

# **COLLEGIATE ATHLETICS REFORM: TRILOGY II**

**By Dr. Frank G. Split**

**December 19, 2011**

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*Rule-breaking in college sports is often viewed strictly in moral terms....but it would be a mistake to ignore the powerful influence of the universities themselves and the incentives they create by attaching such importance to athletic success. Real change won't happen until university trustees, not just presidents, show they value the academic mission more than winning games.*

—Charles Clotfelter, 2011

*Perhaps the sentiments contained in these pages are not yet sufficiently fashionable to procure them general favour; a long habit of not thinking a thing wrong, gives it a superficial appearance of being right, and raises at first a formidable outcry in defense of custom. But the tumult soon subsides. Time makes more converts than reason.*

—Thomas Paine, *Common Sense*, 1776

# Collegiate Athletics Reform: Lessons from Penn State

*a CLIPS Guest Commentary*<sup>1</sup>

By Frank G. Splitt, 11-19-11

*Our guest author says change is coming—precipitated by the sex-abuse scandal at Penn State that taught a valuable lesson in human behavior.... behavior illustrating the extremes to which highly regarded school officials will go to protect their sports-entertainment business.*

**If you want answers** to questions surrounding the sex-abuse scandal at Penn State, don't think that its tragic situation is unique. Also, don't think the government isn't somewhat complicit by virtue of its subsidization of Penn State's money-making sports-entertainment business with favorable tax policy and its reluctance to impose requirements for transparency, accountability, and oversight on the NCAA cartel (the NCAA and its affiliated institutors).

The Penn State scandal is just the tip of an iceberg of cover-ups involving powerful organizations, none the least of which is the Catholic Church.<sup>2-4</sup> Colleges and universities sponsoring big-time football and basketball programs are also powerful organizations where cover-ups are most likely to be related to the school's athletics program—involving cheating, academic corruption, physical injuries, deaths, and various forms of bad, if not ruinous, behavior.

The aim of the cover-ups is to protect the school's reputation/image and legacy, its money-making and prestige-enhancing athletics program, as well as to conceal bad judgments by school officials, neutralize material witnesses, and protect perpetrators.

Cover-ups of non-sex-related scandals are relatively easy to execute since the events don't generate the collateral damage and attention-getting headlines associated with child sex-abuse. Additionally, the more powerful and revered the institution, the more difficult it becomes for anybody within it to expose bad behavior and take action.

The sex-abuse scandal at Penn State provides a valuable lesson in human behavior as it illustrates the extremes to which widely respected school officials will go to protect their sports-entertainment businesses, their coaches, and, most importantly, big tax-free money.

*The NCAA doesn't just allow too big to fail. Perhaps most disgusting of all, the NCAA profits from it. You ask how this could happen? Start with Joe Paterno and don't stop until you reach the top of the NCAA. But above all else, follow the money.—Barry Rozner<sup>5</sup>*

Although bad behavior and cover-ups can have a disastrous impact on a school's students and its educational mission, these actions are not treated accordingly within and beyond campus walls. School and government officials act as if the schools are "too-big-to-fail," and/or, are "too-popular-for-government-intervention."

To be sure, our nation's colleges and universities, as well as its citizens, are caught in a vise-like grip of sports entertainment. America's culture is reflected in the near insatiable appetite for 24/7 entertainment by its public. As Steve Salzberg has said, "The reaction of Penn State students illustrates the pathology of football culture at U.S. universities today."<sup>6</sup>

The riotous scene at Penn State after the firing of Joe Paterno has been described as surreal but should have come as no surprise if due consideration is given to the frenzy exhibited by fanatic sports fans.<sup>7</sup> Jim Dent's description of a 1964 Notre Dame pep rally is illustrative.<sup>8</sup> World-renown Notre Dame President

Fr. Theodore Hesburgh was booed by a hyped-up student crowd that was whipped into a heated frenzy. Why? They were impatient to hear from their new hero, yet unbeaten ND Football Coach Ara Parseghian.<sup>9</sup>

*This is about a culture that says the football team must be defended at all costs: a culture where the sexual assault of a 10-year-old is reported to Paterno before the police.... damn the fact that the billion-dollar logic of big-time college football leads to decisions as venal as those made in Happy Valley. —Dave Zirin<sup>10</sup>*

Given that the NCAA cartel is incapable of reforming itself,<sup>11</sup> that wealthy, powerful, and vociferous governing-board boosters are not prone to reform<sup>12</sup> (Appendix 1), and that colleges and universities have yet to step up to a leadership position,<sup>13</sup> one is led to ask about the role that can be played by the feds.

