During the summer leading up to the 2010 collegiate football season, the University of North Carolina at Chapel Hill (UNC) football program was preparing for a breakout season. The Tar Heels possessed a highly ranked defense that included four football student-athletes projected as first-round National Football League (NFL) picks and four All-Atlantic Coast Conference (ACC) selections. However, when the Tar Heels faced the Louisiana State University (LSU) Tigers for their season opener on September 4, 2010, the UNC athletic department withheld 12 UNC student-athletes from the game. The suspensions were in reaction to allegations that some UNC football student-athletes broke National Collegiate Athletic Association (NCAA) bylaws regarding improper contact with sports agents and improper benefits. Over the course of the season the UNC athletic department decided to withhold 14 student-athletes from one or more games and seven student-athletes for the entire season. None of the 14 student-athletes were afforded an attorney or a procedural hearing prior to being suspended by the school, declared ineligible by the NCAA and UNC, or permanently banned by the NCAA.

The Fifth and Fourteenth amendments guarantee due process. Due process is the principle that the government must respect all of the legal rights owed to a person. The due process clause prohibits state and local governments from depriving persons of life, liberty, or property without recognizing certain substantive and procedural rights. A violation of individual rights typically involves deprivation of individual property or liberty interests. Protected property interests refer to a thing for which an individual has a claim of entitlement. Liberty interests consist of deprivations of certain basic liberties such as an individuals’ reputation. The lack of procedural rights for student-athletes prior to a declaration of ineligibility, during the investigation, and during the reinstatement and appeal processes are major criticisms of the NCAA. However, because NCAA member institutions actually withhold student-athletes from competition, and are public universities and state actors, athletic departments should be concerned about the ramifications of their failure to provide student-athletes with due process when they are the targets of NCAA investigations.

In the UNC investigation, one student-athlete was eventually exonerated of violating NCAA bylaws and another filed an injunction to have his athletic eligibility restored. Both football student-athletes are considering further legal action against UNC. In addition to the legal ramifications, failure to provide due process may impact recruiting and consequently the future quality of the university’s top revenue-generating sport. Student-athlete due process should be a primary concern for collegiate sport leaders and managers. In particular, collegiate sport leaders and managers need to be concerned with the conflict of interest between self-sanctioning for alleged NCAA violations, their relationships with current student-athletes, and the football program’s reputation among future recruits.

This presentation will explore the legal history of due process in collegiate sports. In particular, the talk will explore: a) what happened in the UNC investigation, b) is a student-athletes’ education a property right?, c) is a student-athletes’ reputation a liberty interest?, and d) were the UNC football student-athletes, accused of academic fraud, deprived of their rights, interests, and/or due process. To conclude, the presenter will ponder the potential legal implications when athletic departments fail to provide due process and the potential NCAA consequences when athletic departments decide to provide student-athletes due process.