Executive Summary

This year’s annual COIA meeting included five major topic sessions, followed by the Coalition’s regular business meeting.

Academic integrity. Bob Malekoff, a member of the commission that investigated academic fraud at UNC, reflected on the lessons to draw from the case. Lack of clear accountability, or “ownership,” in college sports, failure of faculties to take responsibility for monitoring faculty conduct, and lack of financial transparency in athletics are key problems that must be addressed.

NCAA restructuring. Jean Frankel, who is facilitating the NCAA D1 restructuring process, provided an overview of the goals and history of the restructuring process. Organizational goals include moving NCAA legislation from a constituency-based to a knowledge-based process, and clarifying accountability. A focus on basic questions of mission and governance principles has been added. The restructuring initiative was prompted by pressures from the Big 5 conferences for greater autonomy, itself a response to growing public pressure to professionalize some or all college sports. Discussion focused on the role that faculty should play in a restructured NCAA, including expanding faculty influence, both FARs elected senate representatives, since strong operational pressures for success on the field and revenue generation that shape athletics require strong faculty advocacy of academic values as essential to decision making in collegiate model.

Concussions. NCAA Chief Medical Officer Dr. Brian Hainline provided an overview of issues related to sports concussions and student-athlete health, and of essential features of concussion-related policies and management. Dr. Hainline analyzed in detail the preliminary findings of the COIA concussion survey. The results indicate that schools have generally instituted careful concussion-related protocols and have well informed policies in place. Areas with room for improvement include baseline testing instruments, coach education, and return-to-classroom protocols, suggesting ways to improve NCAA best practice guides.

Athletics finances. Amy Perko, Executive Director of the Knight Commission, presented data showing that athletics budgets were growing much faster than academic spending, on a per student/student-athlete basis. While enhanced media contracts allow a few programs to operate athletics programs in the black, almost all rely on subsidies from general funds and student fees. For a few conferences, media contracts will generate enormous new revenues in coming years, but schools seem already to have designated this money for enlarged athletics expenditures.

Antitrust issues. Allen Sack and Gerald Gurney of the Drake Group leadership presented a draft of the College Athlete Protection (CAP) Act, for which sponsors are being recruited in the US Senate. The Act would provide the NCAA with an antitrust exemption, and details a regime that would ensure future NCAA regulation in accord with the academic priorities of higher education. Discussion focused on the practicality of the Act’s design.

COIA business session. Leadership for 2014-15 was confirmed. A plan to work on implementing the Coalition’s faculty engagement blueprint on individual campuses was endorsed. A decision was made to undertake a study of current campus athletics governance practices, in partnership with the NCAA research division. A new mission statement for the Coalition was approved.
Detailed Summaries of Meeting Sessions

Friday, February 28

**Session 1: Issues from the UNC Academic Fraud Case**
*Bob Malekoff*

Professor Malekoff is a co-author of the “Rawlings Report,” prepared by the external task force that the University of North Carolina commissioned to investigate the academic fraud scandal at Chapel Hill. His presentation did not focus on the history of that scandal, but rather on the lessons that could be learned from it. He focused on three areas: oversight and management; academics; finances.

Professor Malekoff’s fundamental message concerning oversight and management is that, in contrast to professional sports, college sports programs have no clear “ownership,” a person or group that is clearly accountable for the decisions of the program. Presidents, who have nominal control, are under pressure from many stakeholders, some of which may outweigh the president in actual power (e.g., trustees, power coaches, mega-donors). Moreover, though ADs, and academic advisors in the athletics department may all be committed to the academic values that govern their institution’s mission, they may not be able to perform their jobs in accord with the mission because of powerful forces that value athletics success over that mission.

The goal of managing programs with strict academic integrity faces challenges from a number of directions. The exceptionally high number of special admits among athletes – students who enter college academically at risk – means level-playing field academic success is exceptionally difficult. Pressures to field winning teams and the public’s general lack of concern about the academic cost all too frequently create the conditions under which academic fraud can occur. At root, academic integrity is a faculty responsibility, and academic fraud – particularly when regular faculty are involved – is a problem faculty must find a way to address. This is an area where greater faculty engagement is a key to addressing the problem.
Economic demands place athletics administrators and coaches under sharply increased pressure to win, with the expectation that winning will enhance revenue. All but a few schools operate athletics at a loss, particularly when long-term debt costs are calculated. At many institutions, through direct transfers from the general fund or through student fees, athletics receives millions of dollars in direct subsidies that diminish the resources available for academics and for students whose sole interest is in their education. These campus financial conditions are not generally understood by students, faculty, and the public. One way to address this issue is through increased transparency: athletics department revenue sources and budgets, including long-term debt, should be public, as should figures for comparative spending per student and per student-athlete.

Professor Malekoff noted that schools will not be able to address these issues in isolation; they will require a “network of peers,” committed to the type of joint action that can diminish the impact of local stakeholder groups that may prioritize winning and athletics growth over the academic mission.