Put simply, the federal government can clean up much of the mess for which it is partially responsible.

First of all, the government can cease its laissez faire approach to collegiate athletics that is characterized by its see-no-evil-hear-no-evil-speak-no-evil behavior<sup>14</sup> as it subsidizes out-of-control athletics programs—the real elephant in the room—via favorable tax policies.

Specifically, the feds could work to drain the deep swamp of tax-free money via a change in the federal tax code. The change could be crafted to eliminate the unjustifiable tax-free status of most, if not all, big-time athletic programs by introducing measures of transparency, accountability, and oversight adequate to the task. The aim would be to assure that the NCAA cartel complies with federal requirements for tax-exemption as a nonprofit. A significant obstacle to be overcome is the U.S. Department of Education's reluctance to modify FERPA, the Family Educational Rights and Privacy Act, to block its use by the NCAA cartel to shield academic corruption in collegiate athletics.<sup>15</sup>

An alternative approach would have the feds not only apply a heavy surtax on all collegiate-athletics-related income, but necessitate compliance with the Sarbanes-Oxley Act—in effect, mandating rigor and accountability in the filing of all financial reports as well.

Still another approach would have Congress pass the collegiate-athletics-structure equivalent of the financial-structure-oriented Glass-Steagall Act to protect higher education from athletic program corruption. The structure would require large revenue-generating programs to operate independent of academic programs. In other words, students would function as students and athletes would function as fairly-compensated professional athletes. Gone would be contrived amateur student-athletes along with the NCAA's academic measures as well as its picayune rules and regulations—all designed to provide the illusion that the athletes are also bona fide students. For a fairly detailed 28-point outline of this approach, see Telander.<sup>16</sup> A summary account of a similar recommendation by George Dohrmann can be found in Appendix 2.

No doubt all of the above forms of intervention would be vigorously opposed by the NCAA cartel. However, if the Penn State scandal does not prompt intervention, then antitrust and other cases before federal courts are likely to do so. In any case, the scandal could spark a shift in America's obsessive sports culture—with moral integrity and justice valued above winning via the fruits of bad behavior—a shift that could, over time, spawn systemic change in professionalized collegiate athletics that are presently driven by greed and sustained by corruption and hypocrisy.

*Having heard all of this you may choose to look the other way, but you can never again say that you did not know.—William Wilberforce<sup>17</sup>*

## **APPENDIX 1 -- Penn State Fiasco Should Remind Trustees of Their Inherent Responsibilities**

By demanding new leadership of the university and the football team, the Penn State board of trustees set a decisive tone of responsibility and accountability for its top leaders. The trustees made it clear that those who smell smoke in College Station have the responsibility not just to yell “fire,” but to ensure help arrives. However, it shouldn’t take a scandal for boards to perform their inherent duties and to remain engaged and active on campus. In too many ways, the world of higher education is solely about reputation – not values or education. And that is why many boards and administrators end up reacting to press headlines, rather than responsibly addressing problems before they make the news. Despite massive public support, the world of universities is remarkably opaque – and that is why public support for them has been increasingly on the decline. The Penn State scandal should be a call to boards everywhere to examine their policies and procedures – from athletic department oversight to whistleblower protocols – to be certain they are fully undertaking their fiduciary responsibilities to their institutions and to the public.

The Penn State trustees have drawn a hard line to ensure that those who share even a whiff of the blame for these alleged atrocities are escorted to the door swiftly. As the smoke clears and new facts emerge about who knew what and when, let us hope that trustees across the country take note that trusteeship is, yes, an honor, but even more so, an obligation and responsibility that requires engagement and courage.

## **APPENDIX 2 – George Dohrmann’s ideas on cleaning up college sports**

Here’s how Pulitzer Prize-winning author Buzz Bissinger<sup>18</sup> presented George Dohrmann’s ideas on cleaning up the mess in college sports:

There must be changes to control the monster that college sports have become. The most radical idea, outlined in a series of recent articles by George Dohrmann in *Sports Illustrated*, is to have universities spin football and basketball programs into a separate entity, what Dohrmann calls “Football Inc.”

