

**THE U. S. CONGRESS,
HIGHER EDUCATION, AND
COLLEGE SPORTS REFORM:
Signs of Progress, Truth,
and Consequences**

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THE INTERFACE

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INTRODUCTION – The athletics arms race, with its multimillion-dollar coaches’ salaries, stadium wars, and academic corruption, continues to have a debilitating impact on higher education. Insights into this situation can be found in a 3-year-old commentary¹ by **John W. Prados**, Vice President Emeritus and University Professor, The University of Tennessee, and former president, Accreditation Board for Engineering and Technology:

Frank Splitt’s well-researched brief identifies clearly the distortion of institutional priorities and the threats to academic integrity that result from increasing commercialization and obsession with winning in “big-time” college sports. The situation has developed gradually over the past 100+ years, and now its correction faces major obstacles, both financial and psychological, in particular, the dependence on revenues from football and men’s basketball to fund bonded indebtedness on expensive athletics facilities and to support the non-revenue producing sports, and the over-identification by too many alumni and other supporters of their own value with “their” school’s athletic success. Can the situation be corrected? I believe it can, but with great difficulty. It will demand a long-term, coordinated effort by responsible faculty leaders, presidents, and governing board members who are willing to put aside personal advantage and work together to do what is right for their institutions and the educational enterprise. Frank Splitt has pointed us down the right path. Will we have the courage and perseverance to follow it?

As Prados and others have suggested, the reform effort will have to reach critical mass in order to restore big-time sports to their proper role in higher education. Sad to say, the answer to Prados’ penetrating question – *Can the situation be corrected?* – appears to be “No” insofar as the great majority of college presidents and governing board members are concerned.

WHAT’S THE PROBLEM? – Inadvertently or willingly, far too many college and university presidents, provosts, and governing boards continue to conspire with the NCAA and the TV media to tap into the ocean of money associated with the big-time college sports entertainment industry. It is unlikely that any of these groups would be willing to let go of the status quo unless their future prosperity is assured.

Excessive commercialization has given rise to money-focused presidents who often view sports programs as an economic necessity and undergraduate education as an expensive nuisance. As a general rule, big-time university and college presidents cannot advocate true reform without risking termination driven by a storm of protest about economic impact and assorted tradition-based arguments by influential (wealthy) members of their governing boards, boosters and alumni, as well as misguided fans. But there can be exceptions, for example, Birmingham Southern University recently moved from NCAA Div. I to Div. III. This bold move enabled the school to provide more athletic and educational opportunities for its students. The move was made for all the ‘right’ reasons – providing a rare but shining example of educational sanity trumping irrational athletic exuberance.

However, the move by Birmingham Southern’s president **David Pollick** and his board is an anomaly. All too often such moves are blocked by presidents who have little patience with serious reform efforts or by influential board members who use their school’s athletic programs as ego-boosting playthings. Also, the target of major contributions by wealthy alumni is often not academics, but rather their alma mater’s athletics department. Such gifts help fuel the athletics arms race.

Most tenured faculty members are intent on doing research and seem too busy to work for reform. Disheartened by a perceived lack of institutional power, faculty members often shun involvement in controversial nonacademic affairs. But here again there are exceptions to this general rule, for example, **Linda Bensel-Meyers** while at the University of Tennessee, **Jim Gundlach** at Auburn University, **Jan Kemp** at the University of Georgia, **Tiffany Mayne** at Louisiana State University, **Tom Palaima** at the University of Texas-Austin, **Murray Sperber** while at the University of Indiana, and Nobel Laureate **Carl Wieman** while at the University of Colorado-Boulder. Also, **Nathan Tublitz** and **James Earl**

recently decried academics' decline relative to athletics at the University of Oregon – prompting a swift defense of the status quo by the university president who argued that excellence in athletics does not preclude excellence in academics, but failing to address the expressed concerns of the 90 faculty members who endorsed the Tublitz-Earl complaint.

Almost all untenured faculty members are too busy working to get tenure and are not in a position to challenge administrative policy on intercollegiate athletics. In any case, faculty members and others who defend academic integrity are often considered subversive—inviting intimidation and position-threatening retaliation by school administrations.² The life of faculty members who work for academic primacy over athletics is not without pressure, consequent stress, and the fear of being ostracized. For example, the members of the University of Minnesota's Faculty Consultative Committee have just been placed in a difficult, likely untenable, position by the university president.³ Even deans and senior faculty find it hard to say no to demands by presidents and provosts, especially if the demands are in any way related to defending the NCAA and the status quo in intercollegiate athletics.