Saturday, March 1

Session 2: NCAA Division I Restructuring
Jean Frankel, Ideas in Action LLC, Restructuring Initiative Facilitator

Ms. Frankel explained the background and timeline of the current NCAA D1 restructuring process, which began in August 2013, and which is now projected to reach its conclusion by this coming August. The initiative is being managed by a Subcommittee of the D1 Executive Board, and involves a basic realignment in the executive and legislative structures of D1, including a revamping of the governing Board and various councils and committees.

Apart from structure, the processes behind decision-making and the culture in which it occurs are also targets. The Subcommittee hopes to design a system where decisions are more definitively knowledge-based, rather than constituency-based, and where the culture of the whole is more focused on aligning decisions with NCAA core values. Clarifying accountability in decision making is a priority.

Although the initiative began with a focus on structural and process issues, after criticisms of the first interim draft plan, the Subcommittee has begun to devote more attention to reconsidering the issue of values and governing principles, and the articulation of the NCAA’s mission with which these need to be aligned.

The immediate driver for the restructuring was pressure from the largest conferences, the “Big 5,” for greater or complete autonomy, and the outcome of the process will certainly include some form of autonomy for these conferences, though in a continued shared-governance context that will specify and limit the aspects where such autonomy applies. Questioned about the relation of Big 5 autonomy to clear trends leading in the direction of the professionalization of intercollegiate athletics, Ms. Frankel stated that the Subcommittee was fully alert to this issue,
and determined to arrive at a balance that would ensure the sustainability of the collegiate model in any new structure.

Discussion of Ms. Frankel’s presentation focused on the issue of the roles faculty should play in any new D1 structure. Ms. Frankel indicated that the Subcommittee is currently giving strong consideration to the inclusion of faculty, along with Athletics Directors, as voting or non-voting members of the Division 1A Executive Board (a proposal made by COIA in its October recommendations to the Subcommittee). Strong support was expressed for an increased role within the NCAA for FARs as well. Ms. Frankel noted that the various AD groups with D1 had unified their voices by collaborating closely during this process, and that it would be to the advantage of faculty if the three major faculty groups (FARA, 1A-FARA, and COIA) could do the same.

On the question of whether there should be some NCAA-recognized role for elected faculty senates to have a voice at the campus level, Ms. Frankel challenged the group to articulate strong reasons why this would be of value. Points made in response included the following: 1) Since the restructuring process seems to be enhancing the role of ADs, whose perspectives must naturally reflect the operational imperatives of revenue generation and team success, strengthening the voice of elected faculty, whose perspective is fully focused on the core value of protecting and enhancing the academic mission, is a necessary balance at all levels; 2) Elected faculty are charged by campus shared governance systems with setting and overseeing the academic standards of their institutions, and without a recognized role in athletics oversight the information necessary to perform this function with regard to students involved in athletics is unlikely to be provided; 3) Strengthening the role of senate involvement in athletics oversight will have a secondary benefit of building capacity for effective faculty governance more generally.

**Session 3: Concussions and the COIA Concussion Survey**

**Brian Hainline, NCAA Chief Medical officer**

Dr. Hainline began his talk with a brief description of the NCAA Sport Science Institute, and followed with a description of the types of health issues that are most pressing when it comes to student athletes. In addition to concussions, drugs (both performance enhancing and recreational, including prescription drug abuse) and mental health concerns are among the most important, and the SSI has created initiatives on both these issues: its Doping and Mental Health Task Forces.

Injuries that are associated with overuse and over-conditioning are a critical area where athletics program administration can make a difference. The key people in ensuring that these injuries are minimized are ATCs: certified athletic trainers. However, the role of the ATC is often under-appreciated and under-rewarded, and pressures from others in athletics programs can hamper their effectiveness. Dr. Hainline also described some of the functions of the Team Physician, and noted that beyond the importance of specialization in areas such as neurology or orthopedics, it is extremely important that physicians have a certification in sports medicine.
One major principle for success in the integrity of athletics health decisions is to design programs to create a conflict of interest-free environment.

Concerning the central issue of concussions, Dr. Hainline explained the limits of current medical knowledge, describing the term’s vagueness of definition, which focuses on functional features, rather than on the wide variety of physical damage that may be involved. In terms of diagnosis, concussions present no biomarkers, and protocols governing their treatment are based on consensus rather than research outcomes. He also reviewed data concerning which sports place athletes most at risk, and characteristic differences in gender-specific patterns of concussion history in young athletes. One of the key things for coaches and other athletics personnel to be aware of is that many athletes arrive in college with a history of injury that will affect both their performance and their well being.

Among the things Dr. Hainline suggested faculty give some thought to with regard to concussions, the most important was to help develop good return-to-classroom protocols that would make sure that faculty were notified when students had concussion issues, and well enough informed to play appropriate roles in ensuring that students return to academic work was well managed, especially since concussion symptoms, including PTSD-type features, can persist for long time periods in some cases. Ultimately, return to academic work after concussions must be managed on a case by case basis, like return to play decisions, but there should be best practice policies that guide all involved. The COIA survey indicates that few schools have yet developed any formal return-to-classroom policies, and faculty can work with athletics departments to ensure that adequate communication with academic advisors and instructors is a part of such policies as they develop.