Players would not be full-time students because they really aren’t now anyway. (College sports have nothing to do with academics.) The teams, companies in effect, would still have university affiliation, and there would be a split of revenues at a negotiated price. Universities could rid their hands of what has become a colossal mess and just take in the money.

It is a complicated solution, maybe unworkable, but nothing is unworkable if the stakes are high enough, and the stakes are enormous. Too many universities are sports factories posing as academic institutions. The overemphasis on sports is a leading cause of America losing its competitive edge. Too many students are playing intercollegiate sports in what has become an absurdly demanding year-round commitment.

A more immediate and far easier solution would be for schools to drop teams that don’t make money. They could be turned into club teams, competitive and a lot more fun.

It would not solve the problem of the football monster, but at least tens of millions in revenue from the big-time programs, instead of going to support unprofitable sports teams as they do now, could provide more scholarship money and better faculty salaries to maintain educational programs that are being cut to the bone in the current economic climate.

This would require a change in rules by the most feckless organization in America, the National Collegiate Athletic Association, which now absurdly requires that universities maintain between 14 and 16 varsity sports to qualify for the national football championship. Athletes in the non-revenue generating sports would moan. Until they were reminded they are going to college to learn, not to swing a golf club. The best place to begin desperately needed reform? Penn State, which maintains 29 varsity teams.

## NOTES

1. This commentary is an update of the commentary posted Nov. 16, 2011 on collegeathleticsclips.com. In large part, the commentary is based on a series of messages sent to the Senate Finance Committee as well as to the executive director of the Knight Commission. The back story for these messages can be found in "Collegiate Athletics Reform: A Trilogy," [http://thedorakegroup.org/Splitt\\_Triology.pdf](http://thedorakegroup.org/Splitt_Triology.pdf)
2. Roberts, Tom, "Abuse and cover-up: Penn State's Catholic-like scandal," *National Catholic Reporter*, Nov. 10, 2011, <http://ncronline.org/news/accountability/abuse-and-cover-penn-states-catholic-scandal>
3. Nocera, Joe, "The Institutional Pass," *The New York Times*, Nov. 11, 2011, [http://www.nytimes.com/2011/11/12/opinion/nocera-the-institutional-pass.html?\\_r=1&partner=rssnyt&emc=rss](http://www.nytimes.com/2011/11/12/opinion/nocera-the-institutional-pass.html?_r=1&partner=rssnyt&emc=rss)
4. Douthat, Ross, "The Devil and Joe Paterno," *The New York Times*, Nov. 12, 2011, <http://www.nytimes.com/2011/11/13/opinion/sunday/douthat-the-devil-and-joe-paterno.html?src=me&ref=general>
5. Rozner, Barry, "Want answers? Just follow the money at Penn State." *The Daily Herald*, Nov. 11, 2011, <http://www.dailyherald.com/article/20111111/sports/711119907>
6. Salzberg, Steven, "Get Rid of the Game, Period," *The New York Times*, Nov. 11, 2011, <http://www.nytimes.com/roomfordebate/2011/11/10/should-penn-state-cancel-its-season/penn-state-should-cancel-its-season>
7. Guarino, Mark, "Penn State Riot: If university can't fire Joe Paterno, is something wrong?," *The Christian Science Monitor*, Nov. 10, 2011, <http://www.csmonitor.com/USA/Sports/2011/1110/Penn-State-riot-If-university-can-t-fire-Joe-Paterno-is-something-wrong>
- Guarino quotes Dave Zirin of *The Nation* as saying the riot represents the "warped moral atmosphere" that is created when "universities look to college football as the financial engine of campus that bends the will of the campus."
8. Dent, Jim, *Resurrection: The Miracle Season That Saved Notre Dame*, St. Martin Press, 2009.
9. The perpetuation of the notion, that Notre Dame's future is vested in its football program, in light of the deaths of Declan Sullivan and St. Mary's College student Elizabeth Seeberg, must be anguishing to Fr. Hesburgh who, during his tenure as president, was dedicated to shedding the school's image as a "football factory" while developing it as a world-class university.
10. Zirin, Dave, "College Football's Logic: Why Joe Paterno and Penn State Would Shield a Child Molester," *The Nation*, Nov. 7, 2011, <http://www.thenation.com/blog/164433/college-footballs-logic-why-joe-paterno-and-penn-state-would-shield-child-molester>
11. See the Trilogy[1].and Libby Sander's October 26, 2011, *Chronicle* piece, "NCAA Reforms Won't Produce 'Systemic Change' in College Sports, Administrators Say," <http://chronicle.com/blogs/players/ncaa-reforms-wont-produce-systemic-change-in-college-sports-administrators-say/29152>
12. The American Council of Trustees and Alumni (ACTA) must certainly be aware of this situation. See Appendix 1 – "Penn State Fiasco Should Remind Trustees of Their Inherent Responsibilities," a statement posted on ACTA's home page at <http://www.goacta.org/> and Dave Zirin's Nov. 16, piece in *The Nation*, "Penn State Alum/Leader of NOW Calls Out Penn State's Trustees for Toothless Internal Investigation," at <http://www.thenation.com/blog/164633/penn-state-alumleader-now-calls-out-penn-states-trustees-toothless-internal-investigatio>
13. Wendler, Walter V., "Public leadership vs. private morality," *The Chicago Tribune*, Nov. 17, 2011 <http://www.chicagotribune.com/news/opinion/ct-perspec-1117-academics-20111117,0,2869730.story>
- Many Catholics are left to wonder why it is that Catholic colleges and universities are not leaders in collegiate athletics reform—working to eliminate the injustices and bring rectitude to big-time athletics —rather than being among the leaders in revenue generation.
14. Zerubavel, Eviatar, *The Elephant in the Room: Silence and Denial in Everyday Life*, Oxford University Press, 2006.
15. Salzwedel, Matthew R. and Ericson, Jon, "Cleaning Up Buckley: How The Family Educational Rights and Privacy Act Shields Academic Corruption In College Athletics," *WISCONSIN LAW REVIEW*, 2004, [http://thedorakegroup.org/Salzwedel-Ericson\\_Buckley.pdf](http://thedorakegroup.org/Salzwedel-Ericson_Buckley.pdf)
16. Telander, Rick, *The Hundred Yard Lie: The Corruption of College Football and What We Can Do to Stop It*, University of Illinois Press, Chicago and Urbana, Illinois, 1989, Paperback Edition with Afterword, pages 213-217, 1996.
17. William Wilberforce (24 August 1759 – 29 July 1833) was a British politician, a philanthropist and a leader of the movement to abolish the African slave trade.
18. Bissinger, Buzz, "Open Secrets: It isn't just Penn State. College sports are a mess. It's time to sideline them," *Newsweek*, Nov. 21, 2011, page 4, <http://www.thedailybeast.com/newsweek/2011/11/13/joe-paterno-scandal-shows-need-for-reform-of-college-sports.html>

