



2023 NCAA Convention Press Conference
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Charlie Baker | Linda Livingston

MODERATOR: Hi, everybody. Good to see you all again. We're here with Baylor President Dr. Linda Livingston, chair of the Board of Governors, and incoming NCAA President Charlie Baker.

LINDA LIVINGSTONE: We appreciate you all being here and being part of all that's going on this week. As you can tell, it's a really important and significant time of change and transformation for the NCAA. And we are thrilled to have Charlie Baker joining us.

It's an exciting time to introduce him and welcome him. And I have to say, he's been unbelievably well received. This week he's been meeting with presidents, with student-athletes, with administrators across all three divisions. And I know especially that the student-athletes have loved meeting you, Charlie, and have loved getting to know him.

So we're excited about it. And the reception has been fabulous. And so we look forward to what's ahead as we work on implementing Transformation Committee recommendations. We work on the congressional engagement strategy, and certainly as we bring Charlie on on March 1st.

CHARLIE BAKER: I would just start by saying that I appreciate the chance to take on this responsibility. I'm looking forward to it. I think you did a pretty good job of laying out the issues that we face going forward. And I'm looking forward to getting to work.

Q. Just from I guess a distance, what makes you think that you'll be able to get something through Congress, talking about (audio cutting out) late last week (indiscernible)?

CHARLIE BAKER: Look, I think the challenges associated with moving any legislation are always significant. I do believe, though, that there are serious issues associated with just letting this thing run without doing something to deal with (indiscernible) college sports.

And there are 1,100 universities and colleges in the U.S. (indiscernible) significantly in college athletics, and I think many of them are really concerned about their future.

And most of those schools have really solid relationships with a lot of the people who have an elected office. And I think one of the conversations that is probably going to take

place is not just going to be the two of us but it's going to be the people who are the leaders in a lot of those organizations and the alumni of a lot of those organizations (indiscernible) talking directly to elected officials about why this is going to be such a (indiscernible) time if they don't do some things to create (indiscernible) teamwork around which this (indiscernible).

Q. Linda, when Mark took over, he's a career college administrator, but how do you support Charlie and bring him up to speed on the uniqueness of college athletics and the challenges?

LINDA LIVINGSTONE: I could almost challenge any of you to a trivia contest about college athletics with Charlie, because he's a huge college sports fan.

Now, you may not want this challenge (laughter), but I will say he actually knows probably a lot more about college sports on a broad level than the average person because he was a participant, his children were, his wife was, and he loves college sports.

But he's a smart person. He's had to do a lot in his career, whether as a businessperson or as a governor, to get up to speed quickly on really complex and big and important issues that had to be solved, even if those weren't areas that were in his particular wheelhouse in terms of his background or experience.

So he asks lots of questions. He listens well. He's very thoughtful as he approaches these issues and conversations. So I've been really impressed with what he's learned so far in the really short window he's had to do that. And I know the staff at the NCAA are working really closely with him to make sure that he has the information, the support that he needs as he prepares for March 1 to be really ready to go. And he will continue to listen and learn and have conversations with a broad set of individuals to get up to speed as quickly as possible.

CHARLIE BAKER: To add to that, I can't remember what day it was, but it was a few weeks ago that this got announced. Everyone I ever met or came across or knew who knew anything about college sports (indiscernible) on my phone and in my phone within 24 hours. And I've been in the process of calling a lot of those folks back and just asking questions and taking notes.

And that's pretty much one of the reasons I wanted to be here was I took an entire notebook worth of notes. (Indiscernible.) I've been in pretty interesting spots. Health care is a pretty complicated space. And that's where I spent a big part of my career.

And I have a ton to learn. I know I have a ton to learn. I'm going to ask a ton of questions. (Indiscernible.)

Q. As I try to understand the stakes and strategies for over the coming year, if I'm understanding you both correctly, the NCAA wants a policy from the federal government that would allow any federal rule to preempt what the various hodgepodge of state laws we have right now. But I believe, Dr. Livingstone, you also mentioned that most of these current states don't have written enforcement mechanisms, and our publication isn't aware of any state that is enforcing any of those. Maybe either of you two could better explain to me what the challenge is with a patchwork of laws if nobody is actually enforcing any of those laws, what that means in the here and now right now for these member institutions?

LINDA LIVINGSTONE: So the challenge with that is because there's 30 different state laws plus 20 states that don't have laws, the NCAA can't make, can't provide guidance on a national level in any significant way around NIL because almost anything you would do would be in violation of some particular state.

