

Reclaiming Academic Primacy in Higher Education: New Hope for the Future

By Frank G. Splitt

To be successful, one must cheat. Everyone is cheating, and I refuse to cheat. – Robert Maynard Hutchins, 1939

It is worth a take-home exam to discover how the brains behind higher education have lost their minds in the pursuit of football superiority. – Selena Roberts, 2005

INTRODUCTION – Notwithstanding the fact that NCAA Bylaws stipulate that intercollegiate sports are to be subordinate to the academic mission of their member schools; professionalized college sports have severely compromised academic integrity and warped the academic missions at our nation’s colleges and universities that support big-time football and men’s basketball programs. In other words, the athletic tail has now come to wag the academic dog.

To help reverse this situation, The Drake Group has been working for the past 10 years to reclaim academic primacy in higher education—defending academic integrity in the face of commercialized college sports.^{1, 2}

Government-provided ‘sunshine’ appears to be the only mechanism that has a realistic chance of restoring this academic integrity. Why?—because experience has shown that there is no viable alternative.

In effect, sunshine should force the NCAA cartel (the NCAA and its member institutions) to live up to the tax-exempt requirement that its athletes be legitimate degree-seeking students that are maintained as an integral part of their school’s student bodies—or else lose the exemption.

The Drake Group continues to persevere in an effort to have the nonprofit NCAA cartel held more accountable for tax breaks that help fuel its uncontrolled growth.³ To this end, it has worked with the House Committee on Ways and Means and the Senate Finance Committee—most recently asking the IRS, via Senator Charles Grassley (R-IA), past chairman and now ranking member of the latter committee, to not only report on the NCAA cartel as it has on nonprofit hospitals, but also increase pressure on the cartel for transparency, accountability, and oversight re: their school’s sports entertainment businesses ... businesses that are unrelated to the school’s core nonprofit activities.

The Drake Group believes it’s time for accountability in college sports.⁴ What’s required is change that would address the government’s perverse subsidization of the NCAA cartel—holding it accountable for the substantial financial support it receives from America’s taxpayers. This should involve no more than enforcing compliance to its own requirements for the cartel’s nonprofit tax exemption.⁵

Past experience and political realities indicate that the executive branch of our government is the best hope for corrective action that can restore academic primacy to higher education. Here’s why:

NCAA CARTEL SUCCESS FACTORS – The cartel has demonstrated an amazing ability to convince almost everyone that the real evildoers in college sports are those who violate cartel rules by paying athletes as well as an unparalleled ability to exploit the labor of academically challenged athletes from poor families while still managing to maintain ‘the moral high ground.’ These abilities have helped make the cartel the world’s best monopoly.⁶

As evidenced by its flagship *March Madness* basketball tournament, the cartel has achieved remarkable monetary success in its relentless pursuit of profits in its sports entertainment businesses.⁷ However, this success has come at great costs—mostly unknown to the general public. Among these costs are the loss of academic integrity and the cost of opportunities lost—including the lost potential of the many academically qualified students denied access to overcrowded schools that provide “scholarships” to academically unqualified athletes. Also, there is the long-term negative impact on America’s future economic well being and position on the world stage.⁸

To obtain a better sense of how the cartel is able to operate as successfully as it does, consider the multitude of other powerful factors buttressing their sports businesses:

- The cartel is unregulated and self assessing,
- The American public is addicted to professionalized college sports entertainment—the sports mania syndrome,
- School teams have evolved to become useful fundraising vehicles as well as galvanizing social forces and sources of state pride—fostering strong political connections and influence at state and federal levels,
- The government provides favorable tax policies with little if any oversight,
- The general public and government officials are ignorant of the downsides of professional college sports entertainment,
- The cartel has been able to get by with weak rules enforcement and weak penalties for infractions with top ranked schools while providing laser-like focus on the ‘have-nots’—schools with little likelihood of getting a BCS bowl invitation or gaining a birth at the NCAA sponsored *March Madness*,
- Ability to harness powerful legal and lobbying forces, as well use strong public relations departments capable of ‘selling’ its ineffectual reform programs to the Knight Commission, the media, the general public, and government officials,
- Symbiotic relationships with the media capitalize on the public’s sports mania,
- The cartel has exceptional abilities to recruit compliant school presidents and wealthy sports boosters for school governing boards, as well as to intimidate potential opponents—including faculty, accreditation boards, and government officials.

