**Shared Governance of Intercollegiate Athletics at Penn State Is in Disrepair and Urgently Needs to Be Refurbished**

Open Letter to the University Faculty Senate

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**Executive Summary**

The University Faculty Senate currently is not fulfilling its responsibilities in the shared governance of Intercollegiate Athletics, and failure to redress the problems could place the University and its excellent athletics program at unnecessary risk.

The Senate Committee on Intercollegiate Athletics, the official athletic board at Penn State, has plenary responsibility – delegated from the President – “for all intercollegiate athletic programs at the University as they relate to the University’s academic and educational objectives.” In addition to its core academic duties, the Committee is charged with a policymaking function and with advising the President and the Athletic Director on the operation of intercollegiate athletics and making recommendations regarding the University’s formal position before external governing bodies such as the NCAA.

However, the current structure, composition, and workings of the Committee are inadequate to fully carry out those academic oversight responsibilities, and the Committee has not meaningfully performed its policymaking and advisory/consultative functions for many years.

Of particular concern is the creation of the Athletic Integrity Council, which was a requirement of the NCAA Consent Decree imposed on Penn State 2012. The new Council has authority for governance of athletics that overlaps that of the Senate Committee, yet the Council was established without consultation with or approval by the Senate and, for the most part, operates independently and opaquely. The lack of clarity regarding the jurisdictions of these two bodies holds considerable potential for significant governance problems and should be reconciled.

It has been legitimately argued that the issues facing college sports – both nationally and locally – are too voluminous and complex for a committee of mostly non-experts who meet for only 90 minutes six times per year and, therefore, are beyond the scope of the Intercollegiate Athletics Committee as currently structured. If so, Penn State’s governing documents (written many decades ago during far simpler times for universities and athletics) that assign sole oversight and advisory/consultative responsibilities to the Senate Committee must be rewritten to match the changed circumstances.

The Senate’s role in the governance of intercollegiate athletics has become diluted and muddled in the past several years to the point that the body should decide whether to fish or cut bait, i.e. either reaffirm and reinvigorate its shared governance authority or acknowledge that the classic academic governance model is not well-suited to what has become a multi-million-dollar sports-entertainment auxiliary enterprise of the University and, consequently, leave the athletics governance playing field.

A serious re-examination of the Senate’s proper role in the governance of intercollegiate athletics and an updating of existing governance structures and policies are badly needed and long overdue.

**Introduction**

Penn State has long benefited from a high-quality intercollegiate athletics program that has afforded countless student-athletes life-changing co-curricular experiences and enriched the broader university community. Until the Sandusky scandal, Penn State enjoyed the reputation and, for the most part, the reality of conducting intercollegiate athletics with a high degree of integrity – an excellent graduation rate, no major rules infractions, and a financial model that did not drain academic resources to support athletics. Indeed, many (including, ironically, former NCAA President Myles Brand) concluded that Penn State was a model for the effective integration of athletics and academics.

However, as the fallout of the scandal starkly demonstrated, those benefits are counterbalanced with substantial academic, financial, and reputational risk to any university operating a major athletics program. At many peer universities, admission standards have been compromised and graduation rates of athletes are often low. Bending rules – sometimes outright cheating – is commonplace. And many universities are heaping scarce financial resources on TV-driven sports – mostly football and basketball – at a time of limited academic funding and soaring tuition.

The faculty, as stewards of the academic wellbeing of the University, has a responsibility to ensure intercollegiate athletics maintains values that are consistent with the larger academic mission and, in a system of shared governance, has major oversight responsibilities for the conduct of athletics. However, over many years of service on the Senate Committee on Intercollegiate Athletics, I have become increasingly concerned that the governance of intercollegiate athletics at Penn State is in serious disrepair. Specifically, the Senate currently is not fulfilling its responsibilities for shared governance of athletics, and meaningful reform is urgently needed.

The reasons for the governance problems facing Penn State are many-fold and will be discussed below. But, if the collegiate model of athletics is to withstand tremendous commercial pressures and continue to promote academic integrity and student-athlete welfare, a stronger and more coherent faculty voice in athletics governance is important – if not essential.

