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Understanding the Obligations of Not-for-Profit Organizations

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Most of the sports programs in the nation are not-for-profit organizations or part of larger educational institutions or youth and community development organizations that have not-for-profit tax status. Not-for-profit organizations have legal obligations in return for tax advantages which are based on the premise that the mission of the organization advances important social purposes rather than increasing profits to benefit individual owners or stockholders. Sports managers of these organizations should regularly remind themselves of the legal and ethical obligations that should guide their decision-making.

Both for-profit and not-for-profit organizations are businesses that must support themselves. The core difference between the two is in the use of excess revenues over expenses. In the case of the former, profits accrue to owners, investors or shareholders. In the case of the latter, excess revenues must be reinvested in the organization and used to accomplish its stated educational, charitable or public service purposes. This distinction is rewarded by our state and federal governments by granting not-for-profit organizations tax preferences such as the organization’s profits not being taxed. Consider how the following additional special tax treatments of athletic programs also contribute to the generation of revenues or reduction of expenditures:

- donations to athletics programs are tax deductible
- even donations that provide the donor with athletic event seating and activity access preferences of considerable value such as 50-yard line seats, are 80% tax deductible
- revenues that are typically taxed in the case of professional sport businesses such as ticket sales, sponsorships, licensing fees and royalties, and television rights fees are not taxed
- tax exempt bonds are used to build athletics facilities
- athletic departments don’t have to pay payroll taxes when they compensate college athletes with athletic scholarships

Amazingly, even though not-for-profit organizations are prohibited from using their funds to provide extraordinary compensation and benefits to individuals, the IRS has yet to challenge the multi-million compensation packages currently being given to college coaches as engaging in private inurement. Similarly, even though not-for-profit organizations are prohibited from engaging in lavish wasteful

expenditures, ridiculously lavish locker rooms and play rooms restricted for college athlete use have not been questioned by the IRS as violations.

While most individuals who work for non-profit agencies understand the reason why they have lower salaries than their counterparts in the for-profit marketplace, such restraint is becoming increasingly less common in Division I, especially FBS, athletic programs. Will the absence of restraint result in compelling Congress to reexamine whether athletic programs should receive such tax preferences? No one knows the breaking point. Thus, the athletic manager should always be concerned with whether athletic programs are being conducted within the legal obligations of programs conducted under the not-for-profit banner.

As important is the question whether sport programs are following the moral compass expected of not-for-profit programs – decision-making that advances important social and individual development purposes. What are our obligations with regard to treatment of athletes, especially to protect their health and safety and fulfill the organization's educational or developmental promises? It is within this realm that sport managers can maximize their impact by promulgating internal policies that demonstrate their commitment to ethical and professional conduct. How should the sport manager with a solid moral compass respond to the following questions:

1. Does the organization have a code of ethics that all employees must sign that requires respectful treatment of athletes, prohibits inappropriate social relationships, and conformance to institutional policies, athletic governance organization rules and civil and criminal laws?
2. In the case of athletic programs conducted by educational institutions, is the athlete academic support program conducted by academic authorities rather than the athletic department, which has an obvious conflict of interest?
3. Are all decisions related to return to play following athletic injury made by a medical doctor?
4. Are athletes and their families fully protected from the medical costs of athletic injuries over the short and long term?
5. Are there policies which protect athletes from unreasonable athletics-related activity demands on their time which prevent them from meeting academic commitments or prevent them from participating in other activities important to their full development?
6. Does the sport program reflect diversity regarding athlete participation and the hiring of employees?
7. Does the sport program treat male and female athletes equally, in full compliance with Title IX?
8. In the case of athletic programs conducted by education institutions: (a) If the institution engages in recruiting athletes, is this process being monitored to ensure that athletes sought have the academic preparation to enable them to compete in the classroom with their non-athlete peers? (b) Is academic advising of all athletes conducted by regular academic employees or faculty members regularly assigned to such duties? (c) If governing association rules require athletes to request a release to transfer to another institution, are such releases granted without conditions so that athletes are treated like all other students? and (d) Are athletic department employees prohibited from participating on institutional committees consider athlete appeals or interceding with faculty members regarding athletes' grades?
9. Does the organization have a whistleblower protection policy that encourages participants and employees to come forward with information on illegal or unethical practices without fearing retaliation?
10. Are the organization's financial reports, annual reports, tax returns and policy manuals

transparent – available to the public?

11. Are coaches annually evaluated by sport participants as well as their supervisors?
12. Is there a majority independent board of directors or oversight committee responsible for overseeing the conduct of the sport program?
13. Are ethical decisions about the practices or behavior of participants or coaches consistent and made without regard to their effect on winning, losing or revenues,

The policies required to enforce the right answers to these questions do not depend on governance association or other external rules and regulations. These are rightful expectations for any not-for-profit organization that benefits from government protection of revenues through the granting of tax preferences.

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