Turning to the COIA questionnaire on concussions, Dr. Hainline made a detailed analysis of the results collected so far. He noted that based on the sample we have, programs seem to be handling concussion management appropriately in most respects. Most programs are generally following NCAA Medical Handbook guidelines and other appropriate consensus documents, but Dr. Hainline stressed that the state of knowledge was constantly changing and required close monitoring. New NCAA best practice guidelines will be coming soon, and Dr. Hainline noted at several point that the results of the COIA survey had altered his perception of what information those guidelines should convey. One example would be clearer standards for coaches’ education about concussions.

Another example was the use of baseline testing, on which schools provided more detailed information than most other survey questions. Dr. Hainline noted that the survey indicated an over-reliance on computerized baseline testing (ImpACT), which creates a digital record, rather than observational testing (BESS), where trained observers assess skills such as balance. The latter type of test, although low-tech, allows a trained assessor to spot intentional underperformance on baseline tests – a way student-athletes sometimes create artificially low thresholds for later return-to-play clearance. (Dr. Hainline also recommended an eye-tracking protocol, called the King-Devick test, which so far only one school has reported using on the COIA survey.)
Dr. Hainline also noted the importance of NCAA schools contributing to a centralized injury reporting database, Datalys. Only one-third of survey respondents currently link to Datalys. The reason for that may be that schools understand Datalys to be solely an electronic medical records platform, and there are many more powerful EMR systems available. However, Datalys is now serving as a clearinghouse for NCAA injury data, and in that respect it can be linked to primary EMR systems. Dr. Hainline urged schools to contact Datalys President Tom Dompier (datalyscenter.org).

Dr. Hainline will be tracking the COIA survey data as it is updated, and the aggregated information will inform the development of new NCAA online resources for concussion issues.

Dr. Hainline had to leave the meeting after two hours to return to New York, and in a closing discussion session, participants discussed the timing for completion of the final survey report, and ways that COIA and faculties in general can further contribute with regard to student-athlete welfare issues. A follow-up effort focused on students-athlete mental health issues, issues that Dr. Hainline told us he believed were a more serious problem than concussions, was raised as a possibility, particularly if work COIA initiated in this respect could be accommodated under the umbrella of normal faculty due diligence inquiries into health policies and practices concerning all students.

Note: A preliminary report on the COIA concussion survey was circulated prior to the meeting. A final report is scheduled for completion and circulation on or before April 1.

Session 4: Financial Developments in Intercollegiate Athletics
Amy Perko, Executive Director, Knight Commission on Intercollegiate Athletics

Ms. Perko reviewed the role and accomplishments of the Knight Commission since it published its initial report on intercollegiate sports in 1991, calling for increased presidential control and tighter academic eligibility standards, prompting dramatic changes in the NCAA.

The Knight Commission has taken the approach that in light of antitrust laws that limit the avenues for restraining athletics budget expansion in a competitive context, the best available tool for the NCAA to use for such purposes is the realignment of financial incentives to accord more closely with educational values. Concrete examples are the Commission’s recommendation to use academic success criteria in determining revenue distributions, and its proposed formula for distribution of increased revenues generated by the new football playoff system, that would specify levels targeted for athlete academic education.

Ms. Perko went on to describe from various perspectives the present fiscal profile of intercollegiate sports. Comparing revenues for FBS programs, sorted according to budget size, data indicates that even the highest-resource class of schools shows a net transfer of dollars from general funds and student fees to athletics ("allocated revenues"), though at a subset of these schools athletics is in the black. Allocated revenues, as opposed to earned, or "generated revenues," grow progressively larger as one examines groups of schools with smaller athletics budgets, and the role of general fund transfers and student fees as components of all revenues rises to 31% each for the bottom quartile of FBS schools. Expenditure patterns are relatively
stable across D1 classes, except that among the largest programs, the share of expenditures on student aid is well under half of the share in the smallest programs, while the amount devoted to facilities grows accordingly.

Ms. Perko introduced the Commission’s recently completed online “Athletic and Academic Spending Database for NCAA Division I” (http://spendingdatabase.knightcommission.org/). This public access tool charts changes in expenditure pattern between 2005 and 2011 at all Division I schools, and allows comparisons between the growth of athletics spending per athlete and academic spending per student, as well as changing patterns of capital debt and debt service on athletics facilities. The database can be a powerful tool for faculty and faculty senates wishing to get a snapshot of their school’s fiscal profile and a picture of how it compares to peer schools and subdivision norms.

