

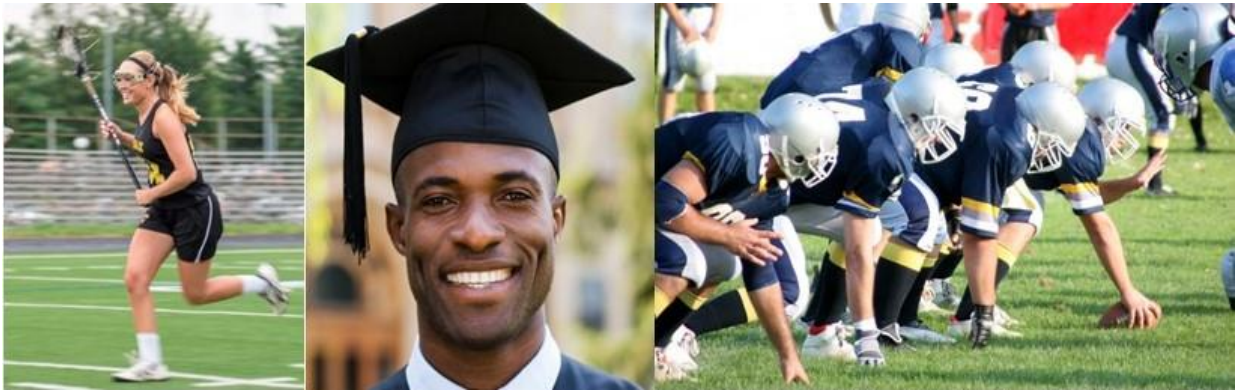


# THE DRAKE GROUP

Advancing Positive Legislative  
Change In College Athletics



October 31, 2024



## Issue Report #9 Comprehensive Solutions to Solve the Most Concerning College Athletics Issues

The Drake Group (TDG) works with Congress on critical issues related to the conduct of collegiate athletics programs. Starting at the beginning of each academic year, we report on the top concerns we are addressing with members of Congress and executive agencies. This is report nine of ten.

**Issue #9. Solving the Most Concerning College Athletics Issue.** Most experts would agree that the most significant issue facing college sport today is crossing the line from scholarships limited to the full cost of education with additional funds tethered to educational costs or awards for academic achievement to “pay-for-play.” Athletics officials are arguing for a professional sports model that values players based on their performance in revenue sports. Talk abounds using the terms of “fair market value,” “revenue-sharing,” and recruiting dollars spent to purchase the “publicity (NIL) rights” of the highest rated prospects in football and basketball. Given the fact that institutions have made little or no investment in the revenue-producing ability of women’s sports, it doesn’t take a genius to conclude that such a financial aid construct will favor male football and basketball athletes and shortchange female athletes.

Few realize that before the Title IX athletics regulations were adopted in 1975, Congress thoroughly debated the issue of different treatment of revenue-producing sports and defeated multiple amendments that attempted to exclude football and basketball from the requirements of Title IX. Thus, any solution that results in providing significantly more funds to male athletes in revenue-producing sports must also meet Title IX's financial assistance gender equity standard.

**What The Drake Group is Doing to Help.** The Drake Group is urging Congress to seek a comprehensive solution for the current chaos in college sport. Focusing on one issue – paying football and basketball players will not be the cure. There is so much to fix—excessive control of athletes' time, lavish expenditures on facilities and coaches' salaries, embarrassing Division I basketball and football graduation rates, excessive numbers of athletics staff positions, institutions failing to take full responsibility for athletics injuries, 90 percent of institutions not complying with Title IX, a broken NCAA enforcement system, etc. TDG has been advocating for the establishment of a Presidential Commission on Intercollegiate Athletics Reform that will convene experts to address all issues because only Congress has the authorities necessary to reset the athletics educational sport compass. The NCAA has demonstrated its lack of competence. College presidents have turned a blind eye to the economic and educational exploitation of predominantly athletes of color participating in football and basketball. Congress has a right to condition this money on cleaning up this mess because it is funding higher education with over \$130 billion a year in college student loans, some of which is being used to subsidize athletic programs.

We must give athletes a larger share of the Division I financial pie and and fix the current exploitive system. TDG has posited the following framework for resetting college sport that should be considered by the Presidential Commission.

**1. The national governance association must prohibit and police the coach/institutional control mechanisms that enable coaches to treat athletes like employees:**

- a. If the institution offers athletics financial aid to attend, such financial support must be continued for five years or until graduation, whichever occurs first, with no withdrawal for reasons of injury or inadequate performance and conditioned only on the student meeting participation, academic eligibility and student conduct standards.
- b. An athletic scholarship cannot be revoked or athletics eligibility to participate denied based on a violation of the institution's student code of conduct or team rules without adjudication by the institution's regular student disciplinary authority.
- c. An athlete cannot be declared ineligible for participation for a violation of athletic governance association rules without due process and appeal guarantees.