SOME REVEALING OBSERVATIONS AND INSIGHTS – The above success factors working alone, or in combination, give rise to the following illuminating observations and insights.

There exists a plethora of scholarly articles and books on college sports reform that leave little doubt as to the disingenuous, tax-avoiding nature of big-time collegiate athletics—especially in the football and men’s basketball programs franchised by the NCAA. Unless the government gets involved, America’s system of higher education will continue to be held hostage to the professionalized collegiate sports entertainment industry.

Over the years, the NCAA cartel has made a number of rule changes that have emphasized athletics over academics so as to move their D-1A football and men’s basketball programs to professional levels—the NFL and NBA pro sports

franchises already rely on colleges and universities to supply their teams with professional-level players many of whom have been coached by former professional coaches.

Compromised academic integrity and warped educational missions now characterize many of America's colleges and universities that have prostituted themselves for fame and fortune by enabling the creation of teams of play-for-pay athletes.

Continued acceptance of this situation by the government is tantamount to federal approval of an entitlement program for the big-time college-sports entertainment business, all but guaranteeing a continuation of its ability to exercise a stranglehold on America's higher-education enterprise.

Additional observations and insights covering academic corruption, counterfeit amateurs, tax matters, and dead-end reform are provided in the appendix.

THE 'BOTTOM LINE' – Over the years the NCAA cartel has been able to evolve a 'family-style' modus operandi that has proved to be eminently successful at expanding its commercial interests in the big-time college sports entertainment business while enjoying the monetary benefits of its tax-exempt status and the lax enforcement of the Unrelated Business Income Tax (UBIT) code. The NCAA cartel continues to elude serious reform by creating illusions of reform and co-opting several reform-minded organizations, as well as using presidents to provide the cartel with a respectable academic front.

There is concern not only about compromised academic integrity, but also about the distracting influence of overly commercialized college sports on school officials, on America's youth, and on the nation's prospects as a leader in the 21st century's highly competitive global economy.

Many of America's colleges and universities are deteriorating while on a government-subsidized quest for sports-related revenues—compromising their integrity and warping their academic missions. Unfortunately, there are no visible means to reverse what appears to be a downward spiral into a pervasive beer-and-circus modus operandi at these institutions. This scenario and its potentially catastrophic consequences have heretofore been either invisible to or ignored by the general public as well as those in the highest circles of the U.S. government.

Telling the truth about a given condition is absolutely requisite to any possibility of reforming it. – Barbara Tuchman

HOW COULD THIS EVER HAPPEN? – Serious reform could have come about if the NCAA cartel simply told the truth about the operations of its sports entertainment businesses. That never happened because truth telling would have exposed the cartel's noncompliance to the un-enforced rules governing its nonprofit status.

So why was this situation allowed to develop to the point where the athletic tail wags the academic dog to the extent it now does? The answer is simply money, and lots of it. Also, the remedies were likely to be painful—requiring political will backed by considerable amounts of courage—and there is little public outrage over drugs and corruption in college sports, likely a combination of public apathy and the superb job done by cartel public relations.

Thus far, tolerating cheating in college sports via performance- academic corruption and enhancing drugs appears to be preferable to confronting the formidably resourced

cartel. As Stephen Ross, chairman of Penn State's Sports Law Institute, has put it: "Congress only cares if the people they talk to care." So, if their constituents aren't complaining, they aren't either.

