



September 9, 2024 Report

Dear Supporter,

The Drake Group (TDG) is working with Congress on a number of significant initiatives related to collegiate athletics reform. Over the next 10 weeks we will report on the most critical issues we are addressing with Congressional members or executive agencies.

Issue #1 - Proposed Antitrust Settlement – Huge Financial Implications for College Sport. You may have read about the proposed settlement of three lawsuits in which college male and female college athlete plaintiffs are charging the NCAA and the Power Five conferences (SEC, Big Ten, Pac Ten, Big 12 and ACC) with violating antitrust laws — *NCAA v. House-Hubbard-Carter*. If approved by the court, 90 percent of the \$2.8 billion for the past damages portion of that settlement would go to male athletes participating in basketball and football in those conferences and approximately 5 percent to female basketball players at those same schools. Five percent would go to other Division I athletes (sex and sports of recipients undesignated). For example:

- Damages from TV Broadcast rights—approximately 19,000 men will receive on average \$91,000 while 3,000 women will receive on average \$17,000
- Additional Compensation—approximately 14,000 football and men’s basketball players will receive on average \$40,000 while 2,000 women will receive on average \$14,000

The second part of the settlement going forward over the next 10 years (injunctive relief) would pay another \$20 billion to Division I male and female athletes — most coming from Power Five schools with no sex designation for recipients. The attorneys would walk away with \$497 million.

The financial and educational implications of the settlement are massive:

- Plaintiffs’ lawyer, Steve Berman, has explicitly suggested that conferences may be able to launder the past damages payments to athletes **in order to evade Title IX:**

"We told the court well, we don't think Title IX applies because in our world, this is money that goes to the conferences. And then the conferences are allowing schools to pay it, so it's not directly from schools. Not sure that argument is now going to fly given the structure."

- The cost of the settlement will result in termination of or drastic reductions in the support of men’s and women’s Olympic and non-revenue sports in all Division I athletics programs.

- The 291 schools who are not in the Power Five conferences (who are NOT named plaintiffs in the lawsuits!) will have to pay at least \$1 billion of the \$2.8 billion past damages settlement price tag. Faced with budget cuts to do so, these athletic programs likely will eliminate non-revenue teams and/or be asking for student activity fee and tuition subsidies to avoid program cuts.
- The proposed settlement allows “pay for play” – permitting schools to pay unlimited amounts to recruit and retain individual players. Scholarships will no longer be tied to educational costs. All college athletes will become “free agents.”

What The Drake Group (TDG) is Doing About This. TDG produced a **Congressional Briefing Report** that detailed all the issues. TDG also produced an **“educational sport governance framework”** to educate members of Congress and their staff members and all Division I institutions of more educationally defensible solutions that would better compensate athletes and afford better athletic injury and due process protections for all college athletes. We also provided Congress with the pros and cons of athletes becoming employees. On July 29, TDG met with Department of Education Office for Civil Rights (OCR) staff, to detail our concerns and ask for immediate issuance of guidance to all Division I member institutions regarding the application of Title IX to payments if the settlement was approved. Following the OCR meeting, we prepared another briefing paper for OCR detailing the most important points that should be covered by such guidance. We also met with and will continue to meet with Congressional offices to urge them to join in our request that OCR help schools understand their Title IX obligations if pay-for-play or publicity rights becomes a reality. The settlement approval process will be going on over the next year and undoubtedly, Congress will be asked to help resolve these issues. Good policy for all is seldom the outcome of court cases seeking benefits for the few.

Asking for Your Support. Would you consider becoming a dues-paying member/supporter of TDG to help support these efforts? Membership is nominal — \$10/students, \$35/faculty, \$50/general — and other gifts in any amount are appreciated. **You may do so here.**

We have no staff members — we are all volunteer sports management and sports law faculty, economists, and experts in issues related to needed college athletics reforms. We are non-partisan and highly respected by Congress — both sides of the aisle — for providing the trustworthy, fact-based information needed for good legislation and agency policy making. We operate on a shoestring! Your membership and gifts will be used to pay for student research, manage our website, operate our communications platforms, and fund limited trips to meet with Congress (fully 90 percent of our work educating Congressional staff members is via Zoom or phone communication).

Most of all, we do what we do because we believe in the extraordinary developmental impact of intercollegiate athletics on participants — confidence, discipline, teamwork, and work ethic and financial assistance to earn a college degree. We also believe in athletics because it contributes to a vibrant campus community and is part of the ‘glue’ that keeps alumni involved in higher education. We must keep these benefits while we solve the challenges created by the commercialization of college sport. We’d appreciate your help. Contact me if you have questions!

Gratefully,

Donna Lopiano, Past President, Donna.Lopiano@gmail.com