

The Drake Group: Defending College Athletes Rights and Education

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In 1999 Jon Ericson, a former provost and professor at Drake University, invited a group of scholars, authors, and activists to attend a two-day conference on how to address serious issues raging in big-time college sports. The goal was not to create another NCAA with its ponderous bureaucracy, but instead, to produce “a ringing manifesto” for change and send it out to every faculty senate in the country for action.

As one might expect, the first day of the conference turned into a veritable barroom brawl. No one physically attacked anyone else, but tempers flared. To quote Jay Weiner, who covered the conference for the *Minneapolis Star Tribune*, “The more the critics and faculty debated and sought solutions, the more the details became devilish, and their directions became fuzzy.”¹ Yet, even though debates raged on, agreement began to emerge that an organization of faculty and others was needed to defend higher education from the corrosive aspects of commercialized college sports.

On the second day of the conference, Allen Sack, a Professor of Sociology at the University of New Haven, an athletes’ rights activist and former Notre Dame football player, made a motion to create a national organization of faculty and others to defend athletes’ rights and academic integrity. Ericson opposed the motion because he believed

¹ Jay Weiner, “College Athletic Reformers Find It’s a Daunting Task,” *Minneapolis Star Tribune*, October 23, 1999.

it would produce yet another bureaucracy with endless red tape. Nonetheless, he ultimately voted with the majority. The new organization was called the Drake Group and Ericson was named its first president.

Since then, the Drake Group has not only supported educational best practices for athletes, but it has also been an advocate for faculty who have been attacked for merely doing their jobs. For instance, when Linda Bensel-Myers, a professor at the University of Tennessee, reported academic fraud in the football program to the administration, she was told to let the matter drop. In a news article published several years later, she says she “received death threats, had air let out of her tires, and was spit at in the mall.”²

Several members of the Drake Group, led by Jon Ericson, visited the Tennessee campus, where they talked with faculty and attended a faculty senate meeting to help Bensel-Myers make her case. Although the Tennessee faculty members allowed them to engage in an open dialogue, it was clear that very few were ready to publicly challenge the Tennessee football juggernaut. Nor were they ready to attack powerful alumni who hold winning football programs in very high regard. In this climate, Bensel-Myers became a pariah both on and off campus. The Drake Group’s rescue squad only moral support.

At the Drake Group’s annual meeting in Chicago in 2003, Bensel-Myers agreed to serve as the second president of the Drake Group. The group also adopted a mission statement, which was to “help faculty and staff defend academic integrity in the face of the burgeoning college sports industry.” The Drake Group would support faculty, like Bensel-Myers, whose job security was threatened for merely defending academic

² Wright Thompson, “A Very Lonely Enterprise”, *The Times-Picayune*, 2 April 2003. The New Orleans Times-Picayune., April 2, 2003, p. 3.

standards. It would also disseminate information on current issues and controversies in sports and higher education.

Because the first meeting took place in Chicago, it was not surprising that the Drakes were inspired to create an award named after Robert Maynard Hutchins. From 1929 until 1951, Hutchins was the President of the University of Chicago, where he defended the liberal arts and opposed rampant commercialization of college football, which in his view, undermined the core values of higher learning. He was also a strong supporter of the rights of minorities and women. Drake members strongly supported Hutchins' commitment to a proper balance between sport and higher education.

After the yearly meeting, some Drakes spent the evening in a local tavern thinking of creative ways to get their message out. After a couple of drinks, Bense-Myers came up with a very good idea. She suggested that we hold a protest demonstration in San Antonio, the site of the NCAA's 2004 Final Four. There was general agreement. Drake members made signs listing four major proposals, traveled to San Antonio, and walked back and forth in front of the Hyatt Hotel where the Division I basketball coaches were staying.

Washington Post writer Liz Clarke described the Drake Group members as “graying university professors trying to sell something radical amid the basketball crazed marketplace that has sprouted up around the NCAA Final Four. The product they are pushing? Education.”³ The protest was a great success. Drake Group member Bruce Svare compared our protest to a Michael Moore documentary. At one point Svare was seen, picket sign in hand, chasing Syracuse coach Jim Boeheim to get his views on five-year no cut scholarships.

³ Liz Clarke, “Points Other Than Baskets,” *Washington Post.com*, April 5, 2004, p. D01.