# Collegiate Athletics Reform: Lessons from Penn State Redux

**a CLIPS Guest Commentary**

By Frank G. Splitt, 12-04-11

*In a room where people unanimously maintain a conspiracy of silence, one word of truth sounds like a pistol shot—Czeslaw Milosz*

*Our guest author extends his 11-19-11 Clips Guest Commentary, reiterating his conclusion that if the Penn State scandal does not prompt government intervention, then antitrust and other cases before federal courts are likely to do so.*

**Two significant publications** that bear directly on my previous CLIPS commentary<sup>1</sup> appeared shortly after its posting. The first was Johns Hopkins Professor Ben Ginsberg's commentary<sup>2</sup> on the benefit of having colleges and universities made subject to the requirements of the 2002 Sarbanes-Oxley Act.<sup>3</sup> The second was an op-ed by Anne Neal, the president of the American Council of Trustees and Alumni.<sup>4</sup>

Ginsberg's view is consistent with my statement, "An alternative approach would have the feds not only apply a heavy surtax on all collegiate-athletics-related income, but necessitate compliance with the Sarbanes-Oxley Act—in effect, mandating rigor and accountability in the filing of all financial reports as well." Most likely Neal would agree that "...wealthy, powerful, and vociferous governing-board boosters are not prone to reform, and that colleges and universities have yet to step up to a leadership position..."

Ginsberg proposes the following:

Before they can police the administration, however, boards must police themselves. If they are to be effective, they must be held accountable for the administrators they appoint and must, especially, be subject to tough conflict-of-interest rules. To this end, let me offer a proposal: Sarbanes-Oxley. Colleges (and perhaps other nonprofits as well) should be subject to all the requirements of the 2002 Sarbanes-Oxley Act, from which they are now largely exempt. For most of them, this would entail enhanced board accountability for administrative actions, the creation of an independent audit committee, a formal process for the identification and selection of new board members, and a strengthening of conflict-of-interest rules.