With but few exceptions, elected government officials have not been brave enough to risk the wrath of their constituents and re-election defeat by requiring cartel compliance to the government requirements for tax exemption as a nonprofit organization—best explained by example. In March 2007, Senate Budget Committee Chairman Kent Conrad (D-ND) was asked why nothing was being done in Washington about looming financial troubles. He responded, saying: "It's always easier not to (respond). Because it's always easier to defer, to kick the can down the road to avoid making choices. You know you get in trouble in politics when you make choices."⁹

Therefore, it should come as no surprise that there has been no bipartisan follow-up in Congress on the strong effort of retired Rep. Bill Thomas (R-CA) the 109th Congress' House Ways and Means Committee chairman, to have the NCAA provide justification for its tax-exempt status. Furthermore, Senator Grassley has faced political obstacles in his effort to significantly improve the transparency, accountability and oversight of the cartel.

So, it is most likely that Senator Grassley's congressional colleagues will simply continue to ignore the issue—leaving him to stand alone in his effort to have the cartel members justify its tax-exempt status. Under this circumstance, reform would not come anytime soon, if ever, no matter how corrupt, disingenuous and debilitating the operations of the collegiate sports industry continue to be.

Similarly, appointed school officials have not been brave enough to risk campus upheavals or loss of a prestigious, well compensated position by not being re-appointed by a booster-led governing board.

WHAT'S NEXT? – The slow but sure decline of America's educational system will continue, unless and until the growth of the professionalized college sports entertainment industry is restrained by forcing the NCAA cartel to comply with their tax-exempt purpose of keeping sports as "an integral part of the educational program and the athlete as an integral part of the student body.

Meaningful reform in collegiate athletics will certainly not be led by those with a vested interest in the status quo: NCAA officials, college and university presidents, governing boards, coaches, and athletic conferences.

Similarly, experience indicates that the Knight Commission on Intercollegiate Athletics and the U.S. Department of Education, as well as state/regional accreditation boards, are not up to the task.

Faculty-based, reform-minded organizations such as The Drake Group and the Coalition on Intercollegiate Athletics can help lead the way, but simply do not have the wherewithal to confront the collegiate sports entertainment industry by themselves, without the help from the government.

To halt the NCAA cartel's abuse of its tax policies, the government needs to enforce its own rules on tax-exempt organizations—building into this nonprofit sector strong measures of transparency, accountability, and oversight adequate to the truth-finding purpose of these measures.

Without government intervention, the NCAA cartel will be left to its profligate spending—operating 'foot loose and fancy free'—with the government continuing to subsidize the corruption of academic integrity at America's colleges and universities as well as continuing to jeopardize the future well being of America by helping to destroy one of its most precious resources.

BREAKING THROUGH OVER TIME – Today's epic financial crisis coupled with the rise of intense global competition may serve as a loud and compelling wake-up call for Americans at all levels to rise above their obsession with professional-level college sports entertainment—coming to understand that the continuation of this obsession would not bode well for the future of higher education in America as well as for America's stature on the world stage. This understanding could pave the way for America's colleges and universities to reprioritize their values—making capital and human resource investments that place academics well above athletics.

The persistent efforts of Senator Grassley and reform-minded faculty organizations such as the Drake Group and the Coalition for Intercollegiate Athletics could help catalyze a process whereby college sports reform would come sooner rather than later. Only time will tell if Congress and the American public hear and respond to the wake-up call.

NEW HOPE FOR THE FUTURE – Notwithstanding the above, there is reason for optimism, simply stated: President Obama 'gets it.'

On March 10, 2009, in his first big speech on education policy, the president said America must drastically improve student achievement to regain lost international standing, saying: The future belongs to the nation that best educates its citizens. We have everything we need to be that nation ... and yet, despite resources that are unmatched anywhere in the world, we have let our grades slip, our schools crumble, our teacher's quality fall short and other nations outpace us."

The president's remarks reflect breakthrough thinking—applicable to the restoration of academic primacy in higher education. It now appears that hope for college sports reform would be better placed in the executive branch of government.

All things considered, President Obama is well positioned to provide requisite leadership. He is likely the best hope for setting the right priorities at America's colleges and universities—getting college sports subordinated to the school's academic missions.

