

**IS THE NCAA TO BLAME FOR THE “DIPLOMA MILL” DILEMMA?
MORE IMPORTANTLY - WHO CAN STOP IT?**

BY MARK A. HICKS

Article Abstract

Recent newspaper reports have brought attention to the problem of diploma mills garnering wide-spread public concern. Although reported as an NCAA problem, this dilemma both historically and contemporarily, runs much deeper than college athletics. This article details the issue of diploma mills, its history, harms, and potential solutions to the problem.

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DIPLOMA MILLS UNCOVERED

In November 2005, The New York Times¹ published an article detailing the problem of “diploma mills,” the industry of providing bogus degrees and diplomas. The Times article explained that in order to meet National Collegiate Athletic Association (NCAA) initial eligibility requirements, a number of college athletes used correspondence classes² to raise their grade point averages (GPA). While accurately describing how this issue negatively affects both the student-athlete and college athletics as a whole, the article failed to recognize that diploma mills have been a problem for decades, affecting not only amateur athletics, but the educational integrity of athletes and non-athletes alike.

¹ Pete Thamel and Duff Wilson, *Poor Grades Aside, Top Athletes Get to College on \$399 Diploma*, N.Y. TIMES, Nov. 27, 2005, at A1.

² For the purposes of this analysis, the terms correspondence schools, distance-learning schools, and telecommunication schools are considered synonymous.

As the reporters highlighted, diploma mills harmfully impact intercollegiate athletics by leaving students unprepared for college and while assisting individuals evade academic requirements. The student-athletes mentioned in the New York Times article were primarily interested in acquiring credit from “University High” in an effort to replace previous scores. According to the article, Lorenzo Ferguson raised his GPA from 2.0 to 2.6 in one month, and Tavares Kendrick’s GPA improved from 2.1 to 3.0 in about seven weeks.³ The article also noted that a diploma, no matter how many courses, could be purchased for \$399.

In February, Thamel followed his University High article with a piece that further addressed the diploma mill problem and the problem of questionable athletic-focused prep schools; Thamel called into question the academic integrity of certain universities, the role of coaches in the recruitment process, and the eligibility policies of the NCAA.⁴

In this later article, Thamel provided a comprehensive analysis of the complexity of the diploma mill issue, revealing its nationwide (and perhaps international) scope. In doing so, he identified several “so-called” prep schools, or learning centers, that awarded allegedly bogus diplomas including: Genesis One Christian Academy in Mendenhall, Mississippi; Boys to Men Academy in Chicago; Rise Academy in Philadelphia; God’s Academy in Irving, Texas; Redemption Christian Academy in Troy, New York; and Lutheran Christian Academy in

³ Thamel & Wilson, *supra* note 1.

⁴ See, Pete Thamel, *Schools Where the Only Real Test Is Basketball*, N.Y. TIMES, February 25, 2006, at Section A; Column 1 (in-depth analysis of fraudulent prep schools geared toward basketball players only and how those schools arranged passing grades for NCAA eligibility purposes); Dan Steinberg, *Review Ordered At GW; Admissions Process For Athletes at Issue*, WASH. POST, Mar, 11, 2006, at Sports, E09 (George Washington University President Trachtenberg launches a review of the school’s academic admissions process for athletes in response to a newspaper report questioning the academic background of the school’s basketball players); Pete Thamel, *Nonaccredited Recruits Face New Scrutiny*, N.Y. TIMES, March 10, 2006, at Section D; Column 1 (NCAA and colleges to take stronger look at recruits from nonaccredited high schools); Mark Schlabach, *Testing Agency Reviewing Prep Coach’s Status as Exam Proctor*, WASH. POST, Mar. 8, 2006 at Sports, E07 (American College Testing Inc. reviewing whether to continue allowing Darryl Schofield (who is part of an NCAA probe) and other coaches to administered the ACT. Schofield has administered the ACT and SAT more than a dozen times over the past two years); Mark Schlabach, *A Player Rises Through the Cracks; Academic History Of GW’s Williams Reveals Flaws In NCAA Process*, WASH. POST, Mar. 5, 2006, at A Section, A01 (detailed account of several athletes who used fraudulent schools to circumvent NCAA eligibility requirements); Pete Thamel, *N.C.A.A. Wants to End Diploma Shortcuts*, N.Y. TIMES, February 28, 2006, at Section D; Column 1 (emergency NCAA legislation to be proposed in April to giving Association the power to do on-site visits at schools suspected of lacking sufficient academic rigor).