As can be seen in the Appendix, Neal communicates a powerful message to governing boards: "Every college governing board should interpret Penn State's troubles as a clear warning of what happens when institutions lose sight of their educational mission." This message becomes even more powerful when read in the light of Ginsberg's commentary.

Both Ginsberg and Neal reveal truths that cast a bright light on the elephant in the governing board rooms of colleges and universities supporting revenue generating athletics programs. The elephant, of course, is the institution's highly commercialized sports entertainment business with its professionalized teams and related issues that warp the institution's educational mission.

Unfortunately, most, if not all, governing boards are populated with very wealthy boosters whose donations buy power to corrupt by compromising their school's integrity and core academic values so as to enable it to compete at the highest level in the murky world of big-time collegiate athletics. This corruption thrives in the dark where creative accounting can tell any story a school wants to tell when it is not bound by the Sarbanes-Oxley reporting requirements.

Finally, an excellent summary of the difficulty and the attendant glacial pace of collegiate athletics reform, as well as insights into the favorable federal tax benefits enjoyed by college sports programs, are provided in a video<sup>5</sup> of a recent talk by Jim Duderstadt, President Emeritus of the University of Michigan and author of the Foreword to the sequel to "Reclaiming Academic Primacy In Higher Education."<sup>6</sup>

All of this begs the question: Who will not only listen to the Ginsberg-Neal-Duderstadt messages, but also act to get governing boards to focus on academics and their school's educational mission rather than athletics?

It appears that intervention by the federal government is the only way to bring about requisite action and reform. However, as concluded in my previous commentary, if the Penn State scandal does not prompt government intervention, then antitrust and other cases before federal courts are likely to do so.

In any case, the scandal could spark a shift in America's obsessive sports culture—with moral integrity and justice valued above winning via the fruits of bad behavior—a shift that could, over time, spawn systemic change in professionalized collegiate athletics that are presently driven by greed and sustained by corruption and hypocrisy.

## NOTES

1. Splitt, Frank G., "Collegiate Athletics Reform: Lessons from Penn State," Nov. 16/19, 2011, [http://www.thedrakegroup.org/Splitt\\_Penn\\_State.pdf](http://www.thedrakegroup.org/Splitt_Penn_State.pdf)

2. Ginsberg, Benjamin, "Sarbanes-Oxley Could Save Colleges From Themselves," *The Chronicle of Higher Education*, Nov. 25, 2011, p. A64, <http://chronicle.com/article/Sarbanes-Oxley-Could-Save/129832/>

For more see "Sarbanes-Oxley and Disclosure Can Fix Budget Problem" on page 1 of "A Collection of Recently Published Essays and Comments" at [http://thedrakegroup.org/Splitt\\_Collection\\_of\\_Recent\\_Essays.pdf](http://thedrakegroup.org/Splitt_Collection_of_Recent_Essays.pdf)

3. Sarbanes-Oxley Act 2002, <http://www.soxlaw.com/>. The site provides information, guidance and resources covering the legislation.

4. Neal, Anne, "Where Were Penn State's Trustees?" *The Wall Street Journal*, Opinion, Nov. 30, 2011. <http://www.goacta.org/press/Articles/2011Articles/11-11-30WSJ.cfm>

For more see "Cleaning up the Mess in College Sports: Demands More than Policy Statements," at [http://thedrakegroup.org/Splitt\\_Cleaning.pdf](http://thedrakegroup.org/Splitt_Cleaning.pdf)

5. Duderstadt, James J., "Tilting at Windmills: The Challenge of Reforming Big-Time College Sports," *UC-Berkeley Videoconference*, Oct. 27, 2011. The video can be accessed by scrolling down to Duderstadt at <<http://priorities.weebly.com/guest-speaker-schedule-and-videos.html>>. The talk was part of a new UC-Berkeley course, "Priorities Under Pressure: A Critical Assessment of How the University's Core Mission is Affected by Intercollegiate Athletics," that featured several prominent speakers. Course details can be found at <http://inst.eecs.berkeley.edu/~cs39q>

6. Splitt, Frank G. "The Faculty-Driven Movement to Reform Big-Time College Sports," *IEC Publications*, July 13, 2004, [http://thedrakegroup.org/Splitt\\_Sequel.pdf](http://thedrakegroup.org/Splitt_Sequel.pdf)