I'll give you a specific example. We really believe that a national clearinghouse of NIL deals would be extremely helpful because it would help you understand what the market is for different types of activities. It would actually help you understand our student-athletes actually being asked to do anything to earn the NIL, which is a real concern.

And you could go on and on of why more transparency in what's being done in these NIL deals could be really helpful to protecting our student-athletes, to helping them know what opportunities are out there, to helping them know what they should be worth if they get an opportunity.

And that's not available now because there are states that require student-athletes to report their NIL deals to their institutions. There are states that prevent them. You cannot share the NIL deals with your institution.

And so in that kind of landscape, we as an NCAA cannot require that students report NIL deals and we can't create a clearinghouse on a national level because it would be in violation of some set of state laws out there.

And so providing — and then it makes it extremely difficult for the NCAA because we have rules that say you can't induce players to play at your institution. Those are rules that have been in place for a very long time, completely independent of NIL.

But the NIL activity should live within those rules. It should not be used for inducements. We know that there's a lot of concern that that's happening.

But because the states aren't — even a lot of the state laws say that, right? But the state laws aren't really enforcing. And it's really hard for the NCAA to come in with these entities that are outside the purview of the university — supposedly, allegedly — and actually get the evidence they need to actually prove a case if there's really a sense that a collective is using those resources from NIL to actually induce a player.

So having consistency and a national framework that allows transparency, that allows consistent enforcement of a common set of rules would be extremely helpful and frankly protects our student-athletes and ensures they do all have legitimate, real opportunities for NIL, which we absolutely want them to have. So that would be a couple of things I would say in that regard.

Q. How is that different than when, like, the NCAA would have a drug policy that was more restrictive than what state laws would allow, like with marijuana? You know what I'm saying? It would be permissive in some states but the NCAA did have a policy on that. How is NIL different?

LINDA LIVINGSTONE: I don't know a whole lot about drug laws across the country.

Q. I'm just using it as an example.

LINDA LIVINGSTONE: I understand exactly what you're saying. I think what we've tried to do in the NCAA is be reasonable in how we think about doing that. And what I will say, in terms of, for instance, participation in championships, well, the NCAA has a drug-testing policy around that or has had over time.

And if you want to voluntarily participate in those championships, you have to comply with that drug-testing policy, which I don't think has ever been viewed as being in violation of a state law, necessarily.

On the campus level, athletic departments were not necessarily required to have a drug-testing policy at the campus level in their athletic department. Your student-athletes had to comply with whatever your university drug-testing policy was, and if you had an athletic department drug-testing policy, then you'd better comply with that, but it wasn't required.

So that was done at the local level, at the campus level. And so then, of course, each of those institutions would have to comply with their state laws. And then they would have to comply with their own drug-testing policies.

And then the NCAA's concern would be are you actually violating your own drug-testing policies, which might be different than some other institution that's in a different state.

Q. Charlie, a lot of people have made a lot about your political background. As a governor, what is your interaction like with House of Representatives, the senators, the people you will really be trying to spend a lot of time with?

CHARLIE BAKER: It depends on the issues, but it's usually issue-specific. I have relationships with my own delegation and with other delegations in and around the New England region on a variety of issues that relate to the region. But most of the time the engagement with members of the House and the Senate tend to be issue-specific. This would be an issue-specific engagement as well. It's one where I do believe, well, we'll certainly do all we can to support our colleges and universities. I do believe their voice in many respects is going to matter a great deal in this conversation.

Q. Part of the issue with NIL is it's become sort of a — it's become payment, right? But it's also — as I've had athletic directors talk to me about — you're essentially farming out compensation to the athletes. Is there a way to preserve what you call the unique relationship between athletes and the schools to somehow make them not employees but still compensate them?

LINDA LIVINGSTONE: That's one of the questions that we're working on in trying to answer that question. It's why protection of the status of our student-athletes is so important, that they be viewed as sort of a unique status on our campus, that they would not be employees.

Even as we think about how we benefit them more significantly, is there an economic model that makes sense that they can benefit more from the financial benefit they bring to an institution? But it will be difficult to do that without some of these federal protections because you could trigger employment if it's not done carefully and other things. And there's a lot of downsides to student-athletes being employees. I referenced it a little bit in my remarks.