Philadelphia (now notorious for Omar Williams and Maureece Rice, whom recently concluded play for the 2005-2006 George Washington University basketball team).⁵

Although Thamel inaccurately asserted through his articles that the NCAA makes no inquiries into the authenticity of a high school's curriculum,⁶ he accurately described the vast geographical depth of the diploma mill problem. Thamel demonstrated that while some colleges admit students holding fraudulent diplomas, other colleges do not. He also provided examples of college coaches who, while recruiting high school players, conveniently overlooked a high school's credibility.

It is clear that University High and similarly bogus prep schools are not genuine educational institutions. Commenting on University High grading, one student said, "You take each course you failed in ninth or tenth grade. If it was applied math, you do them on the packets they give you. It didn't take that long. The answers were basically in the book."⁷ The article also explained that grades received for such abbreviated coursework counted the same on transcripts as year-long high school courses.⁸

In the months following Thamel's articles, the powers-that-be in the world of intercollegiate athletics faced stinging criticism.⁹ Right or wrong, the criticism was expected, and now the diploma mill dilemma, further exacerbated by the growth and increasing convenience of the Internet and the lucrative nature of sports, requires immediate attention by intercollegiate athletic officials. More importantly, this problem threatens to undermine education as a whole and thus requires direct action by a collective group of both education and government officials. Simply put, diploma mills are an education problem, not just an athletic problem.

⁵ Pete Thamel, *Schools Where the Only Real Test Is Basketball*, N.Y. TIMES, February 25, 2006, at Section A; Column 1.

⁶ The Clearinghouse maintains a list of approved and non-approved high schools. Due to the Congressional pressure and demands from the secondary school community, in addition to an overwhelming number of schools, the Clearinghouse previously accepted self-reported information in an effort to gauge the validity of an educational institution. Fraudulent information provided to the Clearinghouse by certain high schools may provide one reason why some fraudulent schools went undetected by the NCAA.

⁷ Thamel and Wilson, *Supra* note 1, at A1.

⁸ *Id.*

⁹ See Jim Gordon, *The Anti-Fan: NCAA Should Have Seen This Coming*, SANTA FE NEW MEXICAN, Dec. 7, 2005, at B1 (NCAA criticized for approving correspondence courses).

AN EDUCATION PROBLEM, NOT AN ATHLETIC PROBLEM

Telecommunication and correspondence courses are an important and lucrative component in today's educational climate. Not only do many greatly regarded American higher education institutions use correspondence or distance education courses, but they also heavily market such curricula. Still, correspondence schools have existed for decades with allegations of fraud following close behind.¹⁰

This type of instruction is technically new, but the idea has been around for centuries. Evidence of correspondence education can be traced to the first century, as the Apostle Paul instructed early Christians through mail correspondence.¹¹ Officially, U.S. distance education dates back to the 1880's when schools such as the Chautauqua Correspondence College, Pennsylvania State University and the University of Chicago instituted distance learning coursework using the U.S. Postal Service as a means of interaction. Interestingly, near the turn of the century, distance learning prospered due to agriculture prosperity, as expanding farm practices in the Midwest created a market for this style of instruction. Public Land-grant universities provided important vehicles, and schools such as Ohio State University, Iowa State University and the University of Wisconsin capitalized on the new trend in an effort to educate

¹⁰ See, e.g., Bernard Harris, *A Question of Credentials*, LANCASTER NEW ERA, Oct. 25, 2005, at A1 (county official under scrutiny for obtaining doctorate degree from unaccredited institution); Paul Sperry, *Cut-rate diplomas: how doubts about the government's own "Dr. Laura" exposed a resume fraud scandal*, REASON, Jan. 1, 2005, at 38 (federal employees caught in resume fraud based on bogus degrees); Dan Carnevale, *A Federal Rule Bedevils Online Institutions*, THE CHRONICLE OF HIGHER EDUCATION, Dec. 12, 2003, at 29 (article questions the wisdom of changing law that protects against correspondence school fraud); David Haldane, *Alleged Diploma-Mill Scam Netted \$10 Million; Correspondence school based in San Clemente gave students fake degrees, authorities say. Suspect is in prison on an unrelated matter*, L.A. TIMES, April 18, 2003, part 2, at 3 (arrests made in correspondence school scam); Daniel P. Finney, *Mailbox serves as college's campus; West Des Moines example prompts a state review of registration rules*, DES MOINES REGISTER, Oct. 10, 1999, at 1A (P.O. box used as front for correspondence school scam); *Asks State Inquiry on Medical Quacks, Senator Love Urges Hunt for "Diploma-Mill" Graduates in Public Health Service*, N.Y. TIMES, Mar. 30, 1926, 6 (New York Senator calls for investigation into diploma mills issuing fraudulent medical degrees).