## Appendix: Anne Neal on another lesson from the Penn State scandal

Anne Neal opens her *Wall Street Journal* op-ed, “Where Were Penn State's Trustees?” with “Every generation or so, a scandal emerges that not only exposes the flaws of an institution but shakes entire industries to their foundations. For higher education, that scandal should be Penn State.” She goes on to say:

The unfolding events of the Penn State sports scandal show a major university that has been more interested in protecting itself than in educating students or serving the public. The institutional reckoning must begin and end with the governing board. It is responsible for the actions of university leaders, and its members owe taxpayers and students accountability and transparency.

The alleged sins of omission of football coach Joe Paterno, President Graham Spanier and others when it comes to Penn State's sports program are grave. And the board must address these tragic claims of child sexual abuse as a first priority.

But a larger question must be asked about governing boards generally: Are they fulfilling their responsibility to the students, families and taxpayers in a broader sense? Can the trustees guarantee that they are adhering to their educational purpose? The clear answer is no.

Edward Shils, distinguished service professor at the University of Chicago, saw the task of the university as the "discovery and teaching of truths about serious and important things." Could Penn State—or most other American universities for that matter—make such a claim today?

When the most highly paid employee is the football coach, not the president, it's clear something is awry. When football tickets and fancy student centers are the currency of the day, rather than affordable and quality education, clearly something is awry. When most classes are scheduled only between Tuesday and Thursday and the institutional answer is to build more buildings to accommodate the demand from 10 a.m. to 2 p.m.—as Penn State is doing—something is awry.

The health of our society depends directly on the health of our educational institutions, and we've got some work to do. In too many ways, the emphasis of higher education in general has become one of reputation building, not values or education. The instinct is to hide problems or pretend they don't exist rather than face them head on. At too many institutions around the country, we are graduating students who can't write or think critically and who won't be able to compete in the global marketplace.

It is that tragedy in education that prompted Professor Richard Arum and the American Council of Trustees and Alumni to write to 10,000 college and university trustees earlier this fall calling on them to act. In his letter, Mr. Arum did not mince words. He noted that "problems of learning in higher education are real, deepening, and demand urgent attention. . . . Institutions that fail to set meaningful expectations, a rigorous curriculum and high standards for their students are putting these students and our country's future at risk."

At the end of the day, we must hold boards accountable. Board members are acting in trust for taxpayers and students. If they do not act to ensure quality and integrity, then they are putting our students and our country's future at risk.

Faculty are typically committed to their disciplines. Administrators regularly focus on the growth of their institutions. It is the governing board's duty to address these competing priorities. It is the trustees' duty to ensure that the distinctive educational purpose of the American university remains at the forefront of every other activity.

Every college governing board should interpret Penn State's troubles as a clear warning of what happens when institutions lose sight of their educational mission.

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

—Barbara Tuchman

*The day we see the truth and cease to speak is the day we begin to die.*

—Martin Luther King Jr.

# Collegiate Athletics Reform: Answers for *The Chronicle*

*a CLIPS Guest Commentary*

By Frank G. Splitt, 12-18-11

*Our guest author responds to a provocative question posed by The Chronicle and offers insights and perspectives relevant to approaches to reform as well as to the future of higher education in America*

“*What the Hell Has Happened to College Sports? And What Should We Do About It?*” were two piercing questions that headlined the front page of the December 16, 2011 issue of *The Chronicle of Higher Education*. The headline was followed by the statement: “No wonder they call it big-time sports. College athletics programs pull in about \$10.6-billion in revenue annually. But the challenges facing college sports may outweigh any dollar amount.” *The Chronicle* asked “several innovative thinkers” what they would you change, if they could. In a nutshell, this is what they said:

Oscar Robertson, “Don’t Treat Athletes Like Gladiators”

Frank Deford, “Bust the Amateur Myth”

William C. Friday, “Get Out of Show Business”

C. Thomas McMillen, “Eliminate the Profit Motive”

Harry Edwards, “Share the Wealth”

Nancy Hogshead-Makar, “Tie Money to Values”

Richard H. Thaler, “Kiss the BCS Goodbye”

Len Elmore, “Exempt the NCAA From Antitrust”