And, frankly, especially for Division II and Division III schools. It's not a sustainable financial model for those institutions. And frankly differentiating the effort of a Division I student-athlete versus a Division III student-athlete from an employment perspective is extremely difficult to do, I think, in terms of how employment law works, and not being an attorney in that regard.

So I think we've got to try to figure out what that kind of economic model might be going forward that's different than what we've done in the past. But I think to develop something that's sustainable and works is going to take some federal protection in some of these areas that are particularly challenging for us without some protection.

Q. As a follow-up, I don't want to pre-assume a headline here, but there seems to be an open-mindedness to possibly coming up with some compensation where that would have been just an absolute nonstarter in the past out of people in your position.

LINDA LIVINGSTONE: I certainly think over the last few years, you see it with NIL, that the NCAA's position on NIL changed. I think as you look at the new Transformation Committee recommendations and you see some of the expectations for what it means to be a Division I member, some of the benefits and support we're providing for student-athletes, we are continually looking at how do we best support and benefit our student-athletes in a way that helps them to be a success and the best they can be.

And I think looking at what the benefit model, the economic model around our student-athletes in the long run is something we really have to continue to do. And we know it's something really important going forward.

Q. Charlie, any ideas, is there a way to pay people without them being employees? Is there a way to collectively bargain with a group without them being employees? Maybe that's something you have experience with...

CHARLIE BAKER: Those are questions that get way beyond, I think, where this conversation is at this time.

The one thing I would point out, if you're going to say that a scholarship athlete is an employee, then why isn't a scholarship trombone player an employee? Why isn't a scholarship mathematician an employee? Why isn't any scholarship person who has any kind of requirements that are put on them by the school that they go to an employee?

Remember, the vast majority of the kids who play sports in college do not play sports at school where schools make money on sports. The vast majority of them play in schools where sports, like band and like everything else, is a cost center.

So if we're going to go down this road that basically says every kid who gets a scholarship, who gets a benefit from a college is somehow an employee, I honestly don't know what the higher ed model looks like at that point. And I worry tremendously that what happens to that higher ed model is a lot of kids don't get to go to college because there is no model that's available to support them.

There's a big difference between the thousands of schools, plus or minus, where this is all cost centers and the others. And I think that's something people need to keep in mind when they make these broad assumptions about how you can play this because it's different.

Q. Linda, given some of the lawsuits that are in the pipeline this year, what is the level of urgency to try to get something done with Congress?

LINDA LIVINGSTONE: We feel like there's a great sense of urgency, and it's certainly not related to lawsuits. It's related in some ways to some of the potential state laws that are out there that the state legislators are looking at. It's related to some things that could be coming out of some of the federal agencies.

So we absolutely believe that it's urgent, it's essential and it's something that we really need to lean into and make progress on in this legislative session.

CHARLIE BAKER: The one thing people are looking for in a lot of these areas is clarity. Right now there isn't much. And it makes it very hard for people to figure out what's allowed and what's not.

Nobody's enforcing NIL yet, but a really bad story about a really bad case could lead to an enforcement, right? I mean, if there were to be a story that got out there into the media and all of a sudden there was a lot of outrage and concern about that, all of a sudden people who didn't know if they were doing something wrong or not could suddenly be in the cross hairs.

And that's a big part of the problem with not having a standard, which is it means everybody is basically operating on a "maybe."

And a "maybe," especially in something like this, that's a tough standard to live with. And I do think it puts both kids and schools in a tough spot.

Q. It sounds like what you're saying you don't necessarily see a carve-out — I realize this it's a relatively small set of athletes — but say somebody like Caleb Williams, the quarterback at USC, and the amount of money that he would generate for a program like that; or you could say the same thing about Bryce Young at Alabama, that they should be treated differently than, say, a basketball player at the end of the bench at Harvard.

CHARLIE BAKER: Very funny, did you have to say the part about the end of the bench?

I think that's exactly the kind of conversation that's appropriate to have. But that's not what's going on currently with a lot of the conversations around legislation and litigation. It's a very different — it's across the board, everybody's in, which I think creates tremendous negative consequences for the whole idea of what it means to be a student-athlete — the whole idea what it means to be a scholarship student at any institution, period, including the larger institutions like the ones you're referencing.

What if you do play in the band? Are we supposed to — or you're a master chemist or (indiscernible) — well, that's the difference and then you have to figure out how to separate that, which that's currently not a part of a lot of those conversations.

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