The bottom line: The relatively sparse exceptions to the general rule fall far short of the critical mass of responsible faculty leaders, presidents, and governing board members required to arrest the uncontrolled growth of commercialized college sports. However, in this void an alternate critical mass was formed – inspired, in part, by the cogent words of **Margaret Meade**, *Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed it is the only thing that ever has.*

WHAT HAS BEEN DONE? – The key to unraveling the mess in big-time college sports is federal intervention.⁴ There will be no serious reform without such intervention and related oversight. There will only be a veil of secrecy shrouding a continuing national scandal characterized by academic institutions beholden to the out-of-control college sports entertainment business ... institutions that have distorted or abandoned their educational mission.

To help catalyze government intervention, I worked closely with **Jim Duderstadt**, President Emeritus and University Professor of Science and Engineering at the University of Michigan. The connection: Duderstadt was the author of *Intercollegiate Athletics and the American University*⁵ and the foreword to my second essay on college sports reform,⁶ as well as an early supporter of my work on systemic engineering education reform. We and others in The Drake Group and beyond, worked with staff members of the Oversight Subcommittee of the House Committee on Ways & Means during the past year to illuminate the true professional nature of big-time college sports, its tight connection to the entertainment business, and its marginal relevance to the educational, tax-exempt mission of its member institutions, as well as its negative impact on America's K-16 education system.⁷

House Committee on Ways & Means Chairman Rep. **Bill Thomas**' sharply-worded, Oct. 2, 2006, letter to NCAA President **Myles Brand** – asking why the NCAA and its member institutions should maintain the tax-exempt status of their sports programs – was one of the high points of this effort. The Thomas letter triggered a powerful issue-amplifying column⁸ by nationally syndicated columnist **George Will** as well as a host of supporting editorials and columns in *The New York Times*, *The Wall Street Journal*, *USA Today*, *The Boston Herald*, *The Washington Post*, *The Indianapolis Star*, *The Dallas Morning News*, and *The Birmingham News*, among many others.

Another high point was Duderstadt's testimony at the Dec. 5, 2006, Senate Finance Committee Hearing. “Report Card on Tax Exemptions and Incentives for Higher Education: Pass, Fail, or Need Improvement?” chaired by Senator **Charles Grassley**⁹

Also, just prior to the hearing, **George Dennison**, president of the University of Montana, invited me to contribute an article commenting on the congressional scrutiny of the NCAA for *The Montana Professor* – a journal of Education, Politics and Culture. The article, “The U. S. Congress: New Hope for Constructive Engagement with the NCAA and Intercollegiate Athletics,” will appear in the Spring 2007 issue of the journal opposite NCAA President Brand's article, “Faculty Members’ Constructive Engagement in Intercollegiate Athletics.”¹⁰ Readers will find a sharp contrast between the articles. Brand urges faculty to get with athletic programs by providing direct support for their school's leaders – recommending roles for faculty members that: *will yield both constructive engagement and resolution of the issues facing intercollegiate athletics*. My article focuses on the need for federal intervention based on the truth about big-time college sports ... the brutal truth that is often obfuscated by myths,

misrepresentations, and misinformation promulgated by the NCAA and ardent defenders of the status quo. However, telling the truth about college sports has not been without consequences.¹¹

Taken together these are exciting events. While certainly not earth shattering, they nevertheless represent sure signs of progress on a path toward serious reform in intercollegiate athletics as well as a basis for cautious optimism.

WHAT MORE CAN BE DONE? – To help sustain the momentum developed by the 109th Congress, we will be asking Senator **Max Baucus** and Rep. **Charles Rangel**, the respective chairs of 110th Congress' Senate Finance Committee and House Committee on Ways & Means, to follow up on the groundbreaking work of their congressional committees. Specifically, we will be asking them to give careful consideration to the following plan of action – taking steps consistent with the recommendations of Secretary of Education **Margaret Spellings'** *Commission on the Future of Higher Education*:¹²

1. Initiate a focused congressional hearing on intercollegiate athletics. Such a hearing would fully expose the NCAA and its secretive ways to the light of day – as Supreme Court Justice **Louis Brandeis** said: *Sunlight is said to be the best of disinfectants.*
2. Realign priorities at America's colleges and universities – addressing the perverse government subsidization of the NCAA and big-time intercollegiate athletics would not only help flip the apparent athletics-over-academics priority at many schools, but also provide substantial incremental tax revenues.¹³
3. Take steps to hold the NCAA cartel accountable for the substantial financial support it receives from America's taxpayers—with Congress giving serious consideration to conditioning the continuation of the NCAA's tax-exempt status on the NCAA meeting specific requirements aimed at increasing the transparency, accountability and oversight of its operations and those of its member institutions.
4. Take a hard look at tax policies governing seat licenses, luxury skyboxes, corporate sponsorships and other unrelated business income.
5. Add interpretive wording to FERPA's student privacy provisions to make clear that such legislation does not prohibit release of information on the academic performance of individual athletic teams, so long as the data do not identify individual team members.
6. Require the NCAA and its member institutions to take steps that will permit athletes to function as real students—having the institutions provide tangible evidence that they practice what they preach, i.e., evidence that their athletes attend regular whole-period classes on accredited degree tracks and that the athletes are maintained as an integral part of the institution's student body where academic standards of performance for athletes are the same as for all other students.

