

**Faculty Board on Athletics  
Meeting of February 24, 2017  
12:30pm - 2:00pm, 2172 Eck Hall of Law**

Members present: Patricia Bellia (Chair), James Brockmole, Ann Firth, John Gaski, Patrick Holmes, Dan Kelly, Sean Kelsey, Mary Ann McDowell, Susan Ohmer, Jaime Pensado, Michael Stanistic, Jack Swarbrick, Kevin Vaughan

Members excused: Alexa Baltes, Erin Hoffmann Harding

Athletics Liaisons: Jill Bodensteiner, Missy Conboy, Michael Harrity

Guests: Heidi Uebelhor, Athletics Compliance, Claire Leatherwood Slebonick (recorder)

**1. Call to Order and Opening Prayer**

Professor Bellia called the meeting to order and offered the opening prayer.

**2. Minutes of Meeting of December 12, 2016**

After requesting two minor changes, the Faculty Board on Athletics (Board) unanimously approved the minutes of the December 12, 2016, meeting.

**3. Chair's Announcements**

Professor Bellia announced that she had approved the following schedules on the Board's behalf since the last Board meeting: the men's and women's outdoor track and field schedule, the men's lacrosse schedule for the spring semester, a revised schedule for softball, and a revised schedule for men's and women's fencing. Professor Bellia noted that she had approved post-season competition for the men's and women's indoor track and field teams. She discussed that even though the ACC Indoor Track and Field Championships are taking place on Notre Dame's campus, some class misses are still required based on when individual events are scheduled. Professor Bellia stated that she approved post-season competition for the men's and women's swimming and diving teams, and noted that the re-siting of the ACC championships from North Carolina to Georgia as part of the ACC's response to the passage of HB2 necessitated one more class miss day than is typical. Mr. Swarbrick stated that such disruptions may well continue into the future. The location of conference championships in future years will be determined sometime this spring.

Professor Bellia announced that she approved a captain for softball and approved a slate of captains for men's lacrosse, from which the team elected four captains. She noted that she vetted the slate of men's lacrosse captains with the Office of Community Standards before the vote, and there was nothing unusual in any of the student-athletes' disciplinary histories.

Professor Bellia outlined the Reading Day reports for men's and women's basketball. Professor Bellia reminded the Board of the requirements to which a team must adhere when it competes on a Reading Day and summarized how each team complied with those requirements. Additionally, Professor Bellia noted that the teams' academic counselors confirmed that the coaching staffs cooperated with the scheduling of mandatory study blocks. The counselors perceived no adverse academic impact from the Reading Day competitions.

Professor Bellia then announced that the ACC awarded four student-athletes post-graduate scholarships. Notre Dame will honor the recipients at the men's basketball game on the upcoming Wednesday. Three students—Kayleigh Olmstead, Lee Kiefer, and Corey Robinson—received a monetary award of \$5000 each toward their graduate studies. Sergio Perkovic received an honorary award, rather than a scholarship, because he does not intend to pursue graduate work immediately.

#### **4. NCAA Education (Jill Bodensteiner and Heidi Uebelhor)**

Professor Bellia then invited Ms. Bodensteiner and Ms. Uebelhor to provide the NCAA education required as part of the University of Notre Dame's penalties in its recent Committee on Infractions (COI) case.

Ms. Bodensteiner thanked Professor Bellia and updated the Board on the required penalties from the COI's decision, including: public reprimand and censure; the disassociation from Athletics, but not all of Notre Dame, of the former student-athlete trainer; and probation. Ms. Bodensteiner noted that she and members of her staff have met with many of the affected groups on campus to educate them regarding their responsibilities in relation to the disassociation penalty, including people in development, ticketing, game management, and the Monogram Club.

Ms. Bodensteiner described the impact of the probation penalty. She detailed the heightened impact of any violations that occur while Notre Dame is on probation, the requirement to notify any prospective football student-athlete of the fact that Notre Dame Athletics is on probation, the requirement to notify the public of the probation, and the requirement to implement a comprehensive educational program for on-campus constituents. Ms. Bodensteiner described the notification sent to prospective football student-athletes and shared the version of the public notification hosted on und.com. In response to a question from Professor McDowell, Ms. Bodensteiner replied that she did not know the number of hits that the public notification website had received.

