

**Faculty Board on Athletics  
Meeting of February 26, 2018  
11:45 pm-1:15 pm, 500 Main Building**

Members present: Patricia Bellia (Chair), Corey Angst, Jaimie Bleck, Ann Firth, Erin Hoffman Harding, Patrick Holmes, Daniel Kelly, Mary Ann McDowell, Susan Ohmer, F. Clark Power, Michael Stanistic, Jack Swarbrick, Kevin Vaughan

Members excused: James Brockmole, Cameasha Turner

Athletics Liaisons: Jill Bodensteiner, Missy Conboy, Mike Harrity, Beth Hunter, Heidi Uebelhor

Guests: Claire Leatherwood Slebonick (recorder)

**1. Opening Prayer**

Professor Patricia Bellia called the meeting to order at 11:51 am and invited Professor Michael Stanistic to offer the opening prayer.

**2. Minutes of meeting of January 26, 2018**

With a few minor changes suggested by Mr. Patrick Holmes, the Board unanimously approved the minutes of the January 26, 2018, meeting.

**3. Chair's Announcements**

*Schedules.* Professor Bellia announced that she approved post-season schedules and attendant class misses for the following programs: Men's and Women's Indoor Track & Field for the ACC Championships, Men's and Women's Fencing for the ACC Championships, Men's and Women's Basketball for their respective upcoming ACC tournaments, and Men's and Women's Swimming & Diving for both the ACC and NCAA Championships.

*Captaincy Approvals.* Professor Bellia announced her approval on the Board's behalf for three captaincies: Men's and Women's Track and Field and Men's Lacrosse. There were no significant issues with the nominees.

**4. NCAA Infractions Matter**

Professor Bellia called the Board's attention to the release of the university's recent NCAA Infractions decision and the public letter Father John Jenkins issued in

response to the decision. Professor Bellia highlighted elements of Father John's letter that referenced a commitment to working with the NCAA through its legislative process on improvements to the system and noted that the surrounding press coverage focused more on that than on the decision itself.

In response to a question from Professor Corey Angst, Professor Bellia indicated further steps on this issue will be limited to legislative reforms.

Professor Bellia invited Ms. Jill Bodensteiner to comment on the technical exercise of vacating the records in question. Ms. Bodensteiner explained how Notre Dame's record is changing from 12-1 to 0-0 for the 2012 season and from 9-4 to 0-4 for the 2013 season; the difference in the loss totals is due to how to vacation of losses in the post-season versus the regular season is calculated. Ms. Bodensteiner described the process of adding asterisks to records and developing the language to include in the asterisk. She stated that Notre Dame must remove any public references to the original record and noted the private, rather than public, nature of much of the Guglielmino Athletics Complex. Ms. Bodensteiner offered that the Athletics Department is changing all media guides and archives.

In response to a question from Professor Daniel Kelly, Mr. Swarbrick stated that Father John's letter was sent directly to chair of the NCAA Board of Governors, the NCAA president, and the Chair of the Commission on College Basketball (Commission), and noted that the letter has been widely read throughout the membership.

Replying to a comment from Professor F. Clark Power, Mr. Swarbrick reported that the university has an opportunity to discuss the legislative reforms contemplated in Father John's letter in a meaningful environment through his appointment to the Commission. Mr. Swarbrick also noted that Mr. Mark Emmert, president of the NCAA, has reiterated his commitment to accepting the Commission's recommendations.

In reply to a question from Professor Power regarding the role of the faculty in considering Notre Dame's Honor Code, Professor Mary Ann McDowell stated that Hugh Page, Vice President and Assistant Provost for Undergraduate Affairs, has been shepherding potential changes to the Honor Code. Professor Bellia noted that this work is an on-going effort, with recent increased urgency, and reported that she met with Mr. Brian Guarraci, Assistant General Counsel, on this matter a few weeks ago.