¹¹ Distance Education, Why Distance Learning? <http://www2.plymouth.ac.uk/distancelearning/vidconfl.html#history%20of%20Distance%20Learning> (last updated March 31, 2006); Michael Grahame Moore, *From Chautauqua to the Virtual University, A Century of Distance Education in the United States*, THE OHIO STATE UNIVERSITY CENTER OF EDUCATION AND TRAINING FOR EMPLOYMENT, No. 393 (2003)(detailing the history of distance education).

farmers. In later years, the United Kingdom utilized radio and television technology to reach distance students by soliciting cooperation from the British Broadcasting Corporation.¹²

By the 1950's and 1960's, distance learning had taken firm root in U.S. society. This growth in correspondence education was due in part to the military's use of distance learning courses and to the increased importance of an educated workforce. It is estimated that by the late 1950's, over 50,000 college and high school students took classes via correspondence means per year.¹³ Today, the internet and videoconferencing technology has changed the face of distance learning and the numbers of schools using this style of education grow more numerous. With the advent of global economic and educational expansion, these technological instructional advances are establishing themselves as important vehicles for the future of education.

Obviously, the ease to which schools disseminate educational information, added to the fact that students and teachers rarely meet face-to-face, has led to allegations of fraud.¹⁴ Such diploma mill fraud is old news. This shady side of education dates back to 1835 and is well documented throughout modern American History. For example, 34 years ago, John R. Proffitt, director of the accreditation staff of the Federal Office of Education suggested that 110 out of 300 unaccredited schools were operating as diploma mills. He also stated that in the ten years prior the number of fraudulent schools had tripled, with most occurring in Florida, California, and Illinois.¹⁵ Other reports indicate that between 1956 and 1966, diploma mill rates increased by

¹² *Id.*

¹³ Moore, *supra* note 11, at 7.

¹⁴ See Jason Felch, *School Settles Suit Over Fake Diplomas*, L.A. TIMES, Mar. 19, 2005, Part B, at 1 (adult school accused of giving immigrants bogus high school diplomas after a 10-week course that cost hundreds of dollars); Bill Morlin, *Fake Diplomas Sold Globally*, SPOKESMAN REVIEW, Mar. 10, 2006, B at 2 (Blake Alan Carlson, the owner of a Hillyard stamp shop, a.k.a. "Professor Blackwell" and "Chief Provost," sold bogus online college degrees and accompanying fake transcripts around the world.); Bill Morlin, *Agents visit diploma mill sites*, SPOKESMAN REVIEW, Aug. 12, 2005 A at 1 (Federal and state agents bust fraudulent school site.).

¹⁵ M.A. Farber, *Diploma-Mill Rise Disturbs Educator*, N.Y. TIMES, Jul. 2, 1972, 1.

300%, and in 1926, diploma mill operators faced proposed legislation as fraudulent schools were selling medical degrees through the U.S. Mail.¹⁶

Such allegations have since driven FBI investigations like DipScam, which targeted fraudulent schools during the 1980's and prompted the Federal Trade Commission (FTC) to issue a public warning regarding the dangers of diploma mills. In their warning, the FTC states:

Here are some tell-tale signs of a diploma mill:

No Studies, No Exams — Get a Degree for Your Experience. Diploma mills grant degrees for “work or life experience” alone. Accredited colleges may give a few credits for specific experience pertinent to a degree program, but not an entire degree.

No Attendance. Legitimate colleges or universities, including online schools, require substantial course work.

Flat Fee. Many diploma mills charge on a per-degree basis. Legitimate colleges charge by the credit, course, or semester, not a flat fee for an entire degree.