Ms. Uebelhor joined Ms. Bodensteiner in outlining the ongoing comprehensive educational efforts. Ms. Bodensteiner noted the vacation of individual records penalty and the monetary fine, before concluding the discussion of probation by describing its final element: a letter from the president of Notre Dame to the COI certifying that Notre Dame complied with all elements of its probation, accompanied by a report detailing said compliance. Ms. Bodensteiner's final comment pointed out that the foregoing penalties are in full effect while Notre Dame appeals the vacation of team records penalty.

Ms. Bodensteiner described the educational efforts in greater depth, outlining to which campus groups various athletics staff members, including Ms. Uebelhor, Ms. Bodensteiner, and Mr. Swarbrick, had provided educational sessions. Ms. Bodensteiner reported on a well attended Town Hall meeting in the Department of Athletics at which both Father John Jenkins, President of Notre Dame, and Mr. Swarbrick detailed their expectations of integrity, candor, and adherence to Notre Dame's values. Ms. Bodensteiner described educational sessions Ms. Uebelhor and Mr. Holmes conducted for all Academic Services for Student-Athletes (ASSA) student tutors and mentors, and ongoing sessions for the college Honesty Committees and Writing Center personnel that Ms. Uebelhor is conducting. Ms. Bodensteiner noted that today's discussion serves as the educational session for the Board and that Mr. Swarbrick presented to the entire football team last night. Ms. Bodensteiner also listed an upcoming meeting she has with the football staff.

In response to a question from Professor Kelly, Ms. Uebelhor responded that she has emphasized three things in her educational sessions: the culture of compliance, shared responsibility, and candor. She also reported that she has emphasized that the bar is higher for student-athletes because of the potential to have both an Honor Code and an NCAA violation stemming from the same underlying conduct. Ms. Uebelhor also described her discussion of extra benefits, both academic and otherwise. Ms. Bodensteiner added that, given the involvement of a student trainer in the underlying violation, the sports performance staff deserves a special educational session. Ms. Uebelhor will also educate all Department of Athletics student employees and will meet in person with all basketball and football student managers.

In response to a question from Professor Brockmole regarding the maintenance of the educational program into future years, Ms. Bodensteiner replied that the NCAA enforcement staff and COI found that Notre Dame already had a comprehensive educational program in place. Ms. Bodensteiner gave examples of the pre-existing and ongoing comprehensive educational plan, such as Ms. Uebelhor's regular presence in ASSA staff meetings and the educational sessions she conducts, along with ASSA staff members, for tutors, mentors, and Writing Center staff. In addition to describing what the current educational program does well, Ms. Bodensteiner also highlighted certain elements of the educational program that need to be improved, including the normalizing of working deans' educational sessions.

Professor Bellia noted the confusion regarding the definition of the term "working dean" and encouraged Ms. Bodensteiner to be broad in the selection of this group. A discussion ensued among Professors Brockmole and Bellia on how Ms. Bodensteiner and staff could best reach all working deans.

In response to a question from Ms. Conboy, Board members emphasized the need to educate a larger group of faculty. Professor Bellia supported education on this topic for a larger group of faculty beyond the working deans and Professor McDowell suggested that a presentation to the Faculty Senate, with its accompanying distribution of information to all faculty, would be an effective way to educate the faculty at-large. In response to a question posed by Ms. Bodensteiner, both Professors McDowell and Ohmer replied that the faculty would have an interest in learning about the case.

Ms. Bodenseiner thanked the group for their feedback and then turned the Board's attention to the substance of the current academic misconduct legislation. She noted that the NCAA membership adopted this legislation in 2016; the prior version of the legislation applied to Notre Dame's academic misconduct case.

The new legislation first asks whether an instance of academic dishonesty violated an institution's own academic honor code. If it did, and the conduct involved the alteration or falsification of an academic record, involved the participation of an institutional staff member or a representative of the institution's athletic interests, or led to a student-athlete competing or receiving aid based on an erroneous declaration of eligibility, then the conduct must be reported as an NCAA violation. If an instance of academic dishonesty did not violate the institution's academic honor code, the conduct must be reported to as an NCAA violation only if the underlying assistance involved all of the following: (1) substantial academic assistance; (2) not generally available to institution's students; (3) not permissible under Bylaw 16.3 (governing academic services to student-athletes); (4) provided by current or former institutional staff or representative of athletics interests; and (5) resulting in a certification of eligibility.