The Drake Group used its three days in San Antonio to maximum advantage. One night it held a press conference to confer the first Robert Maynard Hutchens Award on Jan Kemp, a whistle blower about academic corruption in the 1980s. Kemp had been fired for reporting the University of Georgia's practices of enrolling and keeping eligible athletes who could barely read and write. Kemp was ultimately vindicated and won a \$1.1 million settlement in court. Kemp stated in her acceptance speech that she wished the Drake Group had been around when she was harassed for merely doing her job.

The NCAA had a very different reaction to the Drake Group. In the *New York Times* (May 9, 2004) NCAA President Myles Brand opined that the Drake Group, "consisting of a small group of faculty members with an eye toward publicity, wants to end university support for intercollegiate athletics." Brand went on to say that "the Drake group wants to turn college sports into minor leagues and to turn college athletes into professional entertainers. And they want universities to pay the athletes."⁴

Michael Malec, Associate Professor of Sociology at Boston College and a member of the Drake Group's Executive Board responded to Brand immediately. "We place the onus on faculty to do their jobs," he wrote in the *New York Times*. Faculty must consider ways to best allow athletes to access the kind of education available to all students and to take responsibility for the erosion of the academic mission of higher education.⁵ Malec argued that Brand ignored the Drake Group's actual proposals.

Immediately following the San Antonio meeting, the Drake Group did what was needed to become a functioning organization, most of which can be found in a

⁴ Myles Brand, "Back Talk: In Athletics, Level Field Must Begin in the Classroom." *New York Times*, May 9, 2004.

⁵ Michael Malec, "N.C.A.A. Could Do More," *New York Times* (Sports Editor) May 16, 2004.

management textbook. It promised to defend academic integrity in higher education from the corrosive aspects of big-time college sports, analyzed the organization's strengths, weaknesses, opportunities, and threats (SWOT analysis), and applied for and received our 501(c) (3) tax-exempt status. The Drake Group received a tremendous boost from the University of New Haven, whose president gave the group "in residence" status, just as it had done for the Orchestra New England when the orchestra needed office space.

In the early days, the university let the Drake Group use its communications department to send out press releases. The marketing department helped design newsletters and brochures. One of the members of the university's board of directors took time from his law firm to help the Drake Group with legal issues such as attaining not-for-profit status. Slowly, the Drake membership began to grow, as did money from membership dues. A friend who was a graphic designer created the first Drake Group logo that appeared on its documents and website. Several students in the Executive MBA program began meeting in a local bar on Friday afternoons to discuss college sports. Several of them later became part of the Drake Group's financial management team.

As the infrastructure of the Drake Group began to fall into place, its members became outspoken in the mass media about corruption in college sport. Not only did they publish academic articles and books, but they expressed their views frequently the *New York Times*, *The Los Angeles Times*, *Inside Higher Education*, *The Chronicle of Higher Education*, and many others. Drake members appeared on television shows such as *ESPN*, *The McNeal Lehrer Report* (later the *PBS News Hour*), *CNN*, *The Big Ten Network*, and *Outside the lines*.

In 2010 Sally Dear-Healy, an adjunct lecturer in human development at the State University at Binghamton, spoke out about pressure she had received from the athletic department “to give a pass to basketball players who did not show up for classes.”⁶ Professor Dear-Healy held her ground and received moral support from the Drake Group which awarded her the Robert Maynard Hutchins Award in 2010. During the previous spring, the basketball team had earned a bid to the N.C.A.A. tournament for the first time. According to Professor Dear-Healy, the students thought that achievement was the “coolest thing that ever happened in Binghamton.”

In a November 2012 article, Dan Kane of the *Raleigh News & Observer* interviewed Mary Willingham, an academic tutor whose job was to assist athletes at the University of North Carolina. Willingham claimed in this article that the university helped athletes stay eligible for sports by giving them improper assistance. Willingham stated her concerns to the national media, reporting that 60 percent of UNC football and basketball players were reading at the fourth to eighth grade levels.⁷ When she reported such findings to top administrators, she was generally ignored or treated like a pariah.

In the years that followed, Drake Group members traveled to North Carolina to provide moral support for Willingham and presented her with the Hutchins Award in 2013. Professors at UNC came to Willingham’s aid. Jay Smith, a professor of history at UNC, became so involved that he too received the Hutchins Award, making UNC the only institution with two Hutchins award winners. Willingham sued UNC, saying she was criticized for speaking out against what appeared to be fake classes.⁸

⁶ Peter Applebom, “In Basketball, Troubles Spill off the Court,” *New York Times*, October 22, 2009.