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APPENDIX – ADDITIONAL OBSERVATIONS AND INSIGHTS

Academic Corruption – In an era when the demand for blue-chip athletes with the qualifications for college-level academics far exceeds availability, schools resort to academic corruption—in other words, cheating.^{10, 11}

Cheating enables schools to not only recruit and keep academically disadvantaged athletes eligible to work full time at their jobs as professional athletic entertainers, but also provide the illusion that these athletes are not only amateurs but bona fide students as well. The NCAA cartel invests heavily in PR aimed

at enforcing this illusion while its attorneys and lobbyists work to ensure that this big lie is taken for the truth by the courts and the U. S. Congress.

Corruption is driven by big money and is enabled by the cartel's cozy relationships—cultivated over the years—with people and organizations that would normally have been expected to reign in corruption and the out-of-control commercialization of college athletics.

The Knight Commission on Intercollegiate Athletics, the print and TV media, and members of federal state governments, stand at the top of the list of those long on reform talk but short on decisive action. People who should know better simply "look the other way," are taken in by the cartel's spin-masters, simply go along to get along, or, salve their consciences with the rationalization that a degree from their school—with its door-opening potential—makes up for a second-rate education.

Schools learned long ago that academic integrity is not a moneymaker¹² and that it can be breached at multiple levels if they are intent on winning at any cost. Rubber-stamp accreditation by weak, or, intimidated accreditation organizations make the breaching task a no-brainer for big-name schools.

Most school administrators have become masters of rationalization and quite skilled in the dark arts of deceit, deception, and disingenuousness. Not lost on their students are the facts that these skills are not only used to recruit and maintain the eligibility of professionalized teams for their school's sports entertainment businesses, but also used to maintain the tax-exempt status of these businesses—a modus operandi that not only corrupts academic integrity, but also seriously compromises institutional credibility.

Counterfeit Amateurs – There are striking parallels between the uncontrolled, greed-driven, anything-goes operations and excesses that took place on Wall Street, with its misrepresentation of material assets in the form of disadvantaged financial instruments, and those in the NCAA cartel's college sports businesses, with its misrepresentation of material assets in the form of disadvantaged academic instruments—counterfeit amateurs or so-called student-athletes.^{13, 14}

Most college athletes participate in an alternative educational experience that is not part of their school's serious academic life, but rather a customized pseudo-academic experience engineered by academic support center staff members who work at the behest of the school's athletic department—graduating with diploma-mill-type degrees in general studies and the like.

First-class athletes-only academic facilities staffed by tutors, counselors and learning specialists, as well as equipped with the latest computer technology and other amenities to demonstrate (showcase) that academically challenged athletes are provided with all the resources they need to do serious academic work—except for the critical elements of ability and time.¹⁵

Tax Matters – The cartel's big tax breaks are sustained by a combination of secrecy, cheating, lack of federal oversight, and blatant hypocrisy. School administrators seem to believe that outcomes assessment is none of the government's business. Without an independent outcomes assessment of student learning, the government has to take a school's word on Graduation Rates and Academic Progress Rates for their athletes.

The NCAA cartel avoids disclosure of any information that could prove damning or embarrassing by misapplying the privacy provisions of the Family Educational Rights and Privacy Act (FERPA)—especially in the case of the academic performance of the athletes in their moneymaking sports businesses.

Huge athletic endowments are built by tax-deductible contributions made at the expense of academic endowments. These funds, along with tax-deductible donations from wealthy boosters, are used to fuel the athletic facilities arms race that spans football stadiums and basketball arenas complete with luxury suites, academic and training facilities for athletes, and other related investments. A stealthy byproduct of big-time college athletics programs comes in the form of debt incurred via these sometimes enormous investments

Dead-end Reform – The history of college sports reform tells us that no matter how compelling the arguments for corrective measures, market and political realities dictate that nothing of consequence will be done for a variety of reasons, not the least of which are an abundance of corrupting, tax-free money and related benefits at stake.

