

## TO TELL THE TRUTH: WOULD THE REAL MARK EMMERT PLEASE STAND UP

### NCAA vs. PSU

In [his letter](#)<sup>1</sup> on November 17, 2011 to the Penn State Board of Trustees, NCAA President Mark Emmert wrote, *"I am writing to notify you that the NCAA will examine Penn State's exercise of institutional control over its intercollegiate athletics program, as well as the actions, and inactions, of relevant responsible personnel. I also have notified the NCAA Division I Board of Directors of the NCAA approach. We recognize that there are ongoing federal and state investigations and the NCAA does not intend to interfere with those probes. Moreover, **we respect that under our criminal justice system there is a defined process to ascertain the facts, as well as determine criminal guilt or innocence. We will utilize any information gained from the criminal justice process in our review...."***

Although Penn State did not violate any NCAA rules, it is clear that in November 2011, the NCAA planned to 'examine' for itself if Penn State (and relevant personnel) lacked 'institutional control.' It is also very clear that Emmert was initially going to allow due process to run its course and defer NCAA action until the criminal justice system (via the Tim Curley and Gary Schultz trials) determined criminal guilt or innocence. So what happened to the NCAA's probe and waiting for due process? The very next day on November 18, 2011, the Penn State Board of Trustees signed Freeh's [engagement letter](#)<sup>2</sup>, authorizing Freeh and his team to investigate the matter. Apparently, within one day, Emmert changed his mind and decided to hold off on an NCAA investigation until after Freeh disclosed his findings.

Shortly after the release of the Freeh report, the NCAA Board gave Emmert the power to take corrective and punitive action relative to Penn State, forgoing the NCAA's normal investigative protocol. On July 22, 2012, the NCAA announced that it would impose "corrective and punitive" sanctions against both the Penn State football program and the institution as a whole the next morning. Additionally, the NCAA said that since Penn State had commissioned the Freeh report and accepted its findings, further proceedings would be redundant. Emmert himself said that Freeh's investigation was far more exhaustive than any that would have been mounted by the NCAA.<sup>3</sup> But, Emmert could not have known back in November 2011 that Freeh's investigation would turn out to be 'exhaustive.' So why did the NCAA forgo their own probe in 2011? Was there a deal between PSU and Emmert to use Freeh's findings from the beginning? And more importantly, why did Emmert renege on his promise 'to utilize any information gained from the criminal justice process' in his review before handing down unprecedented sanctions? Certainly, the criminal justice system's examination in the Curley and Schultz trials will be far more exhaustive and its determination of criminality or innocence will be legally binding.

<sup>1</sup> <http://www.psu.edu/ur/2011/NCAA.pdf>

<sup>2</sup> <http://www.scribd.com/doc/129799160/Freeh-Engagement-Letter>

<sup>3</sup> <http://usatoday30.usatoday.com/sports/college/football/bigten/story/2012-07-23/ncaa-penn-state-punishment-sanctions/56427630/1>

It is interesting to note that questions 2-4 on page 3 of Emmert's letter deal with the Grand Jury Presentment. The Presentment listed allegations against Sandusky, as well as Curley and Schultz. The statements in the Presentment were only allegations waiting to be proven through the justice system. Therefore, how can Emmert expect PSU to answer questions regarding issues identified in the Presentment when those issues are only allegations and have yet to be verified in a court of law?

In addition, Emmert's stretch of the bylaws' context to encompass the Sandusky issues is unimpressive. His particular attempt of equating 'young people' within the NCAA framework to that of children is overreaching to say the least. The context of 'young people' cited in Bylaw 19.01.2 clearly means collegiate student-athletes. However, on page 3, he discussed re-examining "behaviors that lift up 'young people' rather than making them victims." Clearly, no student-athlete at Penn State was a victim and this comparison was a feeble attempt to validate the NCAA's jurisdiction in this matter.

### **SANCTIONS: MARK EMMERT vs. RODNEY ERICKSON**

What is the truth regarding the Penn State sanctions and the threat of the death penalty? Emmert maintains there was no such threat. This 7/24/12 [ESPN video](#)<sup>4</sup> (at the 3:00 mark), affirms that Mark Emmert denied that PSU was threatened with the death penalty, *"No, it wasn't that at all."* In addition, the [Sun Sentinel article](#)<sup>5</sup> reveals that Ameen Najjar, former NCAA enforcement director (who worked under Emmert up until May 2012), addressed the Penn State sanctions in an Aug. 7, 2012 email to Nevin Shapiro: *"The Penn State deal is a travesty," he wrote. "The NCAA did not impose anything. Penn State agreed to and self-imposed the penalties, waved all due process and waived any right to appeal. The NCAA had/has NO authority to impose any penalties in that situation and PSU's president sold the school down the river!"*

However, according to a [story written](#)<sup>6</sup> by Don Van Natta Jr., Emmert confirmed that a core group of NCAA school presidents had agreed that an appropriate punishment was no Penn State football for four years and that Emmert told Erickson in a phone conversation on July 17 that a majority of the NCAA's leadership wanted to levy the four-year penalty.

Gene Marsh, a former chairman of the NCAA's infractions committee who defended former Ohio State coach Jim Tressel, had been hired by Penn State to help negotiate sanctions in the wake of the scandal. According to Van Natta, Marsh received a call in July from Donald Remy, the NCAA's general counsel. Remy told Marsh that Penn State was facing a death penalty for multiple seasons.

