.

169. See Guenther et al., supra note 10, at 67 (analyzing Committee on Women’s Athletics’ role in tackling issues of “equitable opportunities, fair treatment, and respect for all women in all aspects of intercollegiate competition”).
pregnancy, pregnancy loss, or abortion. The NCAA should forcefully restate that under Title IX, all universities receiving federal fundings are still prohibited from discriminating against students or eliminating their scholarships because of pregnancy termination. Universities should also update their policies and websites to no longer include erroneous information, including resources which were formerly available. Pregnant student-athletes who may be searching their college’s website feverishly for any guidance should not be given false hope that their state allows access to abortion care.

The NCAA has an opportunity to provide updated guidance to college athletic directors and staff, regarding how to support athletes when they disclose a pregnancy. However, athletic directors and coaches must first be aware that many athletes will not come to them to disclose an unintended pregnancy. Athletes, particularly women, appear reluctant to go to their coaches with their mental health struggles and could likely feel the same about other sensitive health matters. An NCAA report from 2017 found that roughly two-thirds of athletes report trusting their coaches.


171. For further discussion of Title IX pregnancy discrimination, see supra notes 39–48 and accompanying text.

172. For further discussion of individual college resources, see supra notes 116–164 and accompanying text.

173. See Pregnant Student-Athlete Policy, supra note 139 (providing information on Planned Parenthood resources in Missouri).

174. For further discussion of the NCAA’s most recent published guidance in response to an athlete’s pregnancy, see supra notes 86–104 and accompanying text.

175. See Brake, supra note 47, at 362 (“A young woman who finds herself in such a situation may well withdraw from many persons in her life, including her coach and teammates.”); see also Guenther et al., supra note 10, at 64 (finding roughly twenty-five percent of athletes say it is “unlikely” and twenty percent say it is “very unlikely” they would go to someone in their athletic department for help in event of pregnancy).

176. See GOALS Study: Understanding the Student-Athlete Experience, supra note 37 (summarizing study from 2019 that found less than fifty percent of Division I female athletes felt comfortable discussing mental health issues with their coaches).

feel safe and comfortable to divulge this personal information, while recognizing that the changing landscape in reproductive healthcare laws may cause some athletes to be more reluctant to do so.178

Athletic department officials are only useful if they are knowledgeable on the student’s rights under both state abortion laws and Title IX.179 Additionally, athletic directors living in a state where abortion is banned or limited should be armed with information about organizations which help student-athletes cover the cost of travel necessary to obtain an abortion.180 Colleges must acknowledge the societal forces in place which can make it more difficult for a student-athlete to travel to access abortion than an average student.181

The NCAA should also consider limiting events held in states with restrictive abortion access.182 Though there may be backlash from residents of states where reproductive rights are threatened, the NCAA should prioritize the health and safety of their athletes.183 This would not be the first time the NCAA decided against holding events in a state due to their laws.184 In response to anti-transgender legislation, the NCAA pulled its basketball tournament from North

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178. See Jackson, supra note 13 (indicating student-athletes may be reluctant to disclose unintended pregnancies); see also Talking Title IX and College Sports, supra note 27, at 26:00 (recounting need for safe spaces).

179. See Guenther et al., supra note 10, at 68 (suggesting athletic staff be prepared to answer questions of pregnant student-athletes). Athletic trainers may be another useful resource for pregnant student-athletes if armed with accurate information on reproductive healthcare. See id. (providing background on athletic trainers’ role and interaction with student-athletes).


181. See Hensley-Clancy, supra note 19 (implying student-athletes may not have same resources available to them as other college students).

182. See Armour & Schnell, supra note 105 (advocating for consideration of reproductive healthcare laws when choosing where to hold events).

183. See id. (discussing how people in states with limited access to reproductive healthcare still want NCAA events to occur in their state). But see Hensley-Clancy, supra note 19 (describing how athletes may not feel safe playing in states where their reproductive rights are limited).

Carolina in 2016. Additionally, the NCAA did not hold events in South Carolina for many years because of the Confederate flag flying over their state capitol. Beyond issues of gender identity and race, the NCAA also refused to hold events in Las Vegas for many years because of the state’s laws on sports betting. However, varying abortion bans across twenty states differ from these isolated policies, which makes it more difficult for the NCAA to work around them.

