

## **COLLEGE ATHLETICS CLIPS**

### **Caveat Emptor and Prospective College Athletes**

*Clips Guest Commentary*

*Our guest author points out that prospective college athletes face quadruple jeopardy when they unwittingly buy into the scholarship recruitment packages proffered by NCAA member colleges and universities.*

*By Frank G. Splitt, 6-1-11*

**This commentary calls attention to** the fact that absent federal and/or state, Bills of Rights for prospective college athletes, Truth in Recruiting legislation, or NCAA Transparency and Accountability Acts, , unwitting recruits face quadruple jeopardy, i. e., double-double jeopardy, when they buy into the recruitment packages proffered by NCAA member colleges and universities. This exploitation is especially hard on the academically disadvantaged. How might this be?

First, as was made clear in testimony by Allen Sack and Ramogi Huma at a Connecticut legislative hearing on Athletic Scholarships and Medical Expenses this past February, recruited athletes often aren't clear on the likelihood of a scholarship being revoked on schools' policies on injuries and medical expenses. Simply put, recruits are usually unaware of the fact that they will be obliged to sign away their rights as a condition for their athletic scholarship.[1, 2]

Second, for the most part, these so-called student-athletes are kept eligible to play via participation in clustered classes and diploma-mill like programs engineered at jocks-only academic resource centers—notwithstanding very limited time to study because of the intense time demands of their sport. In other words, these athletes really have little chance of getting a meaningful college education no matter how famous the school. No doubt, African-American and Latino athletes are the most vulnerable since they are more likely to be academically unprepared relative to European-Americans.[3-6]

Third, as discussed in an open letter to Education Secretary Arne Duncan, these athletes are exposed to brain trauma—incipient damage that is difficult to diagnose. The cumulative effect of this damage may not manifest itself until years after an athlete's playing days are over.[7] A related *Daily Herald* story by Lindsey Willhite focused on Chris Nowinski's work on brain trauma at Boston University.[8]

Fourth, college athletes suffering from sports-related collateral damage are not eligible for workmen's compensation. According to Walter Byers, the NCAA's executive director from 1951 to 1987, the NCAA crafted the term "student-athlete" to counter the threat that the NCAA's athletes could be identified as employees by state industrial commissions or the courts and so be eligible for workmen's compensation.[9]

The NCAA is accountable to no government agency. Also, it avoids transparency by hiding behind the Buckley Amendment and its regulations.[10] The Buckley Amendment has proven to be an effective shield for the academic corruption in college athletics as it prohibits public disclosure of athletes' courses, instructors, and course grade-point averages. To expose the complicity of colleges and universities in the corruption of college athletics, it has been recommended that Congress or the Department of Education amend the definition of publicly available "directory information" to allow institutions to make available to the public athletes' academic advisors, courses listed by academic major, general-education requirements, and electives. Even with the recent regulation changes, the problem of academic corruption in college athletics has gotten worse.[11]

The above, taken together with the previously noted *Chronicle* publications by Gerald Gurney, Thomas Palaima, Robert and Amy McCormick, and Shirl Hoffman, makes a compelling argument for reform. When coupled with the Chris Nowinski story and the *CLIPS* commentary, the argument for reform becomes even more compelling.

One would think that a message keyed to the devastating impact of collateral damage to our nation's education system and its students would cause public outrage and so go viral—not so in a culture that values sports and entertainment above academics and learning.

Nonetheless, widespread attention to the totality of sports-related collateral damage could very well be generated if the story is picked up by the print media. To this end a media campaign was launched with the aim of spreading the word about this damage and the pernicious exploitation of college athletes by the NCAA and its member institutions as well as to compound the efforts of reform-minded individuals and organizations.

An endorsement of this awareness campaign by Secretary Duncan was solicited. Hopefully, his endorsement of the campaign will be forthcoming. It would certainly stimulate interest and so enhance the likelihood of its success to the ultimate benefit of future college athletes and America's future well being. It could even prompt a demand for corrective action.