- d. Staff members cannot be allowed to restrict the rights of athletes to select academic courses and majors, even if such course or program requirements conflict with some athletics practices or contests.
- e. The right of athletes to organize and protest must be consistent with the rights of all students.
- f. Athletes must have the right to transfer to other institutions without athletics eligibility penalties.
- g. Institutions must provide for the care of athletic injuries including short- and long-term athletics injury insurance, coverage of all medical costs of athletics injuries not covered by insurance, the cost for second opinions, catastrophic injury coverage, mental health services, and rehabilitation services.
- h. All athlete academic advising and support programs must be under the control of the institution's provost.
- i. Institutions must provide confidential student ombudsperson services to any athlete expressing concerns regarding treatment by athletics personnel, including any violation of athletics-related time limitations for athletes.

**2. Congressional legislation is needed to declare that athletes and other participants in talent development extracurricular activities are not employees by virtue of their participation in athletics/talent activity or receipt of educationally tethered scholarships or awards. Financial assistance and benefits (scholarships, medical and other benefits, academic awards, etc.) must be tied to educational purposes, including fully paid internships related to their career choices and awards for academic achievement and graduation.**

**3. Revenues generated by extracurricular activities should be used for all sports not just sports that produce revenues (just as the institution uses revenues from all classes and activities to support broad academic choices and programs). The non-profit enterprise is a "united fund." It collects revenues from all sources and uses it to comply with Title IX and fulfill its tax-exempt mandate.**

**4. Control of costs and prohibition of excessive costs inappropriate for a non-profit organization is an essential governance responsibility. Congress should provide a conditional" antitrust exemption which permits Association "governance" without fear of litigation and requires both cost controls and adequate athlete financial assistance. The following conditions or similar should be applied:**

- a. Enactment of cost control rules governing coach/staff salaries and benefits, obligations related to medical care of injured athletes, and compliance with Title IX, including rules that:
  - (i) limit the number of athletics personnel by sport;

- (ii) establish coach and staff aggregate salary caps;
  - (iii) limit excessive coach and administrative staff employment terms including severance provisions; and
  - (iv) establish maximum contest limitations by sport that better balance athletes' time demands with adequate time to meet academic responsibilities and enough sleep to permit recovery from the physical and mental demands of competitive sport.
- b. Institutions that offer athletics financial aid should be required to annually provide athletes direct support (scholarships/ medical/other benefits) in an amount that is equal to or greater than the aggregated compensation and benefits to coaches and staff (excluding athletics academic support program staff under control of the provost).
  - c. Fifty percent of the members of all conference and national governance structures must consist of athlete representatives elected by then current athletes -- effectively providing a surrogate collective bargaining structure.
  - d. Title IX compliance must be a condition of membership in the national governance association with third party certification every three years and one year to remedy identified inequities.

We will continue to work for this type of comprehensive solution to current challenges.

**Asking for Your Support.** We'd really appreciate your help in advancing these efforts. Consider a gift to TDG to support this important work with Congress. We use membership fees and gifts to pay for student research, operate our communications platforms, and fund limited volunteer academic expert trips to meet with members of Congress—please note that 90 percent of our work educating Congressional staff members is via Zoom communication.

If you aren't a member already, please consider becoming one. Membership is nominal (\$10/students, \$35/faculty, \$50/general) and gifts in any amount are appreciated. [We welcome you to do so here](#). If you are already a member, thank you for your support.

We do what we do because we believe in the extraordinary developmental impact of intercollegiate athletics on participants — confidence, discipline, work ethic, and more. We believe in Title IX and the equitable treatment of male and female athletes. We also believe athletics programs contribute to a vibrant campus community and are part of the 'glue' that keeps alumni involved in higher education. We must keep these values and benefits while we solve the challenges created by the commercialization of college sport.

Thanks for your interest in our work and considering this request.

Gratefully,

Donna



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P.S. If you missed our first seven reports, you may access them here:

[Issue Report #1 — Proposed Antitrust Settlement – Financial Implications for College Sport](#)

[Issue Report #2 — Failure of the U.S. Office for Civil Rights to Enforce Title IX](#)

[Issue Report #3 — Confronting the Failure of the NCAA Enforcement Process](#)

[Issue Report #4 — Gambling: The Biggest Danger to College Sport](#)

[Issue Report #5 — Athletics Injuries, Heat Related Illness, and Death](#)

[Issue Report #6 — Confronting Misinformation About Title IX](#)

[Issue Report #7— NCAA, Power Five, and Antitrust Attorneys “Trying to Pull a Fast One”](#)

[Issue Report #8— Helping Congress Deal with College Athletics Financial Issues](#)