⁷ Paul M. Barrett, *Bloomberg Businessweek*, March 2014.

⁸ Jay Smith and Mary Willingham, *Cheated* (Lincoln, NE: University of Nebraska Press, 2015).

In 2011 the Drake Group made a decision that would transform the Drakes into one of the most influential college sport reform groups in the country. The decision was to ask Donna Lopiano to join the Drake Group advisory board. Lopiano had been named “One of the Ten Most Powerful Women in Sports” by *Fox Sports*. The *Sporting News* had listed her as “one of the most Influential People in Sports.” She had served as the Chief Executive Officer of the Women’s Sports Foundation (WSF).

When asked, Lopiano said she would be glad to accept a position of leadership in the Drake Group. Many people consider the invitation to Lopiano to be one of the Drake Group’s smartest decisions. Lopiano was instrumental in helping transform the Drake Group from a rag-tag collection of college sport reformers that had emerged from the conference at Drake University in 1999 into a well-organized reform group. She brought a number of female attorneys and graduate students with her.

Lopiano went right to the point when she asked if the Drake Group would be interested in working on a piece of legislation called the College Athlete Protection Act, (CAP Act). The goal of the CAP Act was to defend college athletes’ educational and legal rights. The Drake Group was very interested in this project. Lopiano and Andrew Zimbalist, an economist from Smith College, wanted to talk with the Drakes about taking the lead on this project. The answer was yes, and over the next six months, Executive Committee members and members of a working group produced a final product.

A slim majority of the Drake Group’s executive committee supported the CAP Act’s inclusion of a limited antitrust exemption that would allow the cutting of coaches’ outrageous salaries and limit the construction of palatial dormitories for athletes’ use only. A smaller number of executive committee members, however, thought that the CAP

Act was likely to strengthen the NCAA's argument that college athletes, such as Ed O'Bannon (who at the time was suing the NCAA on antitrust grounds) are merely "amateurs" whose compensation should be limited to educational expenses.

The CAP Act did not support professional college sport, but most Drakes did not see it as exploitative either. Included in the benefits it provided were extensive health care, medical benefits and injury insurance for athletes (with no cost to parents) along with neurological baseline assessments and monitoring related to concussions. It also offered athletic scholarships that covered full cost of attendance (COA) in the NCAA's most competitive division, an athlete's rights advocate who would provide independent advice for college athletes at no cost regarding the application of NCAA rules, and due process rights for athletes accused of rule violations.

There would be an academic trust fund for athletes who wished to pursue a post-graduate degree or return to college if they had yet to receive their degrees. Athletes would be able to profit from the sale of their names, images, and likenesses (NILs) by engaging in commercial activities such as modeling, product endorsements, and similar enterprises. The NCAA would have no control over these activities. These are just a few of the proposals for enhancing athlete's rights that were imbedded in the CAP Act.

In May of 2014, several Drake group members, including Allen Sack (the Drake Group President), Donna Lopiano, and Gerald Gurney, were invited to a closed-door meeting with Secretary of Education Arne Duncan in Washington, D.C. The main agenda item was the creation of a presidential commission on college sport. Legislators and other proponents of collegiate athletic reform also attended. The Secretary indicated that "President Obama was very interested in this idea." Ben Strauss, who covered the

meeting for the *New York Times*, gave considerable attention to the Drake Group and its views on college sport reform.⁹

As the years passed, Drake Group membership increased, and the Drake Group webpage became more sophisticated. Donna Lopiano, having been a non-profit CEO at the Women's Sports Foundation, worked with Sally Dear-Healy to create a data base to maintain Drake member/donor records, board members contributed old lists, and a membership development standing committee was established as Drake's fund-raising vehicle.

The Drake Group decided to lobby for Congressional legislation that would result in significant reform of intercollegiate athletics. To that end, all Drake Group members (about 100 at that time) were asked to visit the local district offices of their Representatives to personally ask them to support a given piece of legislation. In its first attempt to use this strategy, the Bill in question was a U.S. President's Commission of Collegiate Athletic Reform (H.R. 2731). The Bill was sponsored by Representative Charles Dent from Pennsylvania and several other co-sponsors.

Dent was off to a good start, but in order for the Committee to bring the Bill to the floor of the House for a vote, more members of Congress were needed to sign on as co-sponsors. A significant number of Drake Group members succeeded in talking with their Representatives, but a much larger number spoke with A LEGISLATIVE AIDE. Congresswoman Rosa DeLauro from Connecticut was very interested.