Ms. Perko closed with an examination of the growing scale of media dollars in the revenue profile of Big 5 conference schools, derived from conference TV contracts and BCS/Playoff football. From a baseline of total $390 million in total revenues in 2004, these funds have grown over 300%, and are projected to be $1.6 billion in 2015, rising to $2.2 billion in 2020. In the context of high public concern for the current balance in big-time college sports between fiscal and commercial pressures on the one hand and academic values on the other, this creates an opportunity for schools to adjust the balance by redirecting a greater portion of funds to the academic mission. However, indications are that at many schools, this money has “already been spent” through financial commitments to operational or capital growth in athletics.

**Brief Update on Faculty Input into NCAA**

**Kevin Lennon, Vice-President for Membership Affairs, NCAA**

In the context of responses to Amy Perko’s talk, and discussion of the role of elected faculty representatives in influencing NCAA policy, Kevin Lennon added some comments.

Referring to the decentralization of athletics that the NCAA initiated in 2013 – a process that, at least, paused once the D1 restructuring initiative began – Vice-President Lennon reminded us that the planned shift from the principle of competitive equity to one of fair competition was still underway, and that this was where faculty would need to play an enhanced role. The fair competition standard, which will eliminate many across-the-board constraints on FBS programs, will require increased local athletics policy making, and faculty need to find a way to ensure that they play a major role on their campuses in this respect.

As for NCAA-based decision making, it appears very likely that the only route of influence elected faculty will have is through on-campus communication with those who will play direct roles within the NCAA: presidents, ADs, and FARs. Establishing and building lines of communication will be the most effective strategy for elected faculty representatives in the short term.

It was noted by participants that at many institutions, faculty had little leverage to succeed in this effort. Vice-President Lennon acknowledged this, and suggested that one viable approach might
be to try to initiate on a school-by-school basis, wherever possible, the campus-based models for senate engagement and senate-FAR communication proposed by COIA last year.

**Session 5: The Drake Group CAP Act Initiative**  
Allen Sack, University of New Haven; Gerald Gurney, University of Oklahoma

The CAP Act (College Athlete Protection Act) is a legislative bill that the Drake Group has drafted and begun to lobby for in the US Senate. The bill includes an antitrust exemption for a regulating “Association” (which would, de facto, be a restructured NCAA), along with a number of other features that would modify current policies and practices to establish a regulatory regime justifying the granting of the antitrust exemption.

Among the features of the restructured NCAA that the Act envisions would be the following: a governing Board broadly representative of athletics stakeholder groups, alongside a component of ex-presidents comprising 40% of the board; extensive new athlete welfare standards, including expanded educational and health benefits; due process protections for individuals and institutions subject to penalties for alleged rule infractions; principles to govern revenue sharing (dissociating it with winning), distributions to conferences and to school academic general accounts, and distributions of revenue to fund mandates of the Act; required full compliance with Title IX; GPA standards for continuing eligibility; GPA/test score standards for first-year eligibility; formulas limiting coach salaries that would require sharp cuts; rules against new facilities being restricted to sole us of intercollegiate athletics. The Act, which is comprehensive and detailed, includes many other features.

Professors Sack and Gurney, representing the Drake Group leadership and CAP Act drafting committee, presented a summary of the Act and asked for comments that might suggest how COIA as an organization might respond. Comments from meeting participants indicated strong interest in the potential of an antitrust exemption, though expressing reservations about the dangers of involving Congress in further university regulation. Participants voiced general support for many of the specific provisions, though reaction was not uniform. However, almost all who commented felt that the breadth and specificity of the regulatory regime was a problem, both in terms of having Congress mandate outcomes long debated within the NCAA, and in terms of the realistic possibility of any such act being adopted.

While some of the features of the CAP Act beyond the antitrust exemption might be necessary to outline the nature of a regulatory regime that could justify grant of the exemption, participants felt other features seemed to reflect a “wish list” (one with which COIA might be largely sympathetic), that would chiefly provide the NCAA and its member institutions reasons to oppose adoption. Politically, a better balance might be struck by pairing the exemption, which in itself would be an attraction to the NCAA and its member schools, with only those features of a regime essential to ensure that economic behavior would be regulated in conformity with academic values and athlete welfare. Under an altered economic framework of this kind, the remaining non-economic goals might be realized without Congressional mandate.

Amy Perko noted that the Knight Commission, which has previously opposed seeking an antitrust exemption for intercollegiate athletics, remains open to the possibility that changing
conditions may make reverse that calculation. COIA has been increasingly inclined to take up this issue as well. Participants all seemed agreed that the impressive effort by the Drake Group has moved this issue much further forward.

Sunday, March 2
COIA Business Meeting

The Sunday morning session was reserved for faculty, and its agenda included discussion of COIA organizational matters and of strategy for the coming year.

Concerning organization, participants considered the issue of leadership, and requested and it was agreed that Mike Bowen (South Florida) would stay on as Chair of COIA for the coming year, assisted, as over the past year, by a three-person group of former co-chairs: Bob Eno (Indiana), Ginny Shepherd (Vanderbilt), and Nathan Tublitz (Oregon).