Ms. Bodensteiner emphasized the narrower definition of institutional staff member included in the 2016 legislation compared with the prior version. Under the pre-2016 version, student employees were considered institutional staff members. Under the current version, a student employee is excluded from the institutional staff member definition unless his or her job responsibility includes providing academic support to student-athletes or he or she acts at the direction of a non-student institutional staff member.

In response to a question from Professor Bellia regarding whether or not there was clarity yet on how an institution is to determine whether impermissible academic assistance resulted in a certification of eligibility, Ms. Bodensteiner said that there was no clarity yet from the NCAA. Both agreed that this lack of clarity could lead institutions to implement a statute of limitations in their honor codes.

Ms. Conboy noted the strict liability element of the erroneous certification, emphasizing that multiple voices pushed for this element to be fraudulent certification rather than erroneous certification. Mr. Swarbrick stated that while he agrees the new academic misconduct legislation is an improvement, he still believes it is an intrusion into the academic autonomy of the institution. In response to comments from Professors Bellia and Ohmer, Mr. Swarbrick stated that the only way to protect the institution under this new academic misconduct legislation is to ensure that there is a flow of information concerning honor code allegations to the Athletics Compliance Office, but that this practice would be troubling.

Professor Ohmer emphasized that she believes the faculty at large needs increased education on this topic and asked additional questions about the definition of representatives of athletic interests. Ms. Bodensteiner provided examples to more clearly describe those who fall within this category.

In response to a question from Professor Gaski about how there could be an NCAA violation for extra benefits if the benefit was available to non-student-athletes, Professor Bellia, along with several others, replied that Notre Dame made that argument to the NCAA enforcement staff. Neither the enforcement staff nor the COI found it to be compelling.

In response to questions from Ms. Conboy and Mr. Holmes, Professor Bellia stated that the new academic misconduct legislation would not require Notre Dame to undertake the same investigation today that it conducted for the allegations that surfaced in 2014.

Ms. Bodensteiner thanked the Board for its time.

## **5. Academic Reports (Pat Holmes)**

Professor Bellia invited Mr. Holmes to discuss the academic reports carried over from the previous meeting.

Mr. Holmes thanked Professor Bellia and began to discuss the reports presented to the Board, noting that the overall trend for cumulative student-athlete GPAs is increasing. Mr. Holmes stated that the GPA from spring 2016 was a little lower than expected given the fall 2015 numbers. Mr. Holmes observed that, in effect, sixty percent of Notre Dame teams performed better academically while in their championship season during the 15-16 academic year, which is in line with previous years. Mr. Holmes highlighted the highest academically performing teams, including rowing, women's golf, and both genders of soccer, tennis, and indoor and outdoor track and field.

Mr. Holmes directed the Board's attention to the second page, which gathers several five-year trends. After discussing the trends, Mr. Holmes turned the Board's attention to the fall 2015 and spring 2016 data. He noted that the probation numbers for spring 2016 were a little bit higher than usual, but explained that the overall number was inflated because it included three people who graduated while on probation. Mr. Holmes further noted the higher than usual number of teams that had a student-athlete on academic probation after the spring semester. He described steps his office took to investigate what caused the increase in the number of student-athletes on probation. Mr. Holmes then invited questions.

Professor Bellia asked Mr. Holmes to expound upon the probation issue. Prior to Mr. Holmes replying, Mr. Swarbrick offered the observation that mental health issues frequently play a part in students ending up on academic probation. Mr. Holmes agreed that it is certainly a part of it and, in response to a question from Ms. Bodensteiner, confirmed that one cause for the increased numbers of those on academic probation is that the certain academically strong student-athletes were overwhelmed in difficult academic programs in Engineering or Business.

In response to a question from Professor McDowell, Mr. Holmes noted that many student-athletes use first year quantitative classes as indicators of future success in the Mendoza College of Business. Professor McDowell asked if there was a way to provide extra, focused

help on quantitative skills for those student-athletes who are in the summer bridge program, in response to which Mr. Holmes detailed some of the steps his office has taken in this area.

Professor Brockmole asked how much Mr. Holmes expected enrollment in quantitative classes may change given that calculus will no longer be a required course, to which Mr. Holmes replied that he believes the Mendoza College of Business will still require calculus. In response to a question from Professor Kelly, Mr. Holmes stated that he does not believe student-athletes being put on probation will dissuade other student-athletes from attempting a difficult major.