Nevertheless, the NCAA has the institutional structure in place to consider issues of gender equity, including reproductive rights, when choosing an event location. The NCAA has an Office of Inclusion, though this office does not focus on the NCAA’s championships but instead focuses on serving NCAA membership. The NCAA’s latest Gender Equity Assessment, released in July 2023, asserts that a championship venue has a significant impact on student-athletes and that the NCAA has been largely reactive when it comes to its decision making on championship hosts. The Assessment focused on the athlete experience, but ignored how the reproductive policies of the states holding these events can impact athletes. The NCAA should become proactive in choosing the locations of its events to correspond to where their athletes and attendees can feel most safe and in full access of their rights.

(detailling NCAA’s response to South Carolina state flag); Armour & Schnell, supra note 105 (noting NCAA’s response to sports betting in Nevada).

185. See Graham, supra note 184 (detailing NCAA’s decision to pull its championships from North Carolina due to North Carolina’s 2016 anti-transgender bathroom bill).

186. See S. Carolina’s Removal of Confederate Flag Leads to NCAA Decision, supra note 184 (describing NCAA’s decision to ban championships in South Carolina for fifteen years).

187. See Armour & Schnell, supra note 105 (providing NCAA’s response to sports betting legalization in Nevada).

188. See id. (highlighting difference between individual state laws and rollback on reproductive healthcare laws); see also Assimakopoulos, supra note 108 (“It’s not easy for the NCAA or anyone else to say, ‘Oh we can go here, and we can’t go here,’ because there’s so many shades of awful that are happening in states and cities across the country.”).

189. For further discussion of NCAA institutions, see supra notes 182–188 and accompanying text.


191. See id. at 8 (providing results from July 2023 Gender Equity Assessment).

192. See id. at 12 (finding some athletes had “less favorable experience” during women’s championships).

193. See Armour & Schnell, supra note 105 (discussing sentiment from one NCAA athlete).
The NCAA should incorporate access to reproductive healthcare when conducting its next Gender Equity Assessment. The 2023 Assessment concluded that the NCAA had heightened focus on gender equity but a lack of ownership of the issue among its leadership, due to high turnover rates in its leadership team and the organization’s “divided governance structure,” which harms the NCAA’s ability to implement consistent changes. The Assessment found that men and women were given substantially the same healthcare but it is unclear whether this considered reproductive healthcare. While there is not a regular training program for staff on gender equity issues, if the NCAA is to craft one, it should include issues of reproductive healthcare access.

If the NCAA continues to hold events in states where access to reproductive healthcare is limited, teams should take it upon themselves to bring attention to the issue. One example is the Howard’s men’s basketball team who chose the impact of the Dobbs decision as part of its social justice project for the 2023 season. Athletes themselves can bring attention to the issue on the field and through social media. The NCAA could also partner with its athletes on access to reproductive healthcare. It may also be useful to follow

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194. For further discussion of how access to abortion has historically helped athletes, see supra notes 15–20 and accompanying text.

195. See Gender Equity Assessment, supra note 190, at 7 (“This lack of ownership seems to have been proliferated and prolonged by significant turnover in the NCAA’s senior leadership over the last three years, including in the positions of NCAA President, Chief Financial Officer and the Senior Vice President over the Office of Inclusion. The NCAA’s divided governance structure – a National Office staff coupled with a robust member-run committee structure – also seems to have contributed to a lack of clarity over who “owns” gender equity….There is no lack of talent at the NCAA National Office or in the composition of its governing committees, but there is a lack of communication and coordination that, at times, has stood as an obstacle to implementing consistent and Association-wide changes in line with Kaplan’s recommendations.”).

196. See id. at 15 (considering healthcare provided to men and women athletes).

197. See id. at 23 (“While the Office of Inclusion recently provided a training session for Championships Managers on gender equity issues, the NCAA has not yet implemented staff on-boarding or a regular training program or protocol designed to increase existing staff’s awareness of, and ability to address, any gender equity issues.”).

198. See Armour & Schnell, supra note 105 (suggesting ways to advocate for reproductive healthcare without moving events out of states with limited access).

199. See id. (citing reproductive advocacy examples).

200. See id. (“Use your platform, whether that’s social media, wearing a wristband or an armband – whatever tool is in your toolbox, use that to uplift attention on abortion access.”).

