

Transcription for

**The Key with Inside Higher Ed**

EP. 30: THE PANDEMIC AND COLLEGE ATHLETICS

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THE KEY WITH INSIDE HIGHER ED

EP. 30: THE PANDEMIC AND COLLEGE ATHLETICS

AMY PRIVETTE PERKO

PAUL FAIN

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Hello, I'm Paul Fain, a contributing editor at Inside Higher Ed and host of this podcast, The Key with IHE. As with the rest of higher ed, 2020 has been an unprecedented and difficult year for college athletics. Programs have wrestled with safety protocols, COVID-19 outbreaks, cancelations of games, and the elimination of team sports in cases amid serious financial pain. To help get a handle on where things stand and where they're headed, we spoke with Amy Privette Perko, CEO of the Knight Commission, a nonprofit organization of academics and athletics focused on reform efforts in college athletics. Perko has led the commission since 2005. She spoke about this season so far in big-time football, budget crises, revenues distribution, and the Commission's top priorities for making changes going forward, including with FBS football.

AMY PERKO: This is one of the areas that I think has shown a pretty harsh spotlight on the governance of FBS football and how disjointed it is. And this is something we've talked about for a long time is the fact that the NCAA has no control FBS football and it does not control the college football playoff that's managed independent of the NCAA governance. Frankly, the majority of college sports fans, they don't understand that and this process, I think, has made that pretty clear in terms of who's really in charge of college football.

PAUL FAIN: All right, let's get right to the conversation. I'm speaking with Amy Perko. Hello, Amy. How are you?

AMY PERKO: Hi, Paul. It's good to be here.

PAUL FAIN: So, at Inside Higher Ed we know that college athletics has been a busy beat for a while, but I take it nothing like the last seven months or so. From your perspective, how hectic has it been? How much is on the table right now?

AMY PERKO: Yeah, it's an incredible time for college sports. And I've been in college sports one way or another for more than 30 years. There's never been a time when there's so many issues impacting just the normal operation but also the future. And college sports leaders with incredibly busy even before the pandemic. You had a number of things really coming to a head in terms of state legislation pushing for changes in name-image-likeness and how that is treated, Congress getting involved in hearings on that question as well. And then certainly the pandemic and what's happened with that has really put a harsh light on a number of really structural issues that I think that, you know, have shown the need for significant change in college sports.

PAUL FAIN: So I think June, July, I had Welch Suggs from the University of Georgia on here, and, you know, he made a bold prediction that it was going to be a weird fall, and that has panned out. But I have to say, you know, that back then and the next few weeks when we saw the positive cases for a lot of the big-time college football programs, I think a lot of folks were thinking, this isn't going to happen. And yet, here we are. College football's moving along, it hasn't been easy. Any of that surprise you? What's your take on how they've managed to have a season?

AMY PERKO: Yeah, sure, great question. And you know, the Knight Commission took a really close look this summer at, you know, how to reopen college sports. And the Commission put forth some guidelines that, you know, we believe remain relevant, quite frankly. And two of the primary principles in those guidelines were that, number one, college presidents should be the primary decision-makers about how to reengage and reopen college sports. And doing so, obviously, with the advice of medical and public health officials.

And then secondly that those decisions really should prioritize the health and safety of college athletes, as well as the rest of the university. And I think we've seen that college presidents really have really listened to their medical advisory groups. There have been a number of cancelations with when they hit a certain threshold that they felt they needed to take a pause. I think it also shows quite frankly that athletes really want to compete and have, you know, from all of the reports, been following, you know, with some exceptions, of course, but have been following the guidelines to do what they can to stay safe and healthy and put themselves and their teams in the best possible chances to compete.

PAUL FAIN: So I know that looking forward is difficult these days, even 24 hours given all that's going on, but we're getting hear the end of the fall, and obviously, a lot of planning for the spring is going on right now. Can you talk about just the level of disruption, and I'm talking about beyond big-time sports, that you're tracking, the sort of planning that's going on out there, I mean, what level of concern is there for major disruption?

AMY PERKO: One thing really, a key to watch is how the coronavirus pandemic and its impact will affect moving forward the college football playoff and the 30 plus bowl games that are still on the schedule. This is one of the areas, I think, that has shown a pretty harsh spotlight on the governance of FBS football and how disjointed it is. And this is something we've talked about for a long time is the fact that the NCAA has not control FBS football and it does not control the college football playoff. That's managed independent of the NCAA governance. Frankly, the majority of college sports fans, they don't understand that and this process, I think, has made that pretty clear in terms of who's really in charge of college football. So I think that an issue to watch moving forward.