The more difficult organizational issue was ensuring that COIA sustain appropriate levels of communication with and engagement of its constituent senates. Prior to the start of the annual meeting, the COIA Steering Committee agreed to increase its own level of activity by scheduling regular meetings via online teleconference tools, which encourage participation more readily than unscheduled email communication. Members agreed that topical surveys and other data-based research ideas were appropriate COIA activities and should be pursued in a timely manner with the membership.

In addition, it was agreed that the leadership would attempt to persuade all member senates to appoint continuing COIA representatives, whose role, given the annual or biannual turnover among senate chairs, is essential for providing continuity and engagement. Currently, only 44 of COIA’s 61 senates have appointed COIA reps. The leadership will also use an email list of COIA reps to communicate regularly with the membership, with a goal of periodic Steering Committee reports to COIA reps as well.

For COIA to endure, however, it needs to find a way to foster greater senate-to-senate horizontal communication. One of the goals of the new communication approach will be to try to accomplish this initially through COIA reps, rather than senate chairs.

Concerning the COIA agenda for the coming year, it was agreed that COIA’s engagement in NCAA restructuring and completion of the concussion initiative would be two continuing elements. In addition, there was discussion of two new projects: Discussions with Michael Miranda, NCAA Associate Director of Research, who joined the Tampa meeting, indicated that the NCAA was interested in partnering with COIA in a project to determine the ways campus athletics governance is practiced among FBS schools: for example, the ways that senates, FARs, campus athletics boards, and athletics departments communicate and divide responsibilities, an issue on which COIA has guided research in the past. It was agreed that Mike Bowen would organize a subcommittee to explore this issue, and work with the University of Tulsa’s COIA rep, Adrien Bouchet, whose expertise is well suited to this type of research, and University of Hawaii representative Kelley Withy.
A second possibility that was discussed was to form a subcommittee on student-athlete welfare with regard to mental health support policies, based on Brian Hainline’s description of issues in this area. We will explore with Dr. Hainline whether COIA would be an appropriate group to contribute on this front.

A further area of discussion concerned Kevin Lennon’s call for COIA and its senates to focus on gaining leverage through improved engagement and communication with NCAA actors, such as FARs and presidents. The context of this call was last year’s COIA proposal for the establishment of “Senate Athletics Representatives” (SARs), and senate-based committees that would be responsible for handling new burdens of policy-making that could be expected with the decentralization of athletics regulation.

COIA’s proposal called for the NCAA to mandate that every FBS campus have some structure that would fulfill the intent of the SAR proposal. While the response to the proposal within COIA was generally positive, and at least one campus chose to implement the proposal locally, there were a number of senates that felt that for them, the SAR proposal would simply add an unnecessary level of bureaucracy and undermine the systems they had in place, systems that on those campuses were functioning efficiently.

The call for NCAA-mandated minimal norms grew from the conviction last year that on many FBS campuses, administrations were unprepared to permit a more engaged role in athletics for faculty senates without a uniform requirement. Clearly, no NCAA mandate is forthcoming, and in its absence, COIA will try to use the SAR model as a blueprint senates and campuses can adapt to the needs of their campuses, within the constraints of administrative cooperation that exist. Coordinating this effort through better information sharing among COIA reps, who would be most likely to serve in SAR-type capacities, COIA will try to assist senates that move forward to determine the level and form engagement appropriate for their campuses, build capacity for informed contributions on athletics issues, so they are prepared to follow Kevin Lennon’s admonition to gain as much leverage as possible with campus-level NCAA actors: FARs, ADs, and presidents.

Finally, a draft of a formal COIA Mission Statement was presented, and approved. A copy of this is attached to this report.
Appendix 1

NCAA Restructuring: Overview and Discussion Points

2014 COIA Annual Meeting, Tampa FL

Background Document (February 2014)

One year ago, at COIA’s 2013 annual meeting, members of the NCAA administration came to the Coalition to discuss the faculty role in the context of its plan to substantially deregulate intercollegiate athletics. In the interim, the deregulation initiative has taken a back seat – some might say it has lost its seat entirely – while a new issue has dominated the NCAA: the restructuring of Division I.

“Restructuring” refers to several different aspects of the potential revision of Division I governance. These include the reorganization of the D1 Governing Board, the design of a new structure of committees and subcommittees, with new distributions of representation, and, to some degree, a clarification of the basic principles of NCAA and D1 governance. But the major driver of this initiative has been pressure from the five leading football conferences (or the Big 5\(^1\)) for increased autonomy that would allow them to adopt certain types of policy without the approval of the rest of D1. The most immediate issue was the desire of Big 5 schools to provide athletes with new benefits, such as scholarships that reflect full cost of attendance, which some believe might respond to pressures for pay-for-play and unionization. Other schools view the prospect of providing the largest programs such leeway as putting everyone else at a significant recruitment disadvantage and placing the athletic enterprise at their institutions at greatly increased risk. Last year, commissioners of the Big 5 spoke publicly in a way that suggested to some that unless a structure for autonomy were granted, these conferences might decide to leave the NCAA.