Erickson said, *"if Penn State did not agree to the sanctions, a formal investigation would have begun and the University could have faced a multiyear death penalty, as well as 'other sanctions,' including a financial penalty far greater than \$60 million."*

<sup>4</sup> [http://www.youtube.com/watch?v=rKWIOqcvQZI&feature=youtube\\_gdata\\_player](http://www.youtube.com/watch?v=rKWIOqcvQZI&feature=youtube_gdata_player)

<sup>5</sup> <http://www.sun-sentinel.com/sports/um-hurricanes/fl-nevin-shapiro-miami-ncaa-0403-20130403,0,3454721.story>

<sup>6</sup> [http://espn.go.com/espn/otl/story/\\_id/8199905/penn-state-nittany-lions-rodney-erickson-said-school-faced-4-year-death-penalty](http://espn.go.com/espn/otl/story/_id/8199905/penn-state-nittany-lions-rodney-erickson-said-school-faced-4-year-death-penalty)

At the 3:30 mark of the ESPN video, Emmert admits the death penalty was 'unequivocally on the table' and an 'active option.' He also states that the Board's behavior and actions (signing the Consent Decree) were 'clearly considerations in not applying the death penalty' and he says had Penn State not been as 'forthright, open and decisive' he does not 'know what the outcome would have been' but suspects 'it would have been significantly worse.' This would at least suggest there was an unspoken threat of a four year death penalty from Emmert.

I find it interesting to note that Erickson said, *"if Penn State did not agree to the sanctions, a formal investigation would have begun and the University could have faced a multiyear death penalty...."* Perhaps we have been focusing on the wrong threat. The threat has always been centered on the death penalty. Maybe the threat of a 'formal investigation' gave Erickson pause. Imagine if a formal NCAA investigation would have begun, taking into consideration the outcome of the criminal justice process as Emmert promised in November 2011. This would have exposed the Freeh report for its fraudulent and baseless conclusions and the Board of Trustees would no longer be able to justify their rush to judgment in terminating Joe Paterno and Graham Spanier. In all likelihood, Penn State would have been absolved of Sandusky's crimes and able to avoid sanctions altogether. Why didn't Erickson buy time for the football program and allow the NCAA to formally investigate? Did Erickson sign the Consent Decree to avoid an authentic investigation that would make the Freeh report vulnerable to review which would then confirm that the Board's November 2011 actions were unjust? Whether the death penalty was real or fabricated, is Erickson hiding behind it to justify the acceptance of the Consent Decree?

At about the 4:00 mark of the video, Emmert confirms the NCAA had two options: to investigate or hand down the Consent Decree. He says a traditional investigation would 'consume' much time and energy with an 'UNKNOWN OUTCOME' so they opted for the Consent Decree. Don't all investigations begin with unknown outcomes? Isn't that the very purpose of a probe: to determine the facts?

Oh wait, I stand corrected. If you are the Penn State Board of Trustees you can apparently pay for an investigation and [determine your OWN outcome](#)<sup>7</sup>. Emmert did not want to launch his own investigation to determine the truth; he wanted to act immediately, saving precious time and money, and appease the masses, so he took the 'known' outcome authored by Louis Freeh and the PSU Task Force. Again I ask, what happened to Emmert's initial stance to wait for the *"criminal justice system to ascertain the facts, as well as determine criminal guilt or innocence?"*

At a closer look, the Consent Decree seems to satisfy both parties. Emmert got to flex his NCAA muscles to a world-wide audience and Erickson avoided a formal investigation that would have exposed the Freeh report. By the way, if Erickson was threatened, why hasn't he and the Board fought the sanctions since they were negotiated under duress? It appears he wants to keep the sanctions status quo to avoid an investigation yet at the same time cry foul at Emmert's threat.

<sup>7</sup> <http://emf.intherough.net/pennstate5.htm>

## EMMERT vs. EMMERT

In this 4/3/13 article in [USA Today](#)<sup>8</sup>, Emmert is accused of evading a variety of scandals that took place on his watch, including LSU having systemic academic fraud in its football program.

Emmert disputes that.

*"The facts speak for themselves," Emmert said. "We went from an athletic program that was underperforming dramatically in the classroom to one that was performing well."*

NOW HERE ARE THE FACTS (shared with me by an anonymous source):

The academic fraud was uncovered in 2001-02—and LSU submitted a report in 2004--2 years later. Penn State submitted the Freeh Report just months after the story broke.

These are the graduation rates for the Football Student-Athletes at LSU under Chancellor Mark Emmert, and corresponding rates for PSU. (Source: The Federal Graduation Rates from the NCAA)

Recruiting Class Year	LSU	Penn State
1999	37%	76%
2000	38%	72%
2001	37%	75%

Cheating exposed at LSU

***"The facts speak for themselves," Emmert said. "We went from an athletic program that was underperforming dramatically in the classroom to one that was performing well."***

2002	42%	80%
2003	42%	77%
2004	48%	80%

Apparently Mark Emmert, the head of the NCAA, believes graduating less than HALF of his football student-athletes can be defined as “performing well.”

Well, here is a fact that definitely speaks for itself. Emmert’s comment reveals nothing but hypocrisy. The NCAA President wants us to believe that under his supervision, a 48% graduation rate exemplifies a football program that is “performing well”, however, the Penn State football program that has consistently graduated 75-80% of its student-athletes constitutes a “Football Culture Problem.”

Mark Emmert speaks out of both sides of his mouth. He says he will utilize information gained from the criminal justice process in his review, and then denies PSU due process. He says he did not threaten PSU with the death penalty, but admits a four year death penalty was on the table as a viable option. He says PSU has a ‘Football Culture Problem’ yet says LSU’s graduation rate of about 50% LESS than PSU is defined as ‘performing well.’ Would the real Mr. Emmert, please stand up.

By: Eileen Morgan,  
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<sup>8</sup><http://www.usatoday.com/story/sports/ncaab/2013/04/02/ncaa-president-emmert-previous-cases-uconn-lsu/2047607/>