

COLLEGE ATHLETICS CLIPS GUEST COMMENTARY

The College Sports Tax Scam Revisited

by Frank G. Splitt

April 24, 2006

A previous CLIPS Guest Commentary, "The College Sports Tax Scam" [1, p. 6], provided examples of how investors can obtain deductions for their donations to college sports related funds while the funds invest their money in companies in which the investors already hold stakes. The examples also showed why the NCAA and its cartel of colleges and universities work so hard to retain their tax-exempt status by creating the illusion that their athletes are bona fide, degree seeking students, as well as why The Drake Group, www.thedrakegroup.org, is pressing forward with its congressional quid pro quo initiative on disclosure and the restoration of academic and financial integrity in our institutions of higher learning. As stated in the commentary:

"The linchpin of the NCAA cartel's claim to tax-exempt status is their first principle of intercollegiate athletics: Those who participate in intercollegiate athletics are to be students attending a university or college. See NCAA President Myles Brand's 2006 State of the Association Address: "The Principles of Intercollegiate Athletics" [*The NCAA News*, NCAA.org, Jan. 7, 2006]. However, evidence indicates a quite different reality – many, if not most, athletes that actually play are not bona fide, degree seeking students, but rather, athletes pretending to be students."

It has been called to my attention that readers would appreciate knowing what was meant by "evidence" and "many, if not most" in the last sentence. Obviously, the most interested of all would be congressional committees that are, or will be, investigating the tax-exempt status of the NCAA cartel. Here is what was meant:

To begin, the athletes in mind are those who actually play, for example, the top 50% of the scholarship athletes with the most playing time on big-time (Div.1A) football and basketball teams that were mentioned in the referenced essay [1].

At this time there is really no 'hard' evidence to support my contention. As a matter of fact, independently verifiable evidence that can help prove that athletes at a given school are really students (or not) is precisely what The Drake Group is striving to have the Congress obtain via disclosure. See the last four paragraphs of [1] and the April 2006, Ericson-Svare essay "Time to expose faculty corruption in college sports," [2].

Getting institutions of higher education to make public information on how well they are serving students and the nation will be a long and arduous battle. As Paul Gallico wrote (with reference to the Amateur Athletic Union) some 70 years ago in *FAREWELL TO SPORT* : "One of the easiest things in the world is not to have evidence when evidence is liable to prove embarrassing."

However, empirical evidence abounds. Here your attention is called to references [3-15] that were primary 'sources' -- the basis for my contention. The 'evidence' therein led me to the point where I now have little doubt that no more than 10-20% of athletes, that actually play big-time college football and basketball, could pass an external audit as bona fide, accredited-degree-seeking students in good standing, i.e., carrying a 2.0 GPA, or better -- marking period by marking period in non-jock courses. Earlier statements should have piqued reader interest as well. For example, consider the following paragraph from Splitt [12, p. 7]:

"In his January 11, 2004, 'State of the Association' speech, Brand used the "student-athlete" descriptor no less than 23 times as if to convince the listener/reader that college athletes are really bona fide students – a contention that flies in the face of reality. For example, Zimbalist quotes a football coach as saying: "Not more than 20 percent of the football players go to college for an education. And that may be a high

figure." Russ Grundy's commentary gets right to the point: "...to be a consistent winner in the big-time, revenue-producing sports of football and basketball requires that athletes put their sports first and academics second.... Schools with high academic standards are at a real competitive disadvantage. Doing the right thing for their students usually costs a school the big money associated with the top bowl games and participation in "March Madness." With few exceptions, greater than fifty percent graduation rates will all but guarantee sitting out post-season play, or, post-season play by virtue of an athletic department that knows how to game the academic system.""

Re: the above: see Zimbalist [7, p. 39] for the quote from former Iowa State football coach Jim Walden and the Commentary Section of Splitt [10] for Russ Grundy's remarks. Also see Jon Ericson's AFTERWORD [12] for the prevailing "big lie" in college sports.

Walden's remark led to thoughtful consideration of its implications. It was certainly troubling. All that I have read and heard since first reading it has reinforced my belief that prevailing circumstances are such that, even if they wanted to, there are but few athletes that have an opportunity to get a legitimate college education while playing big-time football or basketball. Paid-to-play scholarship athletes simply do not have the freedom to pursue a legitimate education, see Gerdy [14, p. 151].

Perhaps it was Walden's contention that led Zimbalist to preface the quote by saying: "Men's basketball and football players have lower GPAs and SATs than other athletes on average. Further, a high proportion of big-time college athletes don't attend college for either an education or a degree, but to take advantage of the only viable route to professional basketball and football."