Over the past year, a Subcommittee of the D1 Board was formed to develop plans for restructuring. Part of the process the Subcommittee devised included gathering input for a variety of groups, within and outside of the NCAA. Representatives of these groups gathered at NCAA Headquarters in October, and COIA, represented by Mike Bowen, was one of these groups, as were two other faculty groups: FARA and the 1A FAR Association. Each group submitted a statement prior to that meeting; COIA’s statement, written by the Steering Committee, is attached as an appendix.

A second opportunity for input occurred in January: a two-day meeting during the NCAA Convention in San Diego. This session was attended by approximately 850 people, including university presidents, athletics directors, athletics administrators, FARs, student-athletes, and representatives from COIA. At this meeting, the Subcommittee presented a Draft Plan for comment, and virtually every element of the Draft came under fire to some degree. At this time, the impact of the Convention meeting is not yet known, but the NCAA’s facilitator for the restructuring plan, Jean Frankel, who chaired the San Diego meeting and who has very recently

\(^{1}\) These include the ACC, Big 12, Big Ten, Pac-12, and SEC.
facilitated the NCAA D1 Board Steering Committee meeting (2/17/2014), will be joining COIA in Tampa to discuss most current Steering Committee ideas on the reorganization and gather more input from the COIA membership.

What’s at Stake?

Different constituencies in the NCAA will have different views of what’s at stake in restructuring. From the point of view of COIA, as a faculty alliance of faculty governance leaders, the leadership that put together COIA’s recommendations did not see the details of committee restructuring – one of the most contested parts of restructuring – as a critical issue. The 1A FARs, who have standing to serve on these committees, devoted a great deal of attention to these matters in their statement to the Subcommittee; COIA’s statement did not. COIA’s position has been that two critical issues are involved:

1) Preserving the NCAA “Collegiate Model” – that is, designing a new structure that will reverse the present slide towards the professionalization of college sports;

2) Creating a structure that will ensure that the academic mission of universities is the controlling factor in the operation of college sports.

While the second of these is the fundamental principle on which COIA is based, we believe that if the revenue sports, or all sports, in major FBS programs, or in all FBS programs become professionalized on a pay-for-play basis, the academic interests of those institutions will no longer have any purchase in the business of college sports. For this reason, we believe that these two issues are linked and equally critical at this juncture.

Major Features of the Draft Plan and Points for Discussion

The NCAA D1 Board Steering Committee Draft Plan presented in January (which is under revision), divided restructuring into four component elements:

1) Governing principles and values
2) Design and role of the governing body (the D1 Board)
3) Legislative structure (including the status of the Big 5 conferences within D1)
4) Sub-structures

For the purposes of COIA’s Tampa meeting, we will set aside 3) and 4), except for the single issue of the status of the Big 5 conferences, so we will consider only:

1) Governing principles and values
2) The design of the D1 Board
3) The status of the Big 5 conferences.
1. Governing principles and values

At the San Diego meeting, many people observed that the NCAA D1 Board’s Steering Committee had not adequately distinguished between fundamental values, central to the NCAA mission, and governing principles, central to operationally implementing those values. That committee had avoided revisiting the NCAA’s mission statement in this restructuring, and was focusing on such principles as providing “practitioners” (basically, athletics administrators – the FARs see themselves included) a greater role in determining operational policy. Perhaps most importantly, the “money” issue enveloping collegiate sports was not a part of the discussion, and we were told it was not even “on the table”.

As the COIA statement implies, the Coalition Steering Committee believed that this was an error, and that the most important opportunity restructuring could provide was to adjust the NCAA mission to allow it greater leverage to design policy on the basis of the academic values that underlie the mission of all NCAA member schools.

This was not the priority of most who raised the issue of values and mission in San Diego. Most of those speaking stressed the priority of regulating athletics in the interests of student-athlete welfare (certainly a value on which all can agree). There was no discussion of the interests of the student body at large, not to mention the fundamental teaching and research missions of universities.

Discussion Point 1

It will be useful for the Coalition, meeting in Tampa, to discuss and perhaps reach some consensus on what elements it believes should be primary in the NCAA mission.

2. Design of the D1 Board

The D1 Board is composed entirely of university and college presidents (or chancellors), and represents the primary locus of “NCAA presidential control.” There was in San Diego considerable discussion of the relative advantages of designing a big, representative Board and a smaller, nimble Board. The Draft Plan number is 17, almost identical to the current number: a fairly sizable “small” Board (small in that it does not represent all or even most D1 conferences).