**Structure of Athletics Governance at Penn State**

Penn State is required as a condition of its membership in the NCAA to exercise “institutional control” over its intercollegiate athletic programs consistent with the NCAA governing principles and rules and those of the Big Ten Conference. The NCAA defines institutional control as “(a)dministrative control or faculty control, or a combination of the two…” A core principle of the NCAA governance structure is that the president of the institution “has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program and any board in control of that program (NCAA Constitution, Article 6).”

The key documents regarding the governance of athletics at Penn State are:

* Senate Standing Rules, Article II, Section 6 (h), “Committee on Intercollegiate Athletics.”
* Senate Standing Rules, Article III, Section 7, “Faculty Athletics Representatives.”
* Senate Standing Rules, Article III, Section 8. “Committee on Campus Athletics.”
* Policies and Rules for Undergraduate Students, 67-00 “Athletic Competition.”

In accordance with these governing documents and subject to the ultimate authority of the President, the operation and control of athletics at Penn State are delegated to the Athletic Director, Faculty Athletic Representative, and the Senate Committee on Intercollegiate Athletics. (**Note:** The focus of this letter is on the NCAA Division I athletic programs at University Park. While the various non-UP athletic programs are also important to student-athletes and their locations, the governance issues they present are different in degree and kind and are not discussed here.)

The **Athletic Director**, in effect the chief executive officer for athletics, is a member of the President’s Council and reports directly to the President but also is required to coordinate with the Faculty Athletic Representative and the Senate Committee.

The **Faculty Athletic Representative (FAR)**, a position mandated by the NCAA, must hold faculty rank and must not be an administrator or coach in the athletics department. However, the NCAA Constitution does not define the FAR’s authority or responsibilities leaving that primarily to internal institutional policy. At Penn State, the FAR is appointed by the President from a list of nominees vetted by the Senate Committee on Committees and Rules. The FAR must be a tenured Professor with a full-time appointment at University Park. (The criteria and policies regarding the campus FARs – some of whom operate under the auspices of NCAA Division III and others who do not – are somewhat different.) The University Park FAR “serves under the direction of the President and represents the faculty in all matters related to varsity athletics.” The FAR also is mandated to act “(u)nder the direction of the Committee on Intercollegiate Athletics” primarily in the implementation of the above noted Policy 67-00 and is the primary liaison between the Athletic Director and the Senate.

The **Committee on Intercollegiate Athletics**, a standing committee of the Senate, serves as Penn State’s official and sole board of control for intercollegiate athletics. Although the NCAA does not require such a board, almost all universities with major sports programs have one. However, the composition, responsibilities, authority, and reporting lines of such boards vary widely nationwide and only a minority are entities of the faculty governance body. Penn State’s committee was granted delegated authority from the President over academic standards, eligibility of athletes, schedules, and policies governing intercollegiate athletics (especially those pertaining to the academic interests of the University). In turn, the Committee delegates authority to the Faculty Athletic Representative to implement those standards and policies and, where appropriate, to make exceptions. The Committee also is mandated to advise the President and the Athletic Director on the operation of intercollegiate athletics and, after appropriate consultation, make recommendations regarding the University’s formal position on matters before the NCAA, Big Ten, and other governing bodies. The majority of the Committee on Intercollegiate Athletics are elected faculty senators. Others include senators appointed by the President, student senators, the University Park FAR, and athletic administrators.

However, in order to comply with the NCAA Consent Decree, other individuals and entities not listed above have been given important oversight authority over intercollegiate athletics at Penn State and new policies regarding the governance of athletics were promulgated. In some cases, these policies abrogate the authority of the Committee on Intercollegiate Athletics and are not consistent with the previously-existing governing documents (i.e. Senate Standing Rules and Policy 67-00). Further, these new entities and policies were put in place without consultation with or vote by the Senate. The result is an overlapping and competing set of authorities and responsibilities for athletics governance at Penn State that is at least confusing and potentially could cause serious problems. This matter will be discussed in more detail below.