No Waiting. Operations that guarantee a degree in a few days, weeks, or even months aren't legitimate. If an ad promises that you can earn a degree very quickly, it's probably a diploma mill.

Click Here To Order Now! Some diploma mills push themselves through aggressive sales tactics. Accredited colleges don't use spam or high-pressure telemarketing to market themselves. Some diploma mills also advertise in newspapers, magazines, and on the Web.

Advertising through spam or pop-ups. If the school caught your attention through an unsolicited email or pop-up ad, it may be a diploma mill. Legitimate institutions, including distance learning programs, won't advertise through spam or pop-ups.¹⁷

¹⁶ *Post Office Asserts Fraud Is Up 300% In Schooling by Mail*, N.Y. TIMES, Nov. 27, 1966, 60; *Asks State Inquiry On Medical Quacks, Senator Love Urges Hunt for “Diploma-Mill” Graduates in Public Health Service*, N.Y. TIMES, Mar. 30, 1926, 6.

¹⁷ *Avoid Fake-Degree Burns By Researching Academic Credentials*, FEDERAL TRADE COMMISSION, <http://www.ftc.gov/bcp/conline/pubs/buspubs/diplomamills.htm>

Additionally, politicians have taken notice of this problem and in turn have hosted a number of Congressional hearings regarding diploma mills and amendments to the Higher Education Act (HEA).

In the opening statement of a 2004 hearing held by the Committee on Education and the Workforce Subcommittee on 21st Century Competitiveness (titled "Are Current Safeguards Protecting Taxpayers Against Diploma Mills?"), Congressman Howard P. "Buck" McKeon stated, "Although the federal government has been successful in keeping phony institutions out of the federal student aid programs, in recent years, policy makers at both the federal and state levels have begun to recognize the need to find ways to keep diploma mills out of business altogether."¹⁸ Later in that same hearing, witness Otho Allen Ezell, Jr., the former director of the FBI's special DipScam unit, testified on the seriousness of the diploma mill issue and how the internet had changed the game:

Let me commend you for recognizing Degree Mills as a problem and for holding these hearings. Although I was not present during the January and March, 1924 Congressional Degree Mill hearings, I was present for Congressman Claude Pepper's hearings in December, 1985, and Senator Susan Collins' hearings in May, 2004. Although there was a lot of talk during these hearings, there were no lasting actions taken. Now here we are again. In fact, the entire matter has just blossomed with the advent of the internet.

Ezell went on to comment that:

During DipScam, from 1980-1991, we purchased 40 degrees, executed 16 federal search warrants, had 19 indictments returned by the Federal Grand Jury, convicted 21 persons, and over 40 schools were dismantled. We never lost a case and won the only two convictions which were appealed. Only one case (with multiple convictions) went to the U.S. Supreme Court, which the court declined to hear thus sustaining the opinion of the Fourth Circuit Court of Appeals affirming the conviction. During DipScam, the highest gross revenues we found were \$2,000,000 for our Degree Mills.

Degree Mills are not just recent problems. We have had them in the United States since about 1835. As long as we have a

¹⁸ *Are Current Safeguards Protecting Taxpayers Against Diploma Mills?: Hearing Before the H. Comm. on Education and the Workforce Subcommittee on 21st Century Competitiveness*, 109th Cong. (2004) (statement of Howard P. "Buck" McKeon).

credential conscious society, where the degree/transcript you possess gets you the interview/promotion/salary increase then we will always have Degree Mills. I say this because Degree Mills are nothing but criminal enterprises operated for profit. This is Education Fraud and no different from any other fraud, only here the crooks are selling either fictional or worthless academic credentials....

Along came *THE INTERNET*. At no other time in the past 25 years have I observed such a boon to this type of white collar crime. The internet knows no borders-our crooks are selling their worthless degrees to persons in other countries; conversely, their crooks are selling their worthless degrees to our citizens.¹⁹

In years past, Congress has addressed the problem of diploma mills by limiting the amount of federal financial aid that correspondence schools are afforded.²⁰ However, while such measures may help reduce incidents of abuse from a post-secondary perspective, they do little to stop diploma mills offering high school credit.

