

The NCAA Cartel: Enveloped by a Perfect Storm?

Education Secretary Duncan's recent criticism, ongoing scandals, a class-action antitrust lawsuit, financial problems, book-length exposés, and global realities could be forming a perfect storm while sharpening the tipping point for real college sports reform.

By Frank G. Splitt, February 22, 2010

Intercollegiate athletics, as currently practiced by many universities, compromise admissions standards, weaken the curriculum, and threaten other essential academic values. Neither coaches nor athletic directors, nor presidents, nor trustees can bring about real reform without help. Faculty members have the most at stake in upholding academic values; they represent the best hope of achieving genuine progress in making the kinds of changes required. As a result, I warmly endorse the arguments contained in this brief for involving faculty in a campaign for integrity in college sports.

—**Derek C. Bok**, the 300th Anniversary University Professor and former President, Harvard University

The above commentary on a 2003 brief¹ came with a thought-provoking question. The gist of Dr. Bok's question was: "Just how do you plan to go about the campaign for integrity in college sports? As best as I can recollect, I said I was going to follow a path similar to the one used for systemic engineering education reform.

It was shortly thereafter that Dr. Jon Ericson extended an invitation to join The Drake Group. It was my good fortune that I linked up with this reform-minded organization as well as with Dr. Jim Duderstadt—each contributed a commentary on the brief. Little did I know at the time how difficult it would be to push back on the hypocritical claims the NCAA cartel and its supporters have made about the amateur basis and academic integrity of intercollegiate athletics and their benefits to higher education. Nevertheless, it seems that a storm has been slowly brewing over the ensuing seven years. Here's the story:

Education Secretary Arne Duncan really caught the attention of NCAA officials with his remarks at the 2010 NCAA convention this past January.² The critical tone of these remarks helped rekindle The Drake Group effort to bring senior officials at the U.S. Department of Education to an even more full awareness of the brutal truth about big-time college sports.³

More specifically, the Secretary's remarks refocused the Drake's on the crucial role played by the Family Educational Rights and Privacy Act (FERPA) in shielding academic corruption in college athletics.⁴ That said, the aim of this and the author's previous commentary⁵ is to give the reader a good sense of the present state of affairs in college sports reform given recent events.

To begin, most Americans have been led to believe that sports programs are an extracurricular activity—an integral part of the fabric of the postsecondary education experience. They have also been led to believe that these programs play a significant role in America's higher education system with beneficial impacts—helping to knit together the disparate supporters of these enterprises while galvanizing the school and the surrounding community around the spirit that comes with a successful athletic program

The general public is apparently unaware of the fact that the impacts of these programs are not all beneficial as they are often mixed with strong debilitating negative components. For one, big-time college sports are no longer extracurricular activities but rather businesses that provide multi-billion-dollar mass entertainment.

Over the years the NCAA and its member schools made freshmen eligible to play, lowered admission standards, and replaced four-year athletic scholarships with one-year renewable scholarships. All of this was done to increase their talent pool and professionalize big-time football and men's basketball programs—transforming the conferences affiliated with these big-time programs into minor league businesses supporting the NFL and NBA.

The relentless pursuit of increased revenues in these businesses has undermined attempts to maintain academic standards and integrity—fostering a legacy of academic corruption and an athletics-over-academics culture in which athletes are both excessively entitled, exploited, and effectively denied the opportunity to receive a legitimate college education.⁶⁻⁸

The extensive media coverage of the Binghamton University scandal⁹ has provided another window to information on the corruption in big-time college sports to go along with past scandals at the University of Minnesota, the University of Georgia, Louisiana State University, the University of Tennessee, Florida State University, Auburn University, the University of Michigan, the University of Memphis, the University of Southern California, and the University of Colorado. To be sure there have likely been many more, but these are the schools we know about mostly via courageous whistleblowers.

Although not yet fully understood, the downstream implications of the denial of the NCAA's motion for dismissal of the class-action antitrust lawsuit on behalf of former college men's basketball players could prove to be profound.¹⁰ The lawsuit has the potential to open a floodgate to information that the NCAA and its member schools have been successfully hiding from the public, the Congress, and athletes via their misuse/abuse of FERPA's privacy provisions.

No doubt, a host of NCAA cartel lawyers will be called upon to impede the outflow of information during the discovery process. This would certainly include information related to the academic corruption that has enabled the cartel's student-athlete charade, the professionalization of its college sports businesses, and the continuation of the tax-exempt status of these businesses.

Taken together, Secretary Duncan's criticism, multiple scandals along with financial problems,¹¹ the class-action lawsuit and the referenced book-length exposés⁶⁻⁸ have enveloped the NCAA cartel in what might be called a perfect storm that could sharpen the tipping point for substantial college sports reform. But rest assured substantial reform will not come about easily—if at all.