**What Is the Proper Role of Faculty in the Governance of Intercollegiate Athletics at Penn State?**

University faculties nationwide have never had a major role in the governance of intercollegiate athletics, but in recent years, the balance of power has shifted even more significantly toward administrative control. For example, in 2015, the NCAA approved a major overhaul in its governance structure, which among other things included granting greater autonomy and authority to the conferences and a reduction of faculty representation on the association’s top decision making bodies to a mere token. The change was unanimously opposed by the associations representing FARs and other faculty watchdog groups. However, the Penn State administration voted for these changes but did not consult with the Senate regarding its position as it is required to do.

Similarly, the results of a national survey jointly conducted by the NCAA and the Coalition on Intercollegiate Athletics (a national alliance of faculty senates of which the Penn State Senate is a member) indicate that faculty leaders at universities with major athletic programs have significant concerns about governance at the campus level. Only 42 percent of faculty senate chairs answered “yes” to the question “Is oversight of athletics adequate at your institution?” and only 34 percent answered “yes” to the question “Do you believe that faculty oversight of athletics on your campus has the power and necessary control mechanisms in place to ensure that academic fraud has not, and cannot, exist on your campus?” The following response to the open-end portion of this confidential survey seems to summarize the concerns of the majority of faculty governance leaders who participated:

(I)n an absolute sense, faculty control here is far from adequate and declining. We seem to be swimming upstream against a national current (the headwaters are probably at the NCAA HQ in Indianapolis) against meaningful faculty involvement in the governance of IA and against ensuring academic integrity. The outcome probably won't be good for student-athletes and college sports.

This nationwide trend has been exacerbated at Penn State during the past few years as administrators – under considerable external pressure -- scrambled to comply with the requirements of the NCAA Consent Decree and Athletic Integrity Agreement, which negated the normal faculty governance process. (See “Statement by a Group of Past Chairs of the Pennsylvania State University Faculty Senate Regarding the Freeh Report, the NCAA Consent Decree, and Their Academic Implications.” Senate Record, August 28, 2012.) Reasonable people may agree or disagree about whether the many new policies and procedures forced on Penn State are appropriate and effective in remedying any perceived shortcomings in the athletic program. But that debate -- central to developing universal values within the University community -- has not taken place, because the governance process -- that would normally facilitate airing of these issues -- was bypassed in implementing those changes.

The athletic governance policies and procedures at Penn State prior to the Sandusky scandal were far from perfect, but by most accounts, they were comparatively good within the paradigm of big time college sports. Regardless of whether the recent changes have diminished or improved effective governance, the current Penn State structure – like those of virtually all other universities participating in big time sports – is probably inadequate to the task of protecting the integrity of its athletic program from the intense commercial pressures in a sports-obsessed American culture. Consequently, the potential for more major problems at Penn State is real.

In my opinion, the Senate is now faced with a stark choice between the following two options:

**Reassert Authority.** Reassert full authority of the Senate and its Committee on Intercollegiate Athletics under Policy 67-00 and the Standing Rules in order to fulfill their delegated responsibilities. This would require changes in the structure and composition of the Committee, clarification of athletic policymaking authority, reconsideration of the new entities and policies required by the NCAA Consent Decree, and revision of the governing documents to match the new reality.

**Throw in the Towel.** Recognize that trying to apply an academic governance model to a multi-million-dollar sport-entertainment auxiliary enterprise of the University has not been (and probably will never be) successful, and the Senate should cede its general advisory/consultative/oversight authority while retaining only those academic responsibilities required by the NCAA and Big Ten and those that would otherwise be applied to the general student population.

If the first option is not selected, the second option should not be dismissed out of hand. The second option ultimately may prove to be better than perpetually trying to negotiate the muddled middle-ground in which faculty authority gradually erodes and continued faculty involvement becomes a fig leaf of academic respectability.

In other words, to protect the collegiate model of athletics, the Senate must do a much better job of fulfilling its governance responsibilities. Or, if it is unable or unwilling to do so, the faculty should turn over those responsibilities to professional administrators to operate athletics under a different governance model. But continuing to avoid the governance problems imperils the athletic program, and attempting to resolve them with legislative tweaks will probably be unsuccessful, as they have been in the past.