Obtaining a high school diploma through the Internet or via various correspondence schools is now as easy as obtaining a post-secondary degree through similar methods. In addition, factors including the evolving nature of the diploma mill business, that both college and homeschool students rely heavily on legitimate online courses, and the reality that educational institutions have heavily invested in the future of distance learning education, further supports the concept that policing the diploma mill problem is not merely an athletic issue.

Simple economics also support this conclusion. As reported in The New York Times, University High was purchased in 2004 for one million dollars and has maintained yearly revenues estimated at \$500,000.²¹ Reporters uncovered only twenty-eight college athletes who claimed credits from University High. At the most, these athletes contributed only \$11,172²²

¹⁹ *Are Current Safeguards Protecting Taxpayers Against Diploma Mills?: Hearing Before the H. Comm. on Education and the Workforce Subcommittee on 21st Century Competitiveness*, 109th Cong. (2004) (statement of Otho Allen Ezell, Jr., witness and former FBI investigator).

²⁰ Higher Education Act, 20 U.S.C. § 1091 (2005).

²¹ See Duff Wilson, *Owner Defends Florida School And Denies Any Wrongdoing*, N.Y. TIMES, Jan. 8, 2006, section 8, at 6.

²² This number is based on the average cost of course credit not exceeding a maximum amount of \$399 per student.

toward University High revenues. Therefore, if this is truly the case, there are *many* more non-athletes than athletes obtaining fraudulent credit.

However, due to minimum eligibility standards set by the NCAA and its member institutions, academic fraud and intercollegiate athletics are forever entwined. Furthermore, although the NCAA is not in the business of accreditation or classroom education, it shares the responsibility of helping maintain the credibility of its student-athletes.

THE NCAA, A PIECE TO THE PUZZLE?

The public's initial response is to cry foul and to blame the NCAA for failing to police the diploma mill problem. As any sports fan knows, the whistle is quickly blown on the NCAA the minute a scandal is exposed involving its athletes.²³ The natural impulse may be to blame the NCAA for the ills of college sports, as it does make for sensational news. However, a closer look at the process of initial-eligibility, combined with limitations placed on the NCAA, should cause readers to reevaluate claims that organization, solely, lies at the root of the diploma mill dilemma.

Any student planning to participate in NCAA athletics must first register with the "Initial-Eligibility Clearinghouse."²⁴ Located in Iowa City, Iowa, the Clearinghouse is an entity contracted by the NCAA to provide initial-eligibility oversight. For the graduating class of 2005, the Clearinghouse processed 142,383, new student release forms.²⁵ The certification process requires students to supply their complete educational record. Then the Clearinghouse either

²³ See, e.g., Fran Blinebury, *Players Always Seem to Lose NCAA Blame Game*, THE HOUSTON CHRONICLE, Mar. 1, 2003, at 2 (NCAA punishes innocent athletes while guilty parties walk free); Carol Slezak, *In His Defense*, CHICAGO SUN-TIMES, Sep. 15, 2002, at 117 (alleging NCAA contributed to University of Michigan student's infractions); Sam Smith, *NCAA's Stupidity Forcing Unprepared Players to NBA*, CHICAGO TRIBUNE, Dec. 17, 2000, at C15 (suggests that NCAA rules are ruining young NBA players); Nick Doty, *SI is Right, but NCAA to Blame*, MINNESOTA DAILY, June 16, 1999 (the NCAA and its rules are to blame for academic fraud at the University of Minnesota).

²⁴ NCAA Initial-Eligibility Clearinghouse, https://www.ncaaclearinghouse.net/ncaa/NCAA/student/index_student.html (last visited Jan. 25, 2005).

²⁵ Email from Lisa Mills, NCAA Associate Director of Membership Services (Jan. 11, 2006 2:13 PM) (on file with author) (for the 2005 graduating class the Clearinghouse started a total of 152,648 student files).

certifies or denies a student's eligibility based on that information.²⁶ If a student's eligibility is denied, the university at which that student intends to matriculate may assist the student by submitting a "waiver." The waiver essentially acts as an appeal, and the student's eligibility is reconsidered, with the Clearinghouse often weighing extenuating circumstances.

Although it makes inquiries into particular schools and their courses, the Clearinghouse does not perform accreditation of schools and is careful not to delve too deeply into specific course curriculum. Roughly six years ago, faced with mounting criticism, it adopted a plan that shifted the responsibility of certifying core course curriculum to school principals.