In response to a question from Professor Bellia about whether he sees any resource gaps, Mr. Holmes described the key pieces of support necessary to student-athletes' success. ASSA seeks to make sure that there are effective resources, targeting a wide range of ability levels, and that a collaborative effort exists among ASSA, faculty, college advising offices, and coaching staffs to track student engagement. Mr. Holmes noted a couple of changes in the past two years that have enhanced the tracking process. The Department of Athletics introduced a case management process to promote more regular interaction (by team) among staff members who have a direct working relationship with the student-athletes. This process has been critical in identifying potential problems earlier and heading off difficulties. Mr. Holmes also stated that early and regular faculty feedback on individual students is critical to the tracking process. ASSA recently introduced an online portal to increase faculty feedback.

Professor Ohmer added a personal anecdote about her experience using the professor feedback form Mr. Holmes mentioned, noting the response from ASSA was within two hours.

Professor Bellia thanked Mr. Holmes for his report.

Ms. Conboy, referencing Mr. Swarbrick's earlier comments regarding mental health concerns, asked about additional research on mental health concerns and academic performance. Mr. Swarbrick stated that sometimes Athletics knows about a mental health concern through the case management meetings or other avenues, but that frequently Athletics never knows of student-athletes who avail themselves of campus mental health resources.

Professor Bellia thanked Mr. Holmes again and referred Board members to him if they had additional questions.

## **6. Requests for Waiver of On-Campus Housing Requirement**

Professor Bellia noted the short amount of time left to conclude the meeting within its scheduled timeframe and focused the Board's attention on the requests for waivers of the on-campus housing requirement.

Professor Bellia described the first request, from a women's soccer player, who is in a situation similar to that of an early enrollee by virtue of taking a leave of absence last semester to compete for the U.S. national team. The Student-Athlete Subcommittee unanimously voted to recommend that the Board approve this request. Professor Bellia then suggested that this request be bundled with the second one, a request from a volleyball player who was an early enrollee.

Professor Gaski moved that the Board approve these requests. Multiple members seconded the motion, which passed unanimously.

Professor Bellia described the more complicated facts of the third request for a waiver, highlighting a medical issue that led University Health Services (UHS) to provide a recommendation that this student-athlete would benefit from alternative housing. Professor Bellia then described the facts of the fourth request, which also involved a medical condition that led UHS to recommend that the student-athlete would benefit from alternative housing.

Professor Bellia highlighted an issue that she had presented in a lengthy e-mail (included in the meeting materials) to the Student Welfare Subcommittee. The crux of the question underlying some of the medical requests is whether students petitioning to move off-campus because of medical issues should have to exhaust on-campus housing options. In the third case, the student-athlete resides in an air-conditioned dorm, so it is unlikely that a change to a different dorm will improve her medical condition. In the fourth case, however, the student does not reside in an air-conditioned dorm, and the question is whether the Board ought to require a student to try an air-conditioned dorm (assuming one is available) before considering a waiver permitting him to move off-campus.

A discussion followed, including commentary on how a non-student-athlete would navigate this situation. Professor Kelsey said that his instinct is that an exhaustion policy would likely cause the student to move twice, which seems to be a burden. Professor Bellia read an email from Ms. Erin Hoffmann Harding, who was unable to attend the meeting, in order to share her support of requiring these students to exhaust their on-campus options.

Additional conversation followed, including about whether or not to vote on these requests separately, how the Board should handle medical determinations in relation to waiver requests, and the particulars of these individual cases.

Mr. Swarbrick offered a student-athlete perspective, drawn from his observations at a Student-Athlete Advisory Council meeting, that this rule treats student-athletes differently than non-student-athletes and, furthermore, treats grant-in-aid student-athletes differently than non-grant-in-aid student-athletes.

As Professor Bellia noted the potential loss of the quorum, Professor Gaski moved that the third case be approved. Professor Ohmer seconded the motion. The Board unanimously approved the waiver request.

Regarding the fourth waiver request, Professor Gaski asked if the Board's policy requires the student to seek an air-conditioned room on-campus. Professor Bellia stated that Board's policy does not currently impose such a requirement. Professor Bellia proposed that she reach out to the Office of Disabilities and ask Scott Howland to contact the treating physician for any additional information that might shed light on whether an alternative on-campus option would benefit the student-athlete. In concluding this discussion, Professor Bellia noted the upcoming housing deadline and apologized for not leaving more time for the Board to discuss the request fully.

**7. Adjournment**

Professor Bellia adjourned the meeting at 2:05 p.m.