**Specific Areas of Concern**

The Structure, Composition, and Workings of the Senate Committee Are Inadequate to Fulfill Its Responsibility for Shared Governance of Intercollegiate Athletics

The Department of Intercollegiate Athletics administers 31 sports programs in which approximately 800 scholarship student-athletes participate and has about 300 staff and a budget of more than $130 million. Additional units with direct responsibility for athletic matters, such as the Morgan Academic Support Center for Student Athletes, Compliance and Student-Athlete Services, Athletic Integrity Council, have reporting lines other than to the Athletic Director yet perform important functions in furthering the academic success and well-being of student athletes and protecting the integrity of the program. The Athletics Department is separately budgeted and is one of the most (if not the most) administratively distinctive major units within the University. Adding to this complexity, the Penn State athletic program operates within an extremely fluid national context -- an unstable regulatory regime, game-changing law suits, increasing commercial pressures, and a sports-obsessed public. In other words, intercollegiate athletics at Penn State and nationwide are facing issues of great complexity, scope and uncertainty that often do not comfortably fit within the mainstream operation of a university and therefore present challenges to the standard model of academic governance.

The Senate Standing Rules (Article III h) assigns broad and important responsibilities to the Committee on Intercollegiate Athletics for the conduct of athletics at Penn State. The Committee has plenary authority for implementing academic policies spelled out in Policies and Rules for Undergraduate Students 67-00 (e.g. eligibility, grants-in-aid, and competition schedules) and monitors various indicators (e.g. academic progress rate, graduation success rates, and team GPAs) intended to guard academic integrity. According to the Standing Rules, the Committee also is responsible for developing and reviewing athletic policies which govern all athletic programs and is the representative of the Senate in advising the President on the operation of intercollegiate athletics at Penn State and on the University’s position on matters before external governing bodies. And, although not specifically delineated, the Committee has appropriately devoted attention to issues of student-athlete wellbeing (e.g. mental health, time commitment to sports, concussions).

The Committee on Intercollegiate Athletics is composed of at least eight elected faculty senators (at least two from locations other than University Park), two undergraduate student senators, Faculty Athletics Representative (NCAA Division I), Director of Intercollegiate Athletics at University Park, Senior Women’s Administrator, and two senators selected by the President (traditionally the Vice President and Dean for Undergraduate Education and the Vice President for Administration). Non-voting resource members (including Director of the Morgan Academic Support Center for Student Athletes, Associate Athletic Director for Compliance, Athletic Integrity Officer, and the representative to the Coalition on Intercollegiate Athletics) regularly attend and participate in Committee meetings.

In its 2013-14 self-study, the Athletics Committee noted the short duration of service on the committee and suggested longer terms for its members. The Senate Office reports that few Senators annually request assignment to the Athletics Committee and less-experienced Senators are assigned to the Committee in greater proportions. Once on the Athletics Committee, new members are faced with a very steep learning curve in understanding the terminology, rules, and underlying issues in intercollegiate athletics that are often alien to a typical faculty member’s academic experience. Attendance of faculty members is relatively poor, and new members often feel unprepared to weigh in on important discussions and thus cede decision making to a small minority dominated by administrators (most who have long experience on the Committee and attend meetings regularly).

Many elected members seek reassignment in subsequent years to other committees where the issues are more familiar, the learning curve is far less steep, and they can more quickly make a significant contribution to the core academic mission of the University. The resulting rapid turn-over of membership on the Athletics Committee makes it very difficult to maintain continuity and build faculty expertise necessary to fulfilling the Senate’s important responsibilities in this realm. The shallow pool of Senators with significant committee service and understanding of intercollegiate athletics issues also challenges the Senate Chair and Committee on Committees and Rules in annually selecting an experienced Chair and Vice Chair of the Athletics Committee. Almost all Committee chairs in the recent past have held the position for only one year, and some have been absent for a significant portion of meetings.

The Committee only meets one-and-a-half hours six times per academic year on the regular Senate meeting schedule. The Committee does not have subcommittees and only occasionally conducts business (primarily responding to time-sensitive requests for exceptions to Policy 67-00) outside of the regular meeting schedule. The amount of time that the full Committee devotes to its shared governance responsibilities does not seem sufficient given the size, complexity, distinctiveness, and importance of the Athletics Department and the rapidly changing national context. Further, because the Committee meets only during the academic year and because the Chair often has completed his/her term in office at the end of spring semester and a replacement Chair has not yet been appointed, the Committee is not available for consultation when many important decisions are made during the summer months.