And as it relates to that, earlier this year the Knight Commission sent a letter to President Mark Emmert, NCAA President Mark Emmert and the NCAA Board and the FBS Conference commissioners really urging them to take a very close look at the bowl game certification requirements and encouraging them to eliminate the guarantees and the subsidies that exist, because at a time when schools are cutting other college sports because of the financial shortfalls, it is our position that allowing those kinds of bowl game subsidies to continue frankly is a failure of leadership and just shows college football this post season may be the sacred cow here. So that's certainly a big issue to watch.

And then moving forward, clearly the NCAA will need to do, what to do everything possible to have March Madness this year. March Madness generates, you know, a billion dollars a year, about \$600 million of that goes back to Division 1 schools to help them with their athletics department budget. So not having March Madness this past year obviously created some stresses on the system, but those schools, obviously, with how the pandemic has impacted their schools this entire year, those financial

stresses are becoming, you know, even tougher. So, you know, moving forward, I think how the NCAA is able to handle its championships. Obviously, the NCAA moved all of its fall championships into the spring, hoping that could give college athletes some championship experience in the spring. So seeing how all of that plays out is the thing to watch.

PAUL FAIN: You know, you mentioned that disjointed piece. And it obviously is not just athletics. American higher education tends to have the Thousand Points of Light approach, which can be very good. That's a strength of the system in a lot of ways. But not always ideal in a crisis situation. I mean, do you feel like, and I know athletics, I know higher ed was such a big story in the coronavirus first few months in college football, in basketball even more so, does this change do you think, put real transformation on the table for the way we do college athletics? I mean, how much change do you think this could drive?

AMY PERKO: You know, we have, even before the pandemic started, our commission had launched an examination, a very thorough examination, committed itself to a year-long study to look at the restructuring, frankly, of Division 1 college sports, because, as I noted earlier, even before the pandemic there were so many issues that our commission concluded that Division 1 really needs an overall. The last time division structure was overhauled in a significant way was in 1973, when divisions... And this is when the NCAA was overhauled, it was put into three different divisions, Divisions 1, 2, and 3, to align like-minded schools. And that was, again, 1973. The last kind of attempt at some restructuring was about six years ago when the Power 5 conferences were given more autonomy within the structure to make some rules through their own independent process, independent of the other Division 1 schools. And that was really about resources, allowing them the opportunity to decide ways that they want to spend the resources they have, which are much more significant than the other Division 1 schools.

And obviously, with the highly commercial FBS college football and Division 1 basketball, it has created tensions that we've talked about, for litigation that continues to push the system and challenge the traditional notions of the amateur college athlete, as well as federal and state legislation trying to, again, change the conditions under which college sports operate.

So all of those things and more were driving our commission to say, there needs to be, you know, an overhaul of the structure. And so we've been looking at that. And, again, I think all of those issues, and now the financial shortfalls that are coming as a result of the pandemic, it all shows a system that is ripe for change.

Just last month, we announced the survey results from a major survey we conducted with Division 1 campus leaders, presidents, athletic directors, and conference commissioners, all those in charge in Division 1 governance. And the overwhelming majority basically said we need big changes, we need big solutions, not incremental changes in Division 1, and now's the time to do it. And so there are a number of issues that we got into as it relates to, you know, the types of identifying consensus around problems, looking at the types of solutions that would be supported. But again, the big take-away was all those leaders felt there needed to be big changes, and now is the appropriate time to make those changes.

PAUL FAIN: We're going to take a break here. Please stick with us.

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You know, I know that these are complex issues and you all for a meeting coming up next month on this work, I believe. Can you just give our listeners a sense of the flavor of some of the changes and solutions you'd like to see, just the categories of them, if you can?

AMY PERKO: Yeah, sure. Well, we do have, the rollout we have is transforming the NCAA model. We've had, it's a four-part series, our first part of the series broke down Division 1 finances. A lot of people don't realize that Division 1 makes up 351 schools. The budgets range from \$4 million in athletics up to \$220 million in athletics. So that in of itself, you can see, you know, the vast differences among these schools. Now, obviously, the Division 1 basketball is the glue that holds that division together, because it is the only sport that all 350 schools offer. And obviously, all of those schools are in that division because of the attraction and the popularity of the Division 1 men's basketball tournament, March Madness. Of course, you know, they have to compete in other sports as well but certainly that is the spotlight, and that drives the NCAA's revenue. So that was first session on finances.