The Draft Plan adopted a suggestion proposed by both the Knight Commission and COIA to include on the Board members from outside academia, but did not pursue COIA’s suggestion that a small number of ADs and faculty be included. (The Steering Committee considered, but did not propose student members.) Given the makeup of the audience at the meeting, there was

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2 Since the late 1990s, the NCAA has shifted a great deal of power away from athletics administrators (especially ADs) and to the presidents, in response to an early ‘90s call to do this by the Knight Commission. Over the past two years, the presidents who make up the D1 Board, whose knowledge of athletics operations is limited, have attempted to micro-manage policy directly, bypassing the NCAA’s cumbersome legislative structure. Their initiatives have largely been unsuccessful, and the move to restore more “practitioner” control is an acknowledgment of this.
very strong sentiment against adding “citizen members” to the Board. Perhaps unsurprisingly, again given the audience, there was strong support for adding ADs.

COIA’s rationale for adding non-presidents varied according to the group proposed. The recommendation to add ADs was both to ensure that decisions were made in full awareness of the perspective of campus athletics operations, and also to allow Board decisions to have greater persuasive power among athletics administrators. The recommendation to add faculty was to include a perspective that adopted the controlling role of the academic mission, relatively free (as tenure provides) from the countervailing types of pressures that presidents are subject to. The reason for proposing prominent citizens was in part to add different kinds of expertise and perspectives, but more directly to alter the public profile of the NCAA as a revenue-directed organization for which academic goals serve as camouflage – a perception that is increasingly driving public support for pay-for-play.

Discussion Point #2

What principles should govern the design of the D1 Board, and what should its composition be?

3. The Status of the Big 5 Conferences

The NCAA D1 Board Steering Committee’s Draft Plan was designed to provide the Big 5 conferences considerable legislative autonomy in some areas, while preserving D1 plenary democracy in others. The areas of autonomy would include the limits of athlete financial support, allowing schools to offer full cost-of-attendance scholarships, as well as a series of other benefits, including lifetime opportunities to complete a degree, and new need-based aid opportunities. Non-financial areas would include increased support for at-risk student-athletes and new rules governing the roles of agents and career advisors.

These are principally athlete welfare goals, and the Big 5 have presented their agenda largely as a matter of letting the “high resource” schools provide the generous benefits to athletes that their budgets will allow. Most people seem to understand this as an effort to ward off the far more expensive prospect of pay-for-play and, perhaps more likely now than in January, athlete unionization.

A straw vote was called at the San Diego meeting on the question of Big 5 legislative autonomy, and about twice as many supported it as opposed. However, it was unclear whether this support was positive, or a desire to avoid the risk of the Big 5 leaving the NCAA. (The audience was primarily FBS-based, and it’s likely that the high number of Big 5 personnel was a major factor.)

COIA has taken no position on this issue – it would be difficult to, since our FBS Coalition is split between Big 5 and other conference members. But while legislative autonomy may be inevitable, it seems very unlikely that the scale of increased benefits that the Big 5 hopes to offer athletes will do more than, at best, temporarily slow movement towards pay-for-play. Looking at its origins, it seems clear that the rising support for pay-for-play is not based on a perception of the amateur status college players have as inherently unfair, what has brought the issue to the
fore has been the scale of commercial revenues in college sports and the way these revenues have fueled unprecedented salary rises in athletics.

While the subtext of Big 5 legislative autonomy may be an attempt to forestall professionalization, the viewpoint adopted in COIA’s statement to the D1 Board’s Steering Committee is that without other major changes that can compensate for it, limited regulatory autonomy for the high-resource conferences is a signpost on the road towards professionalizing intercollegiate athletics, aligning program wealth and athlete financial support and establishing the basis of a 60-school professional sport consortium.

Since many now believe that Big 5 legislative autonomy is, in fact, a settled outcome of any restructuring, the question that needs to be asked is what other types of changes could be incorporated in restructuring that could maximize the chances that Big 5 autonomy will not have major negative consequences for the Collegiate Model.

**Discussion Point #3**

Should the Big 5 conferences be granted legislative autonomy, and if they are, under what conditions, and with what other changes in the NCAA and D1 regulatory structure?
Appendix 2

Discussion on Anti-Trust Exemption

2014 COIA Annual Meeting, Tampa FL

Background Document (February 2014)

The agenda of the upcoming COIA meeting in Tampa meeting includes a discussion of the recent Drake Group proposal to seek an anti-trust exemption to cover intercollegiate athletics. The Drake Group has drafted specific legislative language for such a federal exemption, and members of the Drake Group leadership will address the meeting on their ideas. The Drake Group proposal would preserve the NCAA as the regulatory executive for colleges and universities operating sports programs under this exemption, but also entails very significant changes in the NCAA.

The question of whether it would be wise to seek an anti-trust exemption has been discussed for many years. In 1984 the Supreme Court ruled that NCAA control over post-season football was in restraint of trade, and in 1995 the NCAA lost an expensive lawsuit when it was sued by assistant coaches whose salaries has been limited by NCAA fiat. The 1984 case highlighted the economic rights of schools to market their sports programs independent of the NCAA, and the 1995 case protected the rights of personnel to compete for salary in a free market environment, trumping NCAA arguments for the benefits of regulation to limit the impact of market forces and maintain a level playing field. This legal background underlies the NCAA’s inability to address the escalating commercialization of college sports.