201. See Michael Pina, ‘We Have a Lot More to Do’: Inside the NBA’s Unprecedented Social Justice Coalition, SPORTS ILLUSTRATED (Jan. 17, 2022), https://www.si.com/nba/2022/01/17/national-basketball-social-justice-coalition-one-year-later-daily-
the NBA’s Social Justice Coalition as a model and apply the same framework to reproductive justice. The NBA’s approach utilized its influence to advocate for legislation, build a coalition, and support player advocacy.

Given that new laws may lead to more athletes having to give birth as a result of strict limitations on abortion access, the NCAA should encourage colleges to increase funding for childcare to support student-athletes. In 2020 the WNBA updated its collective bargaining agreement to include maternity leave, dedicated nursing areas, and childcare stipends. However, a 2015 study found that less than half of public universities provide on-campus childcare services. There are private funds in place to aid student-athletes with childcare, but the NCAA should contribute to these funds to support the student-athletes that allow their Association to thrive.


See id. (detailing formation of NBA’s Social Justice Coalition); Armour & Schnell, supra note 105 (describing NBA’s Social Justice coalition work and mission). The NBA’s Coalition leverages the game of basketball’s influence to promote policy (advocate for federal, state, and local laws advancing racial and social justice), build strategic partnerships (facilitate collective impact), and empower action (support player, team and NBA-wide advocacy)."

See Our Priorities, supra note 202 (“Formed jointly by the NBA, NBPA, and NBCA in 2020, the Coalition leverages the game of basketball’s influence to promote policy (advocate for federal, state, and local laws advancing racial and social justice), build strategic partnerships (facilitate collective impact), and empower action (support player, team and NBA-wide advocacy).”).


See Williams et al., supra note 204 (“In 2015, 49% of four-year public colleges provided on-campus services, down from 55% in 2008.”).

See Jackson, supra note 13 (arguing NCAA could help in paying for childcare for student-athletes).
Universities should look at their student health plans to make sure they provide maternity coverage, as many do not. While being forced to have a child will undoubtedly derail the lives of a student-athlete, providing funding for pregnant and parenting athletes can give them the best shot at a successful collegiate and professional career. It is the least the NCAA and universities can do for their student-athletes.

IV. Post Game Huddle: Closing Thoughts

In the time since the Court handed down the Dobbs decision, states have not hesitated in taking away access to reproductive healthcare. Yet the NCAA and college athletics appear to be waiting this one out. This lack of guidance leaves student-athletes uncertain about what rights they have and how — or if — their athletic departments will support them. When the NCAA provides new guidance, it must accurately reflect both federal and state law. The NCAA can show support for its athletes in a number of ways. The issue of abortion is not going anywhere, and could lead to long-term complications for college admissions, recruiting, and most importantly the health of student-athletes. Despite celebrating fifty years

208. See Megan Leonhardt, This 24-Year-Old Mistakenly Thought Her Health Insurance Covered Her Pregnancy—and 4.2 Million Others Like Her May Be At Risk, CNBC (Nov. 26, 2019, 10:02 AM), https://www.cnbc.com/2019/11/26/when-your-insurer-does-not-cover-your-maternity-costs.html [https://perma.cc/FVV8-ZQ4B] (considering how student-health plans may lack important coverage).

209. See id. (finding lack of maternity coverage in many university student health plans, which cover “about 3 million young people”).

210. See Amici Curiae Brief, supra note 6, at 7 (“If the State compelled women athletes to carry pregnancies to term and give birth, it could derail women’s athletics careers, academic futures, and economic livelihoods at a large scale.”).


212. For further discussion of state laws limiting reproductive healthcare, see supra notes 75–76 and accompanying text.

213. For further discussion of the NCAA’s lack of response to the Dobbs decision, see supra notes 7979–85 and accompanying text.

214. For further discussion of current college policies, see supra notes 116–164 and accompanying text.

215. For further discussion of recommendations for NCAA policy, see supra notes 165–175 and accompanying text.

216. For further discussion of ways in which the NCAA can show support for pregnant and parenting athletes, see supra notes 174–211 and accompanying text.

217. For further discussion of Dobbs impact on college admissions, see supra notes 69–85 and accompanying text.
of Title IX, without accessible reproductive healthcare, women’s athletics and women’s futures will suffer.\textsuperscript{218}

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\textsuperscript{218} For further discussion of Title IX’s interaction with reproductive health restrictions, see \textit{supra} notes 15–20 and accompanying text.

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