In the absence of frequent and knowledgeable participation by most faculty members on the Committee, much of its important business is conducted between meetings by the Chair, the Faculty Athletic Representative, and athletic administrators. Further, it is fair to say that the Athletics Committee is not a high profile committee in the Senate and receives relatively little attention from the leadership and the full body. As a result, there are few areas of shared governance at Penn State where the decision making is so concentrated and, as a practical matter, the checks and balances are so few.

The Senate Committee Does Not Have Sufficient Time and Expertise to Meaningfully Review and Approve Administrative Staff Work on Which It Increasingly Relies

The primary responsibility of the Senate Committee on Intercollegiate Athletics is in core academic matters (e.g. oversight of academic standards, eligibility of athletes, schedules), and it functions most effectively in this realm. However, as the volume and complexity of these decisions increase, the Committee and FAR must rely heavily on administrative offices for data collection and initial determinations. The Committee receives excellent support from the Office of the Vice President and Dean for Undergraduate Education, specifically including the Morgan Academic Support Center for Student Athletes, which supplies a wealth of data and other supporting information that the Committee routinely uses to monitor academic standards among student-athletes and programs. Most of the Committee’s reports to the full Senate regarding academic matters are generated by the Morgan Center or other administrative offices, and most of the decisions regarding admission of student-athletes, grants-in-aid, and eligibility are handled administratively. The Senate is fortunate that four successive Faculty Athletic Representatives have been conscientious in overseeing this process, implementing academic policies, and making exceptions only when appropriate.

However, although the increasing administrative role is probably both necessary and healthy, it presents a challenge for effective shared governance. Because of the lack of continuity and expertise among most of its faculty members, the Athletics Committee as a whole is unable to exercise meaningful oversight of the important work of the administrative staff and, therefore, has become largely a rubber stamp.

The Senate Committee is Not Fulfilling Its Advisory/Consultative Responsibilities in Athletics Policymaking

It is even more concerning that the Senate Committee has not maintained its authority or fulfilled its responsibilities in formulating broader athletic policy that impacts the academic mission of the University. The Senate Standing Rules and Policy 67-00 specifically direct the Committee to advise the President and athletic administrators on the operation of the athletic program and to participate in the formulation of the University’s position on matters before the NCAA and Big Ten. However, since the implementation of the NCAA Consent Decree, the Committee has been mostly bypassed in this responsibility.

**Important Example:** A case in point is Penn State’s adoption of the Big Ten Conference’s “Standards for Safeguarding Institutional Governance of Intercollegiate Athletics” in 2015. The policy establishes enforceable standards for all member institutions in the areas of academic support services, compliance, admissions, disciplinary rules and codes of conduct, medical and athletic training, and cost of attendance. (Most – if not all -- of these areas are well within the constituted jurisdiction of the Committee on Intercollegiate Athletics.) Each member institution is required to annually conduct an internal review of its fulfillment of the established benchmarks and to report to the Big Ten on “how it is achieving compliance with these Conference Standards and taking action to avoid governance-related problems in athletics.” Non-compliance may result in penalties up to expulsion from membership in the Big Ten conference.

One of the basic principles of this new Big Ten policy is: “Each Member Institution should have a set of governance standards that clearly define the authority over, and responsibility and accountability for, the governance of its athletic programs. Each Member Institution should be expected to comply fully with its own standards.” Yet, despite our own governing documents, Penn State agreed to these enforceable standards without the required consultation with or notice to the Committee on Intercollegiate Athletics or the Senate leadership, and the Committee has not subsequently participated in the required annual review and certification of compliance with the new standards.

Moreover, there have been a number of other recent instances in which Penn State has officially voted on important NCAA legislation (often directly affecting the academic interests of the University’s athletic programs) without consultation with the Senate that is required by the Standing Rules. It does not appear that these unilateral administrative actions were taken intentionally to bypass or undermine shared governance, but rather taken under the intense pressures of the past several years and without full consideration of Penn State’s existing governance structure and delegated authority.