Mr. Swabrick offered that he sees this issue as a two-part question, one related to the Honor Code itself, and with the second related to the way Notre Dame students choose to interact with the Honor Code. He offered that universities, collectively, face the same challenges across their entire student bodies on the latter part of this issue.

Professor Bellia shared one of the things that emerged from investigation is the danger of faculty members re-using prior testing materials (i.e., exams, quizzes, and tests) without adequately updating the material. She shared that this occurred generally, not exclusively with athletics. Professor Bellia stated that the faculty needs to be more diligent in regards to re-using material.

In response to a question from Professor Susan Ohmer, Professor Bellia reported that the information related to the faculty's re-use of prior testing materials was conveyed to the Academic Code and Policy Committee, with a request that the assistant and associate deans on that group take that information back to their faculty.

## **5. NCAA and Legislative Updates**

*FBI Men's Basketball probe.* Professor Bellia asked Ms. Bodensteiner to provide additional information and context surrounding the inclusion of a former student-athlete in a recently published article on the FBI's Men's Basketball probe. While noting the currently available information indicates no NCAA violations occurred with this former student-athlete, Ms. Bodensteiner offered additional information regarding the facts that led to the former student-athlete's inclusion in the article as well as a brief explanation of the NCAA rules at play.

*Transfer Working Group.* Professor Bellia introduced the topic by sharing that NCAA representatives would be on campus to discuss the Transfer Working Group's proposals and concepts on Tuesday, March 6, 2018, and that the Board would have the opportunity to participate in a session with these representatives. Professor Bellia invited Ms. Bodensteiner to provide additional details surrounding these concepts as well as the session.

Ms. Bodensteiner identified Kevin Lennon, Vice President for Division I Governance, and Jenn Fraser, Director of Division I Governance, as the two NCAA representatives scheduled to join these meetings and provided additional details related to the session to which the Board is invited, encouraging the Board to join the conversation.

Ms. Bodensteiner gave a brief overview of the day's agenda and highlighted the underlying competing interests contributing to conversation surrounding transfer reform. Ms. Bodensteiner described two concepts currently under discussion: (1) the concept that rather than seeking permission for other schools to contact the student regarding a transfer, a student should be able to provide notice of an intent to transfer (a concept that raises questions about whether and when a student seeking to transfer will lose his or her athletics grant-in-aid); and (2) a possible change regarding the timing of when a student-athlete may compete after transferring.

Ms. Bodensteiner described the first concept, that is, the Notice of Transfer concept, and its nuances, including some of the undetermined elements. Ms. Bodensteiner explained the relevant NCAA bylaws, most notably the tampering rules, and emphasized that one of the driving factors with this concept is that many student-athletes will not share with their coaching staff that they are exploring transfer options until the student-athletes know where they will matriculate. Ms. Bodensteiner explained how this element invites third parties, such as club coaches, into the negotiations. She also described the logistical issues surrounding the timing of when an athletics grant-in-aid could be reduced, cancelled, or non-renewed as it relates to transfer requests. Ms. Bodensteiner answered several questions on this concept.

Ms. Bodensteiner discussed the second concept, which focuses on when a student-athlete can compete after he or she transfers. She explained the current rule, including the one-time transfer exception and its uneven applicability across sports. Ms. Bodensteiner stated the proposed rule, which links the ability to play with academic benchmarks. Ms. Bodensteiner noted several other elements of this concept, including the variance in academic rigor between different institutions as well as between academic programs within a single institution. Ms. Bodensteiner described the discussion points surrounding the prospective student-athlete's desire to transfer once his or her head coach separates from the institution but before the student-athlete enrolls at the institution. Ms. Bodensteiner took several questions on this topic, particularly around the academic benchmarks linked to whether or not a student-athlete may compete upon transferring.

Ms. Bodensteiner shared that the goal of the March 6 meetings with Mr. Lennon and Ms. Fraser is to raise points such as the Board just raised and to discuss those considerations.