In 1999, the NCAA received pressure from the secondary school community to reform its initial-eligibility guidelines. This pressure resulted in a hearing before the House Committee on Education and Workforce, where strong testimony criticized the NCAA's attempts at gauging the sufficiency of high school coursework:

And who is the NCAA to over-rule[sic] courses acceptable to universities like Yale, the Air Force Academy, or Harvard? Should the NCAA judge which high school courses are appropriate for college preparation? The National Association of State Boards of Education says, absolutely not.... A year ago the NCAA asked every high school in the nation to send in a description of each of its English, Social Studies, Math and Science courses. The NCAA's Clearinghouse, operated by the American College Testing Service, would decide which courses were acceptable. Imagine judging each core academic course offered by every high school in the country. It's clear why it takes a long time to get a response from the NCAA.²⁷

Although Congress chose not to enact legislation on the matter, the Clearinghouse overhauled its core course system. Interestingly, seven years later the pendulum has made a full swing, and the

²⁶ To qualify for initial-eligibility, a student-athlete must possess a minimum level core course GPA and secure a qualifying SAT or ACT score.

²⁷ *Education and the Workforce Early Childhood, Youth, and Families Education Program Restructuring: Hearing Before the H. Comm. on Education and the Workforce*, 104th Cong. (1999) (statement of Joe Nathan, Ph.D. and Director, Center for School Change, University of Minnesota Humphrey Institute of Public Affairs).

NCAA now faces criticism for its lack of involvement in determining the sufficiency of high school coursework.²⁸

ACCREDITATION AS AN ASSESSMENT DEVICE

One might argue that accreditation should be used as a tool to ensure the validity of schools. This will not work. Since educational authority is constitutionally reserved to the States, accreditation policies vary greatly throughout the country. Furthermore, many states do not require schools or school districts to obtain accreditation, although all states do assess *public* schools in some manner.

Assessment of non-public schools varies to an even greater degree than does that of public schools. Under the Establishment Clause, federal and state governments are barred from (or are reluctant to) entering the realm of accrediting non-public schools. In addition, unlike higher education, where federal financial aid is contingent on accreditation, there is no federal control over non-public secondary schools. The use of accreditation as an evaluation tool, therefore, can realistically apply only to public schools, and fails to combat privately owned diploma mills.²⁹

COMBAT STRATEGIES

It is apparent that a solution to the diploma mill problem does not lie in the hands of one agency or association, but instead requires a combination of efforts. Although it can be expected that the NCAA will aid in stopping such abuse, its work can be enhanced with the help of both governmental intervention and assistance by membership institutions.³⁰ As noted previously,

²⁸ See, e.g., Ray Melick, *Colleges, Coaches Can Stop Diploma Mills*, BIRMINGHAM NEWS, Dec. 4, 2005, at 4C (criticizing NCAA's role in diploma mills); Jim Gordon, *The Anti-Fan: NCAA Should Have Seen This Coming*, SANTA FE NEW MEXICAN, Dec. 7, 2005, at B1 (NCAA criticized for approving correspondence courses).

²⁹ Fraudulent accreditation is a separate but important issue. Many correspondence schools have traditionally advertised their services as "accredited," even though accreditation had not been secured through reputable agencies.

³⁰ See generally Duff Wilson, *Florida School In Sports Case Will Shut Down Under Pressure*, N.Y. TIMES, Dec. 24, 2005, D1 (school closed under pressure from Florida State Attorney's office); Duff Wilson, *N.C.A.A. Calls for Investigation Into Correspondence School*, N.Y. TIMES, Dec. 1, 2005, at D4 (additional

correspondence school fraud has existed for many years and it is unrealistic to expect an immediate resolution. Nevertheless, several actions and plans can help reduce this renewed problem. Such actions include:

STATE AND FEDERAL GOVERNMENTAL ACTION

States must enact strong laws that target fraudulent schools and their operators, providing for criminal penalties. Collectively, states must work together to stop schools from migrating to those states with preferential laws. They must also provide deterrents to individuals hoping to capitalize from fraudulently obtained education credentials. Additionally, State Attorneys, General and Federal Investigators must make elimination of fraudulent schools a top priority. Until such groups take action to shut the doors of unlawful schools, this problem will continue to exist.