**Is a New Policymaking Structure Needed To Match the Changing Circumstances at Penn State and Nationally?**

The NCAA does not require its member institutions to have an athletic board, nor that it must be an entity of the faculty governance body. The NCAA merely requires that, if such a board exists, at least a majority of its membership shall be “administrators and/or faculty staff members.” There also is no established governance best practice that suggests a campus athletics board should be a senate committee. The governance structure for intercollegiate athletics varies widely among peer institutions. The campus athletic board is a committee of the faculty governance body at only 42 percent of universities with big time sports programs. Many others have separate athletic boards in addition to or instead of a senate committee. Others lodge most authority and responsibility for intercollegiate athletics solely within the administration. There are examples of successes and failures in all of these governance models.

Within these parameters and the rapidly changing national and local conditions, what should be the proper role of the Senate in policymaking for intercollegiate athletics? To the extent that the Senate’s role has changed or should change, what new governance structures should be established? The primary options are:

1) Reaffirm and reinvigorate the authority and responsibilities of the Senate Committee on Intercollegiate Athletics in developing athletic policy and advising the President and the Athletic Director on the operation of athletic programs and Penn State’s institutional position before external bodies.

2) Create a new athletic board separate from the Senate Athletics Committee that has the policymaking, consultative, and oversight responsibilities for intercollegiate athletics. Policy 67-00 and the Standing Rules would have to be revised to limit the Senate’s participation in intercollegiate athletics to narrowly-defined academic matters.

3) Treat Intercollegiate Athletics as an auxiliary enterprise of the University, and as such, govern it administratively without Senate involvement beyond strictly academic matters that apply to all students.

Here again, trying to maintain the status quo -- in which the policymaking authority is confused and the role of the faculty is increasingly diluted – is a problematic option that places the athletic program at unnecessary risk.

Even if the Senate concludes that its authority and responsibilities for policy formation and consultation with the administration regarding intercollegiate athletics should be reaffirmed and reinvigorated, the governing documents should be substantially revised to clarify the proper role of the faculty v/v the administration and to reflect the dramatically changing circumstances in college sports. The existing documents were written many decades ago during far different and simpler times for universities.

For example, there is a need to clarify the level of involvement of the Senate (or the Athletics Committee in its behalf) in financial decisions that directly or indirectly affect the academic mission of the University. While there is no question that the administration has plenary authority over financial and budget matters, what would be the Senate’s proper advisory/consultative role in hypothetical situations such as deciding whether to play a home football game during the week to accommodate television or to drop a sport or transfer general funds to the Athletics Department to cover a budget shortfall?

The Unilateral Creation of the Athletics Integrity Council Has Badly Confused Athletics Governance

The establishment of the Athletics Integrity Council and Athletics Integrity Officer was required by the so-called Athletic Integrity Agreement imposed on Penn State by the NCAA in 2012. In actual practice, the Council primarily oversees integrity training and certification and specific athletic integrity cases – tasks that do not seem to overlap the authority delegated to the Senate. However, the Council Charter also states that the Athletic Integrity Officer “will be responsible, among other things, for developing and implementing policies, procedures, and practices designed to ensure compliance with all applicable NCAA and Big Ten rules and regulations and with the requirements set forth in the Athletics Integrity Agreement” and that the role of the Council “is to support the Athletics Integrity Officer in fulfilling his or her responsibilities.” Clearly, those stated responsibilities overlap or perhaps replace those delegated to the Senate Committee on Intercollegiate Athletics under the Policy 67-00 and the Standing Rules. This contradiction urgently needs to be resolved.

The Athletic Integrity Officer is appointed by and reports to the President and the Legal and Compliance Committee of the Board of Trustees. The NCAA Agreement required that the Athletics Integrity Council be composed of at least three faculty members and senior administrators, the Faculty Athletics Representative, the Associate Athletics Director for Compliance and Student Services, and the Athletics Integrity Officer (who serves as chair). The Council similarly reports to the President and Board Legal and Compliance Committee and, by current practice (but not any rule), the faculty members on the Council are appointed by the President and have been, since the inception of the Council, members of the Senate Athletics Committee and/or suggested by the Senate.