About a dozen years ago, the NCAA undertook an analysis of the benefits of seeking an anti-trust exemption that would allow it to constrain the economic behavior of its member institutions. The conclusion was, in part, that undertaking that sort of Congressional initiative entailed very significant dangers: inviting the Federal government to add new dimensions to its regulation of higher education risked intervention in many areas, and the NCAA and its member institutions would have no effective control over the shape of the legislative outcome once it became a matter for Congress. This was a reasonable conclusion; however, in the years since, without this type of exemption, athletics budgets have soared, and the prospects have grown for athlete pay and unionization, undermining the traditional basis of amateur college sports in favor of a pre-professional or professional model. Clearly, the benefits of seeking exemption from anti-trust constraints are worth revisiting.

COIA considered this issue at length at its 2012 annual meeting in Tulsa, and in preparation for the 2014 discussion in Tampa, a summary of those discussions follows.
COIA Discussion Concerning Anti-Trust Exemption for Intercollegiate Athletics  
January 2012, COIA National Meeting, Tulsa OK

Question: Should COIA support efforts to seek a Congressional antitrust exemption for intercollegiate athletics?

Discussion

What would be the goals of requesting an exemption from anti-trust laws?
- One set of objectives would be to slow, stop, or reverse the trend of sharply rising expenditures, allowing schools and conferences gradual disengagement from excessive commercialism.
- A second set would be to contribute to level-playing-field competition, and to diminish program focus on winning (as opposed to focus on integrity and student growth).

Why is an antitrust exemption necessary?
- Participants noted the recent Knight Commission survey indicating that many university presidents believe they have lost control of athletics. Individual schools are not in a position to resist larger trends unilaterally: the costs are too high and opposition would defeat any president who tried.
- Attempts to coordinate efforts within antitrust constraints, which have 80 years of history, have proved ineffective. Schools need to be able to set limits on the scale of athletics budgets among competing schools.

How would legislation be sought?
- Presumably, such an exemption would have to be pursued by university presidents lobbying Congress as a body. The legislation would likely empower coordinated budgetary regulation (a constraint of commercial market forces) through the NCAA.
- Seeking such an exemption would be complementary to the Knight Commission’s recommended approach of adjusting incentives to better align university behavior with academically based value goals. However, agreement on and implementation of incentives piecemeal will not be adequate, given accelerating trends.

Could university presidents demonstrate a critical public need that would justify the use of government power to limit the economic rights of individuals, such as coaches, vendors, etc.?
- The fundamental issue is national cost: in excess of $1 billion net annual transfers to athletics from academics in the FBS-Division alone [approximately $3 billion for all of NCAA Division I, with the total for all NCAA member schools coming to approximately $4.5 billion]. The diversion at a time of flat or decreasing US support for university teaching and research and dramatic increases abroad makes this a national policy issue.
- Justifications must demonstrate that savings generated by an exemption are applied in ways aligned with the legislation. This implies a regulatory regime designed to measure the fiscal effects of actions taken under the exemption, and to demonstrate positive consequences balancing the limitation of economic rights of individuals. Presumably, the NCAA would take on this function and a government agency, such as the Department of Education, would monitor its role.
  - From the standpoint of higher education, this would be a significant non-financial cost, which would need to be justified by the benefits of the exemption.
This might require some restructuring of the NCAA.

What specific features would such legislation have?

- There are alternative approaches:
  - Regulation governing limits within divisions on total athletics expenditures (operating and capital budgets);
  - Caps on total personnel costs or salary limits on specific positions (with the intent of disengaging the market for coaches of amateur sports from the market for professional sports coaches);
- Enhanced revenue sharing:
  - Level playing field mechanisms are a strong disincentive to escalating school investments in athletics.

What unintended consequences can we foresee?

- Congressional action cannot be well controlled and the design of legislation may diverge from the intent of the request.
- Subsequent Federal intervention in higher education may be encouraged by this example.
- The most successful programs (for example, BCS “automatic qualifier” schools) may be encouraged to leave the NCAA and decline the exemption to avoid regulation.
  - Any exemption proposal must be designed to minimize the short-term impact on the largest programs to mitigate the effects of rapidly leveling the playing field – necessary for buy-in both in seeking the exemption and in living within its limits.
Appendix 3

Mission Statement
Coalition on Intercollegiate Athletics

The Coalition on Intercollegiate Athletics (COIA) is an organization representing elected faculty governance bodies of FBS universities in activities related to the administration and governance of intercollegiate athletics.

COIA’s mission is to promote the academic integrity of our universities, and to represent the interests of our faculties, non-athlete students and student-athletes in matters related to college sports that can significantly affect the health, sustainability and educational missions of our institutions.

COIA aims to accomplish these goals by assisting the governance of intercollegiate athletics on our campuses through data collection, information sharing, and the development of best practices, partnering with peer-faculty and other organizations in areas of common interest, and also by providing a constructive, responsible and informed representative faculty voice at the conference and national (NCAA) levels.

March, 2014