Since it is in the financial interest of conference commissioners, the NCAA and its member schools -- presidents, trustees, ADs, coaches, and boosters -- to portray athletes as legitimate, degree-seeking students, they are likely be quite forceful in the use of their influence and powers of intimidation to get what they want -- the very best athletes they can get.

Besides the potential loss of big-money, there is a compelling need for some schools to report very high graduation rates to justify/rationalize their high-profile programs and their extraordinary investments in academic support center staffs and facilities. This combined with self assessment and reporting, as well as weak enforcement, and even weaker penalties for infractions, provide an enormous incentive for these and other less conflicted schools to scheme and cheat.

As Walter Byers, who served as NCAA executive director from 1951 to 1987, said when speaking of a college's reporting on the necessary progress that has been made on the rehabilitation of at-risk high school graduates: "Believe me, there is a course, a grade, and a degree out there for everyone," [4, p. 315]. Reform-minded presidents in state schools can be considered "insufferably naive" and their minds put right by state officials, for example, see Zimbalist [7, p. 22].

In light of the above, it was surprising to see the low APRs for the schools selected for the NCAA's 2006 'March Madness.' If the NCAA enforced its academic standard for post-season competition this year, there would not have been a Sweet 16; only five of the 16 teams scored above the NCAA's standard of 925 -- and certainly not a 'Final Four' since none of the teams passed the minimum standard -- testimony to the pathetic state of academic affairs in big-time college sports. Here, the following is instructive:

John Gerdy's, *Air Ball: American Education's Failed Experiment with Elite Athletics* [14], is the most recent and one of the best in a long list of books on the failure of reform in intercollegiate athletics. Gerdy makes the following points:

1. There is no longer any doubt that the current system is broken...we are all aware of the many examples and no need to rehash all of them...we are beyond that.
2. Higher education has had a historic role of providing educational leadership for our society...thus, how we conduct our athletic programs has profound influence beyond campus...high schools, pee-wee

leagues and our communities take their cues from how our colleges and universities run their athletic programs.

3. If our colleges operate in a way that clearly says, "athletics are more important than academics"...we can fully expect that message to be absorbed and adopted right on down the line...if the educational community can not stand up for academic integrity and educational values, rather than athletic glory, what American institution can...or will?...in the global, creative economy in which we must compete, that impact is particularly insidious...the stakes are too high....We can no longer afford to have America's educational system undermined by athletics.

4. There is a clear path to reform...eliminate scholarships along with the pro mentality and practices that result from them...academic reform hasn't "got it done"...we've been at academic reform for over 20 years and we are no better off.

5. The argument that fundamental change is impossible no longer applies...the environment necessary to support such change is in place...for the first time in the history of higher education, the table of reform is fully set...the context for reform has never been better...the critical mass of people, institutions, groups, etc., who can drive change is in place...there should be no more excuses.

6. College and university presidents are responsible for leading the change effort. It's now or never.....this may be the last best chance to change the system from within ... if presidents and boards do not seize this opportunity then it becomes absolutely clear that they never will -- abdicating their leadership responsibilities. If they continue to refuse to lead, it will be the final proof that they are either unwilling or incapable of doing so...that means change can only come from the outside.

Background and references relating to the third point are provided in "SPORTS IN AMERICA 2005: Facing Up to Global Realities," [16]. Comments related to the sixth point can be found in the section titled: 'Where Are The Presidents?' in "Lines Between NCAA & Knight Commission Now Blurred – Time for Congress to Step In?," [17, p. 18]. This last point also has a decade-old ring to it -- going back to Walt Byers who said: "In fact, the rewards of success have become so huge that the beneficiaries -- the colleges and their staffs -- will not deny themselves even part of current or future spoils. ... I believe the record now clearly shows the major hope for reform lies *outside* the collegiate structure. What the colleges will not do voluntarily should be done for them," [4, p. 369].

To this end, The Drake Group launched its congressional initiative in early 2005. See: "Why the U. S. Should Intervene in College Sports" and "Why Congress Should Review Policies that Facilitate the Growth and Corruption of Big-Time College Sports" [16, pp. 5, 9].

It is my hope that the congressional committees that are, or will be, investigating the tax-exempt status of the NCAA cartel will find all of the above to be ample reason to call for hearings. It is my further hope that these hearings would not only lead to disclosure, but also to other appropriate measures aimed at restoring academic and financial integrity to America's institutions of higher learning.

References

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Frank G. Splitt, a former Faculty Fellow at Northwestern University, is a member of The Drake Group and the recent recipient of the Group's 2006 *Robert Maynard Hutchins Award*, <http://www.thedorakegroup.org/PressRelease.html>