*The Chronicle* asked readers to share their thoughts as well. My thoughts were posted on *The Chronicle’s* website<sup>1</sup> and were as follows:

**What the Hell Has Happened to College Sports?** – The simple answer to the question is that nothing has happened to college sports that hasn’t been the subject of numerous books and essays over the past eight years or so. See “Splitt Essays.”<sup>2</sup>

Over the years, the NCAA has not only made a number of rule changes that have emphasized athletics over academics so as to move its big-time football and men’s basketball programs to professional levels suitable for feeding the NFL and NBA, but has also demonstrated an amazing ability to avoid serious reform. For example, the NCAA has resisted providing college athletes meaningful opportunities to function as real students by not agreeing to:

- a) Restore first-year ineligibility for freshmen with expansion to include transfer athletes;
- b) Reduce the number of athletic events that infringe on student class time, with class attendance made a priority over athletics participation—including game scheduling that won’t force athletes to miss classes;
- c) Restore multiyear athletic scholarships—five-year scholarships that can’t be revoked because of injury or poor performance;
- d) Require athletes to honor the terms of their multiyear athletic scholarship with appropriate penalties to the school and athlete for broken commitments such as ‘one and out’ to the NBA.

Unfortunately, until the Penn State scandal, scant heed has been paid to the mounting evidence of greed, corruption, and hypocrisy that has come to characterize big-time college sports.

**And What Are We Going to Do About It?** – The complete answers provided by *The Chronicle’s* “several innovative thinkers” can be found at *The Chronicle* story website.<sup>1</sup> These answers are to be compared to recommendations made by The Drake Group in “Comments by The Drake Group on the Draft of a Redesigned IRS Form 990,”<sup>3</sup> and in two 2009 open letters to President Obama.<sup>4</sup> There follows a bit of historical background on the latter.

Beginning in July 2004, the abuse of FERPA (the Family Educational Rights and Privacy Act) by the NCAA cartel, the NCAA and its member institutions, formed the basis for The Drake Group’s persistent efforts to have the U.S. Department of Education (DOE) and the U.S. Congress pressure the cartel to incorporate measures of transparency, accountability, and

oversight into their operations so as to expose the corruption and hypocrisy that lies at the heart of the cartel's commercialized and professionalized big-time sports entertainment businesses.

Unfortunately, the DOE has avoided the issue and, with the notable exception of Senator Charles Grassley (R-Iowa), serving members of Congress have not dared endorse The Drake Group's appeal for "sunshine" in collegiate athletics—apparently fearing retribution by constituents, wealthy boosters and rabid sports fans to the extent that such an endorsement would necessitate giving up their political careers. The net result of Congressional paralysis is that the dirty business of government-subsidized, professional college sports could be with us for a good long time unless and until responsible leadership is engaged to restore integrity in collegiate athletics.

To that end, The Drake Group's letters to President Obama state and restate a request for help by way of assistance to Senator Grassley in his efforts to enforce compliance to federal requirements for tax exemptions with an added appeal—for the President Obama's personal intervention in college sports via a recommendation to establish an Office of the Commissioner of Intercollegiate Athletics. The latter appeal was motivated not only by the NCAA cartel's obstinate resistance to serious reform, but also its success in co-opting organizations that work with it with the intention of bringing about significant reform.

A thoughtful reading of the Drake's comments on the revised IRS Form 990 and its two letters to President Obama as well as the author's most recent commentaries<sup>5</sup> should provide insights and perspectives relevant to alternative approaches to reform as well as the future of higher education in America

It remains to be seen whether or not President Obama and his administration have the political will and the courage to look beyond the problems associated with college football playoffs and NCAA *March Madness* tournament bracketing to address the really serious issues related to the NCAA cartel's FERPA-enabled professionalization of big-time football and men's basketball programs.

Experience indicates that intervention by the federal government is the only way to bring about requisite action and reform. However, if the Penn State scandal does not prompt government intervention, then antitrust and other cases before federal courts are likely to do so.

In any case, the scandal could spark a shift in America's obsessive sports culture—with moral integrity and justice valued above winning via the fruits of bad behavior—a shift that could, over time, spawn systemic change in professionalized collegiate athletics that are presently driven by greed and sustained by corruption, hypocrisy, and the absence of government oversight.

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A complete listing of links to his essays and commentaries on college sports reform can be found at <http://thedrakegroup.org/splittessays.html>

## NOTES

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