The Integrity Officer is charged with maintaining an “open line of communication” with the Senate Athletics Committee and has served, at the pleasure of the Senate Chair, as a non-voting resource member of that Committee. However, the Integrity Officer and Council are not required to disclose any of their policy making and oversight activities to or coordinate with the Senate, and their work is not otherwise transparent.

Importantly, the Athletics Integrity Officer and Council were created without consultation with or vote by the Senate and, in accordance with the Council’s Charter, it may “amend, modify or supplement” its statement of responsibilities in “such manner as (it) may determine.” No Senate approval is required.

**Code of Conduct.** One of the new Athletics Integrity Council’s major responsibilities is to “review and approve the Code of Conduct and the ‘Policies and Procedures’ to be developed and implemented pursuant to the (NCAA) Athletics Integrity Agreement.” The resulting “Code of Conduct for Intercollegiate Athletics”, which was approved by the Board of Trustees and has been enforced since 2012, applies to all student-athletes, coaches, athletics staff, and other so-called “covered persons.”

As a condition of participation in their sport, all Penn State student-athletes currently must sign a certificate stating that they will abide by the Code. Violations of the Code may be grounds for significant sanctions. Yet the Code that they must promise to obey is, in my opinion, convoluted, internally-contradictory, and potentially erroneous and, importantly, has never been subject to Senate oversight. Although drafting and enforcing any code of conduct affecting students is well within the advisory/consultative authority of the Senate, the Athletic Code was approved and has been enforced without any opportunity by the Athletics Committee, Committee on Student Life, Senate Officers, or any student organization to offer input and raise red flags.

In 2013, the Code was extended to participants in the Faculty Partner Program, a highly-regarded initiative in which faculty members work with teams to help bridge the academic and athletic worlds for student-athletes and coaches. This decision was made without any consultation with the Athletics Committee, Faculty Affairs Committee, or the Senate Officers. Faculty Partners are now required to sign the certificate that they will abide by the Code, which is questionable in content and has not been approved in accordance with the University’s duly-constituted governance procedures.

In summary, the legally-binding Consent Decree with the NCAA and Big Ten resulted in a parallel athletics governance structure at Penn State that, at least on paper, duplicates the previous and clearly-defined authority of the Senate, its Officers, and the Committee on Intercollegiate Athletics. The overlapping governance structure was created without the advice or consent of the Senate, and the resulting lack of clarity regarding the jurisdictions of the Senate Athletics Committee and the new Athletic Integrity Council has considerable potential for significant future problems.

This implies no malice on the part of any Penn State officials who designed and authorized this new structure. It is important to note that the NCAA and Big Ten gave Penn State a mere 120 days to codify the duties of the Integrity Officer and Council, to draft the Code of Conduct, and to operationalize them. And these changes were only small parts of a mountain of other more pressing and complicated mandates from the NCAA. As such, establishing this new regime outside of the often painfully-slow Senate governance process is understandable. But, now that the NCAA Consent Decree has expired, it is appropriate to consider whether the Athletics Integrity Council, which has wide-ranging authority over intercollegiate athletics but is not accountable to the Senate, is in the best interests of effective governance of intercollegiate athletics at Penn State.

The current AIO – a former faculty member at another university – is sensitive to shared governance concerns, understands the nature of this structural problem, and is open to ironing it out.

**Next Step**

An important next step in tackling this problem could be the appointment of an extra-senatorial study group of experts to examine the issues and make recommendations to the Senate.

**Summary and Conclusions**

Good governance of intercollegiate athletics will not guarantee a good outcome, but it will greatly improve the odds. Penn State’s governance structures, policies and practices have not kept pace with rapidly-changing college sports environment and have been badly muddled by changes required by the NCAA Consent Decree and, as a result, do not adequately protect academic integrity and student-athlete well-being or ensure that athletic programs operate consistent with institutional values. Consequently, a serious re-examination of the governance of intercollegiate athletics at Penn State is urgently needed. In any such introspection, the Senate should candidly consider whether it can and will fulfill its shared athletics governance responsibilities or should cede those responsibilities to professional administrators under a new governance model better suited for the challenges of college sports today.

Please send any comments or corrections to me at [jsn2@psu.edu](mailto:jsn2@psu.edu). Thank you.

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