For example, the impact of such action is already being felt as state and federal agencies have joined the fray through a collaborative multiagency task force in Spokane, Washington (which includes the U.S. Attorney's Office, U.S. Secret Service agents, criminal investigators from the IRS, postal inspectors, the U.S. Bureau of Immigration and Customs Enforcement, the Washington State Attorney General's Office, and the Spokane Police Department³¹). This collective group recently concluded an investigation into several alleged Washington diploma mill operators.

One particular investigation led to the discovery of a Washington-based diploma mill which had generated \$4.7 million in fraudulent diploma sales. The investigation led to the arrest of eight persons associated with that operation and resulted in charges such as conspiracy to commit mail and wire fraud, and violation of the federal Foreign Corrupt Practices Act.³² Other fraudulent institutions involved in the investigation include Saint Regis University, Robertstown

steps proposed to combat diploma mills); Pete Thamel, *High School for Athletes Is Target of Florida Inquiry*, N.Y. TIMES, Nov. 29, 2005, at D2 (additional steps proposed to combat diploma mills).

³¹ Bill Morlin, *Agents visit diploma mill sites*, SPOKESMAN REVIEW, Aug. 12, 2005, A at 1.

³² Bill Morlin, *Fake Diplomas Sold Globally*, SPOKESMAN REVIEW, Mar. 10, 2006, B at 2.

University, James Monroe University, James Monroe University High School and Trinity Christian School.³³

Likewise, under NCAA request and in response to Thamel's November article detailing diploma mills and the fraud surrounding University High School, Florida state prosecutors initiated an investigation into illegal correspondence schools.³⁴ Just this past year, the Los Angeles County Department of Consumer Affairs, the State Attorney General's Office, and local law enforcement concluded a two-year investigation into "California Alternative High School," a fraudulent school that sold bogus degrees to many immigrants and foreign citizens. This particular investigation led to charges being filed by Attorneys General in Nebraska, Iowa, Arizona and Nevada.³⁵

Consequently, state legislators are introducing legislation specifically aimed at stopping diploma mill operators and deterring individuals looking to use fraudulent education credentials. For instance, Washington Governor Chris Gregoire recently signed into law a bill that specifically targets diploma mill operators and individuals using fake education credentials. Introduced by Senator Mark Schoesler, the law makes it a Class C felony to knowingly award phony academic credentials and a gross misdemeanor to knowingly use them.³⁶

It is important to emphasize that state action is not always an easy alternative as many diploma mills are labeled private or non-public schools, finding safe harbor under the legal premise of the "separation between church and state." For example, in the case involving the "California Alternative School," churches helped recruit students and in turn received kick-backs from the school's operator. Here, the school disguised its fraudulent institution and watered-down curriculum by affiliating it with a church.³⁷ The defendant in that case, Daniel Gossai noted that a

³³ *Id.*

³⁴ Duff Wilson, *Florida School Is Investigated By Prosecutor*, N.Y. Times, Dec. 2, 2005, Section D at 1.

³⁵ Jason Felch, *School Settles Suit Over Fake Diplomas*, L.A. TIMES, Mar. 19, 2005, Section B at 1.

³⁶ *Degree of certainty; Law will help eradicate fake academic credentials*; SPOKESMAN REVIEW, Mar. 30, 2006, B at 4 (editorial detailing legislative efforts aimed at stopping diploma mills).

³⁷ Felch, *supra* note 35.

California loophole existed that enabled him to operate his school. “[T]he state has no authority to regulate private schools and accreditation is voluntary.” Gossai went on to state, “This is not going to stop me... This cannot stop God's mission.”³⁸

From an educational perspective, states have been customarily reluctant to enter the territory of regulating non-public schools, which make it particularly difficult to eliminate these institutions. Additionally, because education is traditionally reserved to the states, all 50 states deal with non-public schools differently. Some have little to no regulation, while others attempt to keep a watchful eye. In Florida, non-public religious institutions operate esteemed schools and hold substantial political power.³⁹ There, the education department is not allowed to license, approve, accredit or regulate any non-public school.⁴⁰ Therefore, to stop diploma mills, states must rely on criminal statutes similar to the one recently adopted in Washington.

NCAA MEMBER INSTITUTION ADMISSION POLICIES

NCAA member institutions and tougher admission policies can help curb the diploma mill problem by scrutinizing student-athlete applications beyond current practice levels. Such scrutiny would entail special attention to coursework obtained from telecommunication, correspondence, or distance-learning secondary schools. Additionally, member institutions must refrain from admitting scholastically unprepared students in an effort to create athletically superior teams.