Why not? Because there seems to be no end to the public's and the media's love of professional games—no matter how corrupt their underpinnings—and then there are the all too many powerful 'see-no-evil-hear-no-evil' apologists who have vested interests in maintaining the status quo.

It has been said that no other American institution has experienced greater crises and scandals than big-time college sports, and yet it has not only survived all of them but thrived.¹²

Only time will tell if the government will continue to ignore global realities and stand idly by while letting big-time college sports programs continue to practice as they do today—compromising the educational, economic, and physical, well-being of America.¹³

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NOTES

1. Splitt, Frank G., "Reclaiming Academic Primacy in Higher Education: A Brief," IEC Publications, 2003, http://thedrakegroup.org/Splitt_Reclaiming_Academic_Primary.pdf
2. Moltz, David, "Duncan Challenges NCAA to Change," Inside Higher Ed, Jan. 15, 2010, <http://www.insidehighered.com/news/2010/01/15/ncaa>. My posted comments, "Professionalized college sports entertainment rules," and "Casting More Light on the Secretary's Remarks" bear directly on subsequent personal communications to Secretary Duncan's senior staff. Comments appear after this story.
3. Splitt, Frank G., "The Brutal Truth About College Sports: Who Will Tell the President?," http://thedrakegroup.org/Splitt_Brutal_Truth.pdf
4. Salzwedel, Matt and Ericson, Jon, "Cleaning Up Buckley: How the Family Educational Rights and Privacy Act Shields Academic Corruption in College Athletics," Wisconsin Law Review, Vol. 2003, <http://thedrakegroup.org/publications.html>
5. Splitt, Frank G., "Reclaiming Academic Primacy and Integrity in Higher Education," http://www.thedrakegroup.org/Splitt_Reclaiming_2010.pdf
6. Sack, Allen, *Counterfeit Amateurs: An Athletes Journey Through the Sixties to the Age of Academic Capitalism*, Penn State University Press, University Park, PA, 2008. The author tells how the NCAA abandoned its central principle of amateurism in its pursuit of big money in the form of highly commercialized and professionalized big-time college athletics.
7. Oliard, Michael, *Bowled Over: Big-Time College Football from the Sixties to the BCS Era*, University of North Carolina Press, 2009. Oliard details how NCAA decisions helped transform student-athletes into athlete-students and turned the college game into a virtual farm league for professional football.
8. Yost, Mark, *Varsity Green: A Behind the Scenes Look at Culture and Corruption in College Athletics*, Stanford University Press, Stanford, CA, 2010. The author decries the hypocrisy and corruption that permeates big-time college sports and how sports have come to negatively impact America's youth.
9. Moltz, David, "Bad News Binghamton," Inside Higher Ed, Feb. 12, 2010, <http://www.insidehighered.com/news/2010/02/12/binghamton>. This commentary is based on my posted comment, "Binghamton Scandal: Sharpening a tipping point," on this story.
10. Wetzel, Dan, "O'Bannon case could be a game changer," *Yahoo! Sports*, Feb. 8, 2010, <http://rivals.yahoo.com/ncaa/basketball/news?slug=dw-obannon020810&prov=yhoo&type=lgns>
11. Kirwan, William E. and Turner, R. Gerald, "College Sports in Financial Crisis, Playoff Not the Answer," *The Washington Post*, December 19, 2009, accessible at the Knight Commission's Website, <http://www.knightcommission.org>. The authors are correct in saying that a playoff is not the answer to the financial crisis in college sports, but neither is their proposed solution that is narrowly focused on the school's consideration of a new business model for their athletic programs. The Commission's plan to collaborate with the leaders in higher education and athletic directors to develop a reform agenda is misguided in the sense that these leaders and athletic directors have a strong vested interest in maintaining the highly commercialized and professionalized programs they developed over the years.
Also, the authors avoid the real issues confronting colleges and universities supporting big-time football and men's basketball programs. The professionalization of these programs—wrought by the NCAA and its minions—is enabled by academic corruption. Furthermore, wealthy, highly influential sports boosters—not school presidents—occupy the power centers at these schools and so control America's major college sports programs. These boosters don't seem to realize that the schools are supposed to be in the education business, not the entertainment business. A new business model reflecting this understanding along with a clear prioritization of academics over athletics and full transparency regarding all aspects of athletic operations—including related academics and financials—would be a big step in the right direction.
12. Sperber, Murray, *Onward to Victory: The Crises That Shaped College Sports*, Henry Holt & Co., New York, NY, 1998.
13. Splitt, Frank G., "Sports in America: Facing Up to Global Realities," http://thedrakegroup.org/Splitt_Sports_in_America_2009.pdf