The second was looking at the revenue distribution system. And, again, one thing folks don't realize is that the college football playoff is outside the NCAA system. And that generates nearly, well over \$461 million for 130 schools in that football bowl subdivision. The NCAA has a separate revenue distribution system and it generates nearly \$600 million a year for Division 1 schools. One of the recommendations, frankly, that we already issued relates to revenue distribution. And that entire system can be a bit complicated. We do have information on our website to explain it. And it's interesting, you know, that

even a lot of Division 1 leaders understand they get the check from the NCAA but they're not sure really what goes into creating how much they get and why. So we explained that. But one of the core recommendations we made is that the revenue distribution system in our view disproportionately rewards schools that sponsor major college football, FBS football. The formula was created in 1991, prior to football having its own national championship. One of the key criterion of that revenue distribution is that the NCAA must sponsor the sport, the sports championship in order for that sport to count in the revenue distribution formula.

So an example, a really great example we came across in doing the history and the research on this. Division 1, well, men's rowing in particular, men's rowing is the oldest college sport in America and its championship for men's rowing is not hosted by the NCAA. It's not considered an NCAA sport. Women's rowing, its championship is hosted by the NCAA, but not men's rowing. Men's rowing has, again, because its history predates NCAA championships, its championship is hosted by an independent organization, similar, in fact, to the college football playoff system, it's independent organization hosting a national championship. And so our view is they should be treated similarly. Men's rowing doesn't count in the formula, college football shouldn't count in the formula.

So bottom line, we had CliftonLarsonAllen do an analysis looking at how counting football impacts the formula. If we took college football out of the formula, basically, \$61 million could be reallocated in different ways. And, you know, that's a significant amount that you're looking annually with some of the ways that you can use incentives in college sports to drive the kinds of behaviors you want to see. And that's, frankly, an area where the Commission in the past has a legacy of influencing change.

Just in 2016, the NCAA, it was a long-time recommendation of the Knight Commission that this particular revenue distribution, the NCAA's distribution should have incentives that reward graduation rates, that reward the kinds of outcomes we want to see in college sports. And that was not part of the formula until 2016. We had recommended it become part of the formula, and in 2016, the NCAA did make a change. Now for the first time graduation rates and those kinds of outcomes are being rewarded through the NCAA's revenue distribution system. So over the lifetime of the remaining contract of the NCAA's March Madness media rights, it will mean that over \$1 billion will go back Division 1 schools based on those academic and graduation outcomes. And, again, we think those are the right kinds of incentives to have rewarding those kinds of outcomes in college sports. So, you know, that's revenue distribution.

I mentioned that survey we've done. That was our third session, looking at the all the areas where Division 1 college leaders want to try to address for Division 1 and the types of solutions. One of the

things we surveyed them about are governance. And we found less than a third are satisfied with the current governance. They also believed there need to be structural changes. We gave them some alternatives like what about a structure where FBS football, just the sport of FBS football, is separated out into its own entity for running all operations, since its national championship is separate and the money from that national championship is separate, what if that becomes its own entity and they run everything related to the governance of FBS football instead of the NCAA being involved in some of that, but not all of that. We also asked about creating a new division within the NCAA for just the Power 5, the schools that belong to those five richest conferences in every sport except basketball. So those are major reorganization changes we tested in the survey.

We also asked about things like antitrust, an antitrust exemption. You know, more the 61 percent of Division leaders favored pursuing an antitrust exemption to limit costs. And that was big concern in terms of the rising cost in athletics. And in fact, that was supported for by more than 80 percent of the respondents from the richest schools, which is interesting.

And so our final session will be the Commission's recommendations, and we'll be announcing those on December 3rd. And, you know, with those recommendations as well as our earlier revenue distribution recommendations, we'll continue to do work to try to push those forward. We found that over time we need to be persistent. And again, I think all leaders want to see, you know, some change.

Big change is coming already with changes with name-image-likeness rules that will create really a sea change in the types of benefits that college athletes are able to earn themselves just based on the use of their name-image-likeness from external sources, and that will be a major change in all of college sports moving forward.

PAUL FAIN: At Inside Higher Ed, we tend to be skeptical about major change because it's been so hard in big-time college athletics, but I think that it's really helpful to get a sense of, these are some big things on the table. Do you mind just giving us the Cliff's Notes version of where things stand with the compensation principles on name, image, and likeness?