STRICTER NCAA CLEARINGHOUSE OVERSIGHT

The NCAA Clearinghouse should enact policies and procedures that call for tighter inspection of correspondence schools, including rigorous examination of such schools. Extra support staff may be required to provide such examinations. It is reasonable to expect that

³⁸ *Id.*

³⁹ Wilson, *supra* note 34.

⁴⁰ *Id.*

additional budgetary funds will be needed to assist with investigations. However, with the growing viability and importance of online education, eliminating the use of correspondence coursework cannot be a solution.

However, it should be noted that the NCAA has accepted its role at the center of this controversy and had initiated a reevaluation of its current eligibility process.⁴¹ Early in 2006, the NCAA convened a special panel to review recent trends in secondary-school education, particularly the impact of diploma mills, and how initial-eligibility standards can be better aligned to address the problem. This group detailed a number of possible solutions including:

Identifying prep schools that fall outside of state oversight or jurisdiction related to the quality and monitoring of the curricula, sorting out those schools that are not academically sound, and removing them from the list from which courses are accepted for review by the NCAA Initial-Eligibility Clearinghouse;

Limiting the number of NCAA-required core courses a student can take in his or her senior year of high school and beyond;

Examining the number of courses a high school student takes concurrently;

Considering whether to have testing agencies, such as ACT and SAT, send results directly to the Clearinghouse;

and Requiring prospects to register with the Clearinghouse before or during their first official campus visit.⁴²

Fortunately, the NCAA is not alone in their efforts to curb diploma mills, as some universities are now taking a stronger look at admission policies. For example, under mounting pressure over basketball players Omar Williams and Maureece Rice (who obtained diplomas through the allegedly fraudulent Lutheran Christian Academy in Philadelphia), George

⁴¹ *Eligibility panel plans prompt response to prep fraud issue*, THE NCAA NEWS, Vol. 43, No. 5, February 27, 2006, at 7; *See also*, NCAA news release, *Eligibility panel plans prompt response to prep fraud issue*, US FED NEWS, February 27, 2006, ("At some point, we have to say that this is a joint effort among the NCAA, universities and colleges, secondary educators, state and federal government, and many others ... [t]here is a certain responsibility that rests with our schools and many other organizations," J. Bernard Machen, President of the University of Florida).

⁴² *Id.*

Washington University president Stephen Joel Trachtenberg, announced that an internal review of the school's admission policies has been initiated.⁴³

CONGRESSIONAL OVERSIGHT

With varying state education regulations, the interstate and international nature of the business, and the large revenues generated by diploma mills, Congressional oversight may also be needed. Congress should consider enacting legislation that specifically targets fraudulent schools and provides particular direction for the federal prosecution of such illegal action. At the least, it should be expected that Congress has the power to bring awareness to this problem by holding hearings on this matter and make elimination of this problem a national priority.

REVIEW BY STATE DEPARTMENTS OF EDUCATION

State Education Departments must be aware that diploma mills will be used by young high school students to dodge high school eligibility rules. State officials must recognize that this problem is not exclusive to only those students obtaining correspondence credit for college eligibility. It is highly probable that high school students will attempt to use correspondence resources to ensure their eligibility for high school activities. State officials must enact policies that aid secondary school administrators in dealing with this problem.

CONCLUSION

Simply put, student-athletes in pursuit of athletic stardom, and those in position to gain from such individuals, will continue to use all possible means, both legitimate and illegitimate, in efforts to gain entrance to the courts and fields of intercollegiate play. Thus, with the added convenience of the Internet, diploma mills have been given a new life.

⁴³ Dan Steinberg, *Review Ordered At GW; Admissions Process For Athletes at Issue*, WASH. POST, Mar, 11, 2006, at Sports, E09 (George Washington University President Trachtenberg launches a review of the school's academic admissions process for athletes in response to a newspaper report questioning the academic background of the school's basketball players).

Therefore, innovations in technology now require new methods of policing, and both the educational sector and government, in addition to athletic organizations, must address this problem together. Unfortunately, accounts of academic fraud will continue to surface until collective action is equally assumed by the groups mentioned previously.

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