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## NOTES

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2. Sander, Libby, "Oscar Robertson Joins Federal Lawsuit Against NCAA," *The Chronicle of Higher Education*, January 27, 2011, <<http://chronicle.com/blogs/players/oscar-robertson-joins-federal-lawsuit-against-ncaa/28060>>. Also see Stippich, Kristal S. and Otto, Kadence A., "Carrying a Good Joke Too Far? An Analysis of the Enforceability of Student-Athlete Consent to Use of Name and Likeness," *Jour. of Legal Aspects of Sport*, Vol. 20, No. 2, summer 2010.
3. Gurney, Gerald S., "Stop Lowering the Bar for College Athletes," *The Chronicle of Higher Education*, April 10, 2011, <<http://chronicle.com/article/Stop-Lowering-the-Bar-for/127058/>>.
4. Palaima, Thomas, "The NCAA and the Athletes it Fails," *The Chronicle of Higher Education*, April 17, <<http://chronicle.com/article/The-NCAAthe-Athletes-It/127181/>>.
5. McCormick, Robert A. and Amy C., "'Amateurism' Rules Benefit Whites at Blacks' Expense," *The Chronicle of Higher Education, Letters*, May 15, 2011, <<http://chronicle.com/article/Amateurism-Rules-Benefit/127544/>>.
6. Hoffman, Shirl J., "More Questions of Morality and College Sports," *The Chronicle of Higher Education, Letters*, May 15, 2011, <<http://chronicle.com/article/More-Questions-of-Morality-and/127549/>>.
7. The open letter to Secretary Duncan was posted May 4, 2011, on both the *College Athletics Clips* and Drake websites. See the *CLIPS* Guest Commentary, "Football's dangerous—and for what?" Print copies will be distributed at the June 2011, Convention of the National Association of Academic Advisors for Athletics, <[http://thedrakegroup.org/Splitt\\_Football\\_Dangerous.pdf](http://thedrakegroup.org/Splitt_Football_Dangerous.pdf)>.
8. Willhite, Lindsey, "Tackling brain trauma," *Daily Herald*, May 17, 2011, <<http://dailyherald.com/article/20110516/sports/705169893/>>. According to *Sports Illustrated*, it is Chris Nowinski's figure which looms behind the doctors and the headlines and the debate roiling over sports' new found commitment to minimizing head trauma. See Sports Legacy Institute, <<http://www.sportslegacy.org>>.
9. Byers, Walter, *Unsportsmanlike Conduct: Exploiting College Athletes*, page 69, The University of Michigan Press, Ann Arbor, MI, 1995.
10. Salzwedel, Matthew R. and Ericson, Jon, "Cleaning Up Buckley: How The Family Educational Rights and Privacy Act Shields Academic Corruption In College Athletics," 2004 WISCONSIN LAW REVIEW, <[http://thedrakegroup.org/SalzwedelEricson\\_Buckley.pdf](http://thedrakegroup.org/SalzwedelEricson_Buckley.pdf)>.
11. \_\_\_\_\_, "The University: The Closed Society," *Dartmouth Law Journal*, pp. 88-108, Vol. 2, fall 2010, <[http://www.locklaw.com/assets/salzwedel\\_ericson\\_university\\_closed\\_society.pdf](http://www.locklaw.com/assets/salzwedel_ericson_university_closed_society.pdf)>.
12. Requests for help in spreading the word about the totality of sports related collateral damage have been made to the following media operations: *Associated Press*, *Atlanta Journal Constitution*, *Birmingham News*, *Chicago Sun-Times*, *Chicago Tribune*, *Chronicle of Higher Education*, *Daily Herald*, *Detroit Free Press*, *ESPN*, *Gilbert Communications*, *Inside Higher Ed*, *National Catholic Reporter*, *Newsweek*, *New York Times*, *Seattle Times*, *Sporting News*, *USA Today*, *Wall Street Journal*, *Washington Post*, and *Yahoo Sports*.