Given the enormous broadcasting revenues at stake, the NCAA Cartel suffers from a severe case of self conflict ... conflict between its sometimes-contradictory roles as promoter and governor of intercollegiate athletics. Cartel originated pseudo reforms have been akin to window dressing—attempting to repair a severely torn garment by polishing one of its tarnished buttons. Simply stated, the cartel is wholly incapable of reforming itself.

School officials tend to cast a blind eye toward academic corruption as well as the use of performance enhancing drugs and personal violence by athletes, while members of the coaching staff treat athletes as commodities—demanding they give their lives to sports thus leaving little if any time for campus life as an integral part of the student body, let alone time for serious academic work.

NOTES

1. Splitt, Frank G., “Reclaiming Academic Primacy in Higher Education, http://thedorakegroup.org/Splitt_Reclaiming_Academic_Primacy.pdf and “The Faculty-Driven Movement to Reform Big-Time College Sports,” http://thedorakegroup.org/Splitt_Sequel.pdf.
2. ___, “Why Congress Should Review Policies that Facilitate the Growth and Corruption of Big-Time College Sports,” Extension of Remarks by Representative Janice D. Schakowsky – p 9, ESSAYS & COMMENTARIES ON COLLEGE SPORTS REFORM October 2004 – October 2005, http://thedorakegroup.org/Splitt_Essays.pdf.
3. *Comments by The Drake Group on the Draft of a Redesigned IRS Form 990, submitted to the IRS on September 12, 2007*, http://thedorakegroup.org/Splitt_TDG_IRS_Commentary_091207.pdf
4. Splitt, Frank G., “Time for accountability in sports,” http://www.thedorakegroup.org/Splitt_Time_for_Accountability.pdf
5. ___, “The U.S. Congress: New Hope for Constructive Engagement with the NCAA and Intercollegiate Athletics,” http://thedorakegroup.org/Splitt_Montana_Professor.pdf. This essay gives an account of the problems and issues surrounding commercialized college sports, along with the congressional scrutiny of the tax-exempt status of the NCAA cartel—helping to get at the truth about big-time college sports that is often obfuscated by myths, misrepresentations, and misinformation promulgated by the cartel and its avid supporters.
6. Sack, Allen, “America’s best cartel ripe for legal challenge,” *SportsBusiness Journal*, Issue 45, March 2003.
7. Zimbalist, Andrew, “March Madness It Is, Economically,” *The Wall Street Journal*, March 10, 2009.
8. Splitt, Frank G., “Sports in America 2007: Facing Up to Global Realities,” http://thedorakegroup.org/Splitt_Sports_in_America_2007.pdf
9. Senator Conrad’s response was to a question by Steve Kroft on the March 4, 2007, *CBS 60 Minutes* segment, “U.S. Heading for Financial Trouble,” <http://cbsnews.com/stories/2007/03/01/60mnutes/main2528226.shtml>.
Also see: “Troubling U.S. Financials: Lessons for the reform minded,” http://thedorakegroup.org/Splitt_Troubling_US_Financials.pdf.
10. ___, “Cheating in College Athletics: Presidential Oversight Notwithstanding,” http://thedorakegroup.org/Splitt_Cheating.pdf.
11. ___, “College Athletics and Corruption,” http://thedorakegroup.org/Splitt_College_Athletics_and_Corruption.pdf.
12. Splitt, Frank G., “Academic Integrity Is Not a Moneymaker,” http://thedorakegroup.org/Splitt_Academic_Integrity.pdf
13. Sack, Allen L., *Counterfeit Amateurs: An Athlete’s 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.
14. Zimbalist, Andrew, *Unpaid Professionals: Commercialism and Conflict in Big-Time College Sports*, Princeton University Press, 1999; Paperback Edition, 2001.
15. ___, “Taxpayer-Supported Jobs for College Athlete-Entertainers,” http://thedorakegroup.org/Splitt_Taxpayer_Supported_Full_Time_Jobs.pdf.
The NCAA mandates that athletes should spend no more than 20 hours a week practicing, playing and training; however, its own survey of Division 1-A football players found that the average player puts in more than 40 hours per week—that’s nothing less than a full-time job as an athlete.