Ms. Bodensteiner stated that the majority of the current transfer reform discussions are focused on undergraduates but forecasted that much of the coming conversation over the next several months would probably center around graduate student transfers. Ms. Bodensteiner shared that many in the membership think the graduation rate of graduate students is too low, highlighted some early concepts around this point, and shared Board members' concerns that less restrictive means, as compared to the early concepts, may achieve the same purpose.

Ms. Bodensteiner shared that the Compliance office is working on alternatives for the group to consider during the March 6 meetings and that she will share with those with the Board, along with other relevant material, prior to the March 6 meetings.

Professor Bellia reported that she, Mr. Holmes, and Ms. Claire Leatherwood Slebonick met with Laura Carlson, Vice President and Associate Provost, regarding unclassified graduate student-athletes and their relationship to the Board's policies regarding the use of a fifth year of eligibility. Professor Bellia said that she planned to

provide a full report to the Academic Integrity Subcommittee, while highlighting that Ms. Carlson supported the exploratory philosophy inherent in many unclassified graduate students' class choices. Mr. Holmes supported these statements. Ms. Bodensteiner offered an example of the academic merits of being an unclassified graduate student for one of Notre Dame's current graduate student-athletes.

In response to a question about the Notice of Transfer concept, Ms. Bodensteiner stated that the critical piece with this proposal relates to finding the appropriate balance between the student-athlete's ability to explore compared to the program's ability to manage its roster. Ms. Heidi Uebelhor reported that the Notice of Transfer concept, along with supporting legislative pieces, is in the NCAA's legislative cycle for an April 2018 vote. Ms. Bodensteiner shared that additional pieces of this transfer legislative package received a special dispensation from the legislative timeline, allowing them to be voted on in June 2018.

Mr. Swarbrick emphasized the complicated nature of these issues as well as the host of implications emanating from any changes to the current legislation, including the probably dramatic increase in the number of student-athletes who will transfer. Mr. Swarbrick noted the potential impact on the Notre Dame experience and the coaches' ability to recruit, among other things. In response to a question from Professor Bellia, Mr. Swarbrick said he anticipates more transfers out of Notre Dame than in to Notre Dame if this legislation passes. Professor Bellia commented that institutional policy surrounding transfer credits does not lend itself to as many transfer credits being accepted at Notre Dame, which may factor in to a student-athlete's decision not to transfer to Notre Dame, to which Mr. Swarbrick concurred. Discussion among the Board followed regarding progress-toward-degree rules and their relationship to these transfer concepts.

Professor Bellia ended this conversation by reiterating the invitation to the Board to attend March 6 meeting and encouraging them to do so.

*Early Recruiting.* Professor Bellia invited Ms. Uebelhor to discuss current legislative proposals related early recruiting.

Ms. Uebelhor delineated which of these proposals will be voted on in April 2018. She provided a definition of terms with a brief discussion of the relevant existing NCAA bylaws. Ms. Uebelhor described proposals relating to the timing of communications between coaches and prospective student-athletes, the timing of unofficial visits, and the prohibition of recruiting conversations at camps prior to a prospective student-athlete's junior year in high school. All of these proposals are designed to curb early recruiting.

Ms. Uebelhor provided context on the origin of these proposals, noting some had been piloted by men's and women's lacrosse over the last academic year, with softball

coaches and the NCAA's Student-Athlete Experience Committee leading the current push.

In reply to a question from Professor Bellia, Ms. Uebelhor provided an example of how a coach handles a call, email, or other communication from a prospect to whom a coach cannot respond because of age restrictions in NCAA recruiting rules.