CONCLUDING REMARKS – America's higher education enterprise should be focused on academics, not athletics. With this focus in mind, tax code benefits would result in increased emphasis on learning and research, not on the subsidization of commercialized sports entertainment and health-spa-like facilities for athletes.

A question still looms in the minds of reform-minded academics: Will Congress follow up on Chairman Thomas' letter and build consensus to unmask the NCAA's amateur 'student-athlete' charade and put an end to the tax subsidies that help fuel the athletics arms race? If the NCAA is left to operate "foot loose and tax free" at the expense of American taxpayers and the future health of America's system of higher education, it will be because the Congress has yet to appreciate the long-term negative implications of 'what's going on,' or, chooses not to exercise its inherent responsibility to rectify the situation.

What's required is a good measure of political courage and the will to stand up to powerful legal, economic, political, and lobbying forces mustered by the NCAA cartel to protect its financial interests. In addition, those answering the call must be willing to withstand the inevitable pressure to maintain the status quo from school officials, notable alumni and rabid fans.

It has often been said that a democracy has as one of its fundamental strengths the ability to bring great ideas, innovation and individual initiative, into what could otherwise be a failing system. The higher education enterprise, just as a democracy, is only as strong as the people who are willing to keep

it vital and ever evolving. Faculty members in all disciplines need to become more aware of the problems besetting their segment of the enterprise and then, hopefully enabled and supported by government intervention, rise to the challenge of reclaiming academic primacy in higher education.

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NOTES

¹ Splitt, Frank G., "Reclaiming Academic Primacy in Higher Education: A Brief on Working for Reform in Intercollegiate Athletics and Engineering Education, p. xi, IEC Publications, Chicago, IL, Dec. 31, 2003, http://thedrakegroup.org/Splitt_Reclaiming_Academic_Primary.pdf

² Farrey, Tom, "Defining bravery in college sports," *ESPN.com*, Oct. 7, 2003, <http://espn.go.com/ncaa/s/2003/1006/1632030.html>

³ Splitt, Frank G., "Employing Academically Unqualified College Athletes," *CollegeAthleticsClips.com*, Feb. 5, 2006, http://thedrakegroup.org/Splitt_Unqualified_College_Athletes.pdf

⁴ Schakowsky, Janice D. "Call for attention to the work of Dr. Frank Splitt," Congressional Record, Extension of Remarks, March 17, 2005, – p 9, http://thedrakegroup.org/Splitt_Essays.pdf

⁵ Duderstadt, James J., *Intercollegiate Athletics and the American University: A University President's Perspective*, First paperback edition, University of Michigan Press, 2003.

⁶ Splitt, Frank G., 'The Faculty-Driven Movement to Reform Big-Time College Sports,' IEC Publications, Chicago, IL, July 13, 2004, http://thedrakegroup.org/Splitt_Sequel.pdf

⁷ Attention was also called to the NCAA's penchant for quoting statistics characterizing all sports programs rather than the far more alarming results of the large revenue sports of football and men's basketball, the perpetuation of the NCAA's contrived amateur 'student-athlete' myth, their deceptive self portrayal as an institution of higher education, and the perverse federal tax-policies governing seat licenses, luxury skyboxes, corporate sponsorships and other unrelated business income, that help fuel the athletics arms race.

⁸ Will, George, "Tax Breaks for Football (Factories)," *The Washington Post*, Oct. 25, 2006.

⁹ *The Dec. 5, 2006 Senate Finance Committee Hearing*, <http://www.senate.gov/~finance/sitepages/hearings.htm>

¹⁰ In addition to the print edition, an online version of this issue will be posted at URL <http://mtprof.msun.edu>. My article will also be available at http://thedrakegroup.org/Splitt_Montana_Professor.pdf

¹¹ My EECS Department hosted website (focused on engineering education and sustainable development) was recently shutdown by Northwestern's senior administration – a seeming consequence of my article for *The Montana Professor* and work with Congress – calling to mind the earlier retraction of my honorary McCormick Faculty Fellow title and position, http://thedrakegroup.org/Splitt_Statement_on_Academic_Retaliati.pdf

¹² Editors, "In Focus: The Spellings Commission," *InsideHigherEd.com*, <http://insidehighered.com/news/focus/commission>. Note, this URL provides access to an extensive list of references on the work of the Spellings Commission.

¹³ These incremental tax revenues could help finance a boost in the federal investment in basic research, recruitment of future Science, Technology, Engineering, and Mathematics (STEM) teachers, and scholarships for undergraduate STEM and other students interested in attending college to learn, not just to 'play ball.'