Drake excitement was short lived, however, because within a week or so, Representative Dent announced that he would resign from Congress. Dent, a moderate

⁹ Ben Straus, "As N.C.A.A. Issues Pile Up, A Call for A Commission." *The New York Times*. October 22, 2009..

Republican, had emerged as a top critic of President Donald Trump, who was newly elected. Dent's resignation dealt a serious blow to the Drake Group's first effort to look to Congress to protect the well-being of college athletes and to provide much needed reforms such as those in the Drake Group's CAP Act.

The year after Dent left office, the Drake Group gave its full support to a bi-partisan bill (H.R. 5528) introduced by Representatives Donna Shalala (D-Fl.) and Ross Spano (R-Fl.) that would have established a blue-ribbon Commission to examine the need for intercollegiate athletic reform. Again, Drake Group members, as well as their friends, relatives, and anyone else interested in fighting corruption in collegiate athletics, were asked to contact their Representatives and request them to co-sponsor H.R. 5528. More than 100 Drake members and supporters were able to get some kind of response, but Representative Shalala lost her House seat in the 2020 election, which derailed her bill.

When Jon Ericson organized a conference at Drake University in 1999 to tackle the corruption of sport in America's colleges and universities, few people would have dreamed that the Drake Group would be lobbying for sports reform bills that are now taken seriously by leaders in Congress. In August of 2020, U.S. Senators Cory Booker, Richard Blumenthal, Christopher Murphy, Kirsten Gillibrand, Ron Wyden, Mazie Hirono and Kamala Harris issued a "College Athletes Bill of Rights" statement that sought to advance justice and opportunity for college athletes.

On September 8, 2020, The Drake Group proposed a College Athletes Rights and Protection Act (CARPA) to accomplish the promises made in the "College Athletes Bill of Rights" statement issued by ten U.S. Senators. The full text of CARPA can be found

on the Drake Group website along with other Drake Group proposals. In recent years, the Drake Group has attracted men and women with considerable expertise in sports law.

One of the most important proposals made by the Drake Group was to allow college athletes to sell their names, images, and likenesses (NILs) on the open market. The Drake Group first proposed this idea in in 2012 as part of its CAP Act, but not until 2021 did the NCAA announce a plan to allow athletes to make endorsement deals. Meanwhile, the Drake Group is sharing its detailed position paper on NILs with the offices of Senators Blumenthal, Booker, and Maria Cantwell (D-WA), who are likely to include some of these proposals in future legislation. Over the years, the Drake Group has become an important think-tank for those committed to defending higher education from the corrosive aspects of big-time college sport.

Women have played an important role in the Drake Group from the outset. In the early years, they risked losing their college teaching careers for refusing to compromise academic standards for athletes. Several received the prestigious Robert Maynard Hutchins Award, thus emphasizing the Drake Group's mission of "defending academic integrity from the corrosive aspects of big-time college sports." More recently, the Drake Group has also emphasized the importance of involving women in sports at all levels and has been a strong supporter of Title IX.

The Drake Group recently endorsed the Fair Play for Women Act and has applauded Representative Alma Adams and Senator Christopher Murphy for sponsoring the bill in 2023. The Act would strengthen existing statutes that require colleges and universities to publicly report data demonstrating their compliance with the athletic provisions of Title IX, and for the first time, would extend reporting requirements to

elementary and secondary schools with athletic programs. Such laws were unthinkable when the Drake group was founded in 1999.

The Drake Group is now 23 years old. In 2022, it sponsored its first National Symposium at the National Press Club in Washington, D.C. The moderators were award-winning national sports journalists Bob Costas, Christine Brennan, and Kevin Blackstone. This yearly event symbolizes the progress made by the Drake Group toward attracting the attention of the nation's lawmakers. The lawmakers have the power to improve educational outcomes and the health and safety of college athletes.

In September of 2022, The Drake Group established a sister organization. The Drake Group Education Fund under fiscal 501 (c)(3) sponsorship of the Players Philanthropy Fund (PPF). PPF will host the Drake Group Education Fund until the new organization's application for its own 501 (c)(3) status is approved. Taking this action better positions The Drake Group to focus on its primary mission of influencing Congress and other legislative policy makers to address the serious academic, health, and economic issues in intercollegiate athletics.