A discussion surrounding the official and unofficial visits ensued, with Ms. Uebelhor and Ms. Bodensteiner providing a brief description of the current rules as well as the implications of the proposed rules. Ms. Uebelhor described two different options on this issue: (i) the prohibition of unofficial visits prior to September 1 of a prospective student-athlete's junior year in high school; or (ii) the prohibition of both official and unofficial visits prior to September 1 of a prospective student-athlete's junior year in high school. Ms. Uebelhor offered additional information on parties advocating for either option. In response to a comment from Professor Bellia, Ms. Uebelhor noted several reasons advocates give for the proposed shift in timing: (i) to better financially support lower resourced prospective student-athletes; and (ii) the early commitments from prospective student-athletes often render the official visits irrelevant to the decision-making process.

Replying to a question from Professor Bellia, Ms. Uebelhor commented on the implementation of similar rules in the sport of lacrosse and highlighted several issues, including the immediate effective date and group tours of facilities or group admissions to games (e.g., high school teams). Ms. Uebelhor noted that the lacrosse example has proven helpful as these proposals are vetted on a broader scale. In response to a question from Ms. Beth Hunter, Ms. Uebelhor described how, under these new rules, high school groups attending lacrosse games can purchase tickets in bulk but cannot be put on a pass list.

Ms. Bodensteiner emphasized that early recruiting issues inform and implicate transfer conversations, because recruits who commit too early may find themselves transferring.

In response to a question from Professor Kelly in which he noted the power of club coaches, Ms. Uebelhor stated that the ability of club coaches to communicate with college coaches on behalf of student-athletes is commonly known. Replying to questions from Ms. Missy Conboy and Mr. Holmes, Ms. Uebelhor answered that the NCAA does not regulate verbal commitments and described the general rule allowing coaches to speak with prospective student-athletes if the prospective student-athlete initiates the call. Mr. Swarbrick commented that while much of the focus is appropriately on early recruiting, the disassociation of youth sports from schools as well as the frequent and significant financial investment into youth sports are connected and important issues.

In response to questions from Professor Power, Ms. Bodensteiner stated that camps are a recruiting tool in some sports, and Ms. Uebelhor explained the rules regulating the payment of camp fees. A discussion ensued surrounding the cost of youth sports, including a specific program offered by Notre Dame, relevant NCAA rules, and the impact of third parties on the recruiting process.

## **6. Draft Statement of Principles**

Professor Bellia discussed the current draft of the Statement of Principles along with the Board's comments. Professor Bellia highlighted two additional concepts to be added to the draft, including a twelfth principle and a concept on risk, stating that any other changes will be fairly minor.

Professor Bellia described the procedural next steps as the Board considered whether or not to endorse this draft through a vote. In response to a request from Professor Ohmer to have the yet-to-be written twelfth principle in hand, Professor Bellia asked if further review could be limited to the twelfth principle. After a discussion, the Board decided to vote on everything other than principle twelve during the February 26, 2018, meeting with an email vote on principle twelve to follow in the coming weeks.

In response to a question from Professor Clark about a principle that had been removed from the original draft, Professor Bellia explained that the removed statement was now part of principle nine. Professor Bellia offered a modification of the principle to clarify Professor Clark's point.

With that change, the Board unanimously voted to approve the draft. Professor Bellia concluded this discussion by stating she would send principle twelve via email for a vote once it is ready.

## **7. Subcommittee Reports**

Noting that the allotted time for this meeting was drawing to a close, Professor Bellia tabled discussion of the Class Miss report and the Academic Integrity Subcommittee report until a future meeting.

*Student Welfare.* Professor Bellia shared the Student Welfare Subcommittee's report from their meeting with Ms. Amanda Hall, Associate Director of Compliance, regarding the implementation of the many facets of the time management legislation. Professor Bellia stated that the Student Welfare Subcommittee was comfortable with the way the Athletics Department is proceeding on this front.

## **8. Adjournment**

With a note to expect additional details on the March 6 meeting and newly named Women's Soccer Head Coach Nate Norman on the April 13, 2018, meeting, Professor Bellia adjourned the meeting at 1:05 pm.