AMY PERKO: Yeah, the name-image-likeness piece, again, just to give you a sense of the arc of history if you will on this question, it's not something that just popped up on the radar and happened within the past year. Name-image-likeness and the Knight Commission's history with it, we were actually one of the first groups to raise questions about emerging technologies like video games that were creating avatars that looked very much like the actual college athletes. And this was very different in our view than



college athletes themselves playing in a game that's broadcast on TV. And so we raised questions around, you know, in particular video games and whether there needed to be changes if athletes likenesses were used for commercial purposes, whether the benefits that those athletes could receive should also change, and that was in 2008.

You know, a lot happened since then. Ed O'Bannon filed a lawsuit against the NCAA, primarily around avatars in video games. That took a number of years to work its way through the courts. And, you know, ultimately the NCAA decided against licensing video games. So those went away, but we still had pressures about the use of college athletes' name-image-likeness. The thing that really changed was, you know, social media and the technologies with social media. And, you know, allowing college athletes to do the same things that college students can do. Lots of college students earn money becoming influencers on social media. The question is, why shouldn't the college athlete be able to do the same? So college sports really was pushed to...

We had a whitepaper, we had Gabe Feldman write a whitepaper for us back in 2016, looking at, you know, once the O'Bannon case was resolved, we asked the question, what could a new system look like? But even then there wasn't momentum to change this. And so the momentum really did become driven around state and federal legislation where lawmakers really questioned the fairness of the system and said, look, if the NCAA's not going to change it, we're going to change it our state so that athletes in our state will have the same right was other college students.

Moving forward now, what's on the table is the NCAA will likely adopt the changes, the proposal it has on the table in January that would become effective in the fall. And the bottom line for that is that it will allow athletes to earn compensation from external sources, not their institution, for the use of their name-image-likeness in doing things like endorsing a product, becoming a social media influencer. And there's no limit on what they can earn. You know, those earnings could be significant, particularly for high profile athletes. And this opportunity exists not only in Division 1 but also in Division 3.

And there's some changes in terms of the proposals that Divisions 2 and 3 have put forward for their athletes as opposed to Division 1. In some ways, the Division 1 proposal is more restrictive because of the concerns Division 1 leaders have about the system corrupting the recruiting process. And so you don't have those same kinds of recruiting pressures and the financial aspect of it in Divisions 2 and 3. So one of the major restrictions in Division 1 is that an athlete could not wear the institution's marks and logos in the endorsement, because, again, that would be bringing the institution's value into this, and not just the individual athletes. And that's what this is all about, allowing the individual athlete, you know, to monetize their personal name-image-likeness. So that's where it stands.

Where it gets murky is the fact that there are state laws on the books to go into effect, I believe Florida's is in July. And it is less restrictive than the NCAA proposal. So if we move forward and Florida's law goes into effect, the NCAA's proposal goes into effect, there could be a conflict with those two, and so there still may be, you know, that's why the NCAA wanted some uniformity and was pushing for federal legislation that would create uniformity across all state legislation. But that hasn't come about yet, so there's still work to be done to ensure we don't have a patchwork of different state laws that are different than the NCAA rules come next fall.

PAUL FAIN: You know, when you were talking about the social media influencer piece here, I was thinking about the voice of athletes themselves that has been surfaced these days. You know, going back to Mizzou's stoppage around Ferguson, but I felt like we saw some of that with the training camps and COVID. You know, I wonder do you see the athletes themselves being more active in getting their voice out, and maybe even protesting where they felt appropriate?

AMY PERKO: Yeah, I think you're seeing with social justice issues and across the board, you know, college athletes many times take their cues and learn from what they see with pro athletes. And there's certainly been a significant involvement by pro athletes. And, you know, I think that's what we've seen as well with just college students generally. You know, this is time where college leaders outside of college sports want to engage young people in issues that we all have to pay attention to as citizens in a democracy. And there's been a lot of great leadership shown by many in terms of helping college athletes to understand how to use their voice and what opportunities they do have. So I think social media is here to stay, influencers are here to stay. So I think the more we can do to educate all young people in terms of how to use those technologies and those opportunities in responsible ways is the way of the future.

PAUL FAIN: Well, Amy, thanks for taking the time to talk through these very complex, very important issues in these interesting times.

AMY PERKO: Right, thanks so much for the opportunity, Paul.

PAUL FAIN: Thank you.

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That's it for this episode. Thanks very much for listening. I'll be back next week, speaking with President Joseph Castro of Fresno State University, the incoming chancellor of the Cal State System. We'll talk about student success and other issues. I hope you'll join us.