

**Faculty Board on Athletics  
Meeting of February 6, 2015  
11:30 am-1:30 pm, 2108 Eck Hall of Law**

**Members present:** Patricia Bellia (Chair), James Brockmole, Ann Firth, John Gaski, Erin Hoffmann Harding, Jessica Hellmann, Patrick Holmes, Dan Kelly, Thomas Noble, Jaime Pensado, Robin Rhodes, Michael Stanistic, Christopher Stewart, Jack Swarbrick, Ann Tenbrunsel

**Athletics Liaisons:** Missy Conboy, Michael Harrity

**Observers and Guests:** Tracey Thomas (Recorder)

**1. Call to order and opening prayer**

Professor Patricia Bellia called the meeting to order and asked Professor Michael Stanistic to give the opening prayer.

**2. Minutes of December 10, 2014**

Pending Ms. Bodensteiner's resolution of a technical question, the minutes of the December 10, 2014, meeting were unanimously approved.

**3. Chair's Announcements**

Professor Bellia provided updates on schedule, captaincy approvals, and other matters she has handled since her last set of Chair's Announcements at the November 19, 2014, meeting.

- Schedule Approvals for Spring Semester: Professor Bellia approved spring schedules for men's soccer, men's lacrosse, women's lacrosse, and outdoor track and field. Women's lacrosse now has four misses in the M/W/F sequence. The additional miss is not atypical and results from conference scheduling issues. Outdoor track and field submitted a request to schedule a competition on the first reading day of the spring reading period. The request stems from a shift in the date of the ACC conference championship, and the fact that the team will be idle for a significant length of time if a reading day competition is not permitted. Coach Turner provided an extensive memo explaining the situation when he made the request. An academic counselor will accompany the team to the competition.
- Weather-Related Changes: Several teams experienced weather-related class misses: men's golf, indoor track and field, and hockey. Men's tennis also has had to revise its schedule because of a weather-cancelled match, although class misses were not affected.
- Review of Fall Study-Day Games: Both men's and women's basketball had requested permission for a game on the Saturday of the fall study period. The study-day policy revised in the previous academic year requires the Chair to review and report on the

implementation of the protections for student-athletes. Academic counselors for each team reported “no significant impact” for the students’ exam preparation. Friday study hours were offered in Coleman-Morse for each team. There was no scheduled athletic activity for either team on Sunday. The academic counselor for the women’s team reported that the away game scheduled for the last day of fall classes was a bigger challenge for students than the study-day game.

Professor Bellia noted that the fall reading weekend is accumulating a growing number of athletic-related social events that threaten to impinge on the time of student-athletes. This trend should be monitored.

- Women’s Soccer Orientation Weekend Game: Women’s soccer has regularly requested permission to play a game during the orientation weekend, which generally coincides with the first contest date permissible under NCAA rules. The Board’s approach to the scheduling of home games has been to align such games with gaps in the orientation scheduling, in consultation with First Year of Studies and the Office of Student Affairs. Professor Bellia reported that the orientation schedule for fall 2015 is going to “change drastically.” She has discussed possible scheduling options with the coaches and those in charge of planning orientation. More details will be forthcoming as orientation plans are finalized. The scheduling options under consideration “do no violence to the FBA policy.”
- Captaincy Approvals: Professor Bellia approved captaincies for men’s tennis, baseball, softball, men’s lacrosse, cheerleading, and men’s and women’s track and field.
- Appeal Hearings: Two appeal hearings were held in January, 2015. One concerned a coach’s decision to deny requests from two institutions that sought permission to contact a student-athlete concerning a possible transfer. Notre Dame was scheduled to face each of the institutions in competition during the timeframe in which the potential transfer student would be participating. The other case involved a student’s appeal of a coach’s decision to cancel the student’s grant-in-aid. In each case, Professor Bellia, in consultation with Ms. Bodensteiner and the respective panel chairs, extended the deadline for the parties to submit documents and witness lists. In neither case did this prejudice the party to the case. In each case, the coach’s decision was upheld as reasonable. Professor Bellia thanked the Board members who participated in these hearings for their timely service.

#### **4. Introduction of Jim McLaughlin, Head Coach, Volleyball**

Missy Conboy introduced the new head volleyball coach, Jim McLaughlin, noting that he had led two teams to national championships: the men’s volleyball team at USC, and the women’s volleyball at the University of Washington. Coach McLaughlin’s wife, Margaret, is a four-time soccer monogram winner at Notre Dame, so he is very familiar with Notre Dame’s academic and athletic missions. Coach McLaughlin was also an assistant on Debbie Brown’s staff for a year. Ms. Conboy noted that Coach McLaughlin has had tremendous success in

bringing lagging programs to the front competitively, as was seen with Washington, which jumped from last to first in the PAC-12 in five years.

Coach McLaughlin thanked the Board for this opportunity to meet with them. He noted that he has “had good people around him” providing tremendous energy, focus and attention to detail, which has fostered the successes he has had with other programs. He spoke about his excitement to be part of the Notre Dame program, given the outstanding reputation of the University. His focus will be on creating a program whose student-athletes can be worthy representatives of the University not for four years but for forty or fifty years. Recruiting outstanding student-athletes, assembling a superior staff, and creating the right conditions for success will be the foundation of a program that can make a national impact. He emphasized his role as a teacher and his goal to have a lifelong impact on students in and out of the sports arena. Noting that Notre Dame can offer a superior package both academically and athletically, he applauded the Athletic Department’s passion for the success of Notre Dame student-athletes.

The process of completing staff hires is underway. Mike Johnson, the former head coach at Xavier University, who had worked with Coach McLaughlin at Washington, has taken the associate head coach’s position, bringing his enthusiasm and great talent to the program. Recruiting will be an important upcoming task. Coach McLaughlin anticipates Notre Dame attracting the top prospects from many geographic areas in the United States, since it offers such an attractive academic and athletic package to student-athletes.

Professor Bellia thanked Coach McLaughlin for meeting with the Board.

## **5. Student-Athlete Request for a Waiver of the On-Campus Housing Policy**

Professor Bellia reviewed the Board’s on-campus housing policy. That policy, which differs from the policy in force for the general student population, is that any student-athlete receiving a grant-in-aid must live on-campus for the first six semesters of enrollment. After the sixth semester, the student-athlete may live off-campus following an approval process coordinated through the Office of Student Welfare and Development. The approval process includes consultation with the head coach and the Office of Student Affairs. Students not receiving a grant-in-aid are permitted to move off-campus after the completion of the first year. There is no approval process for these students.

In the past, the Board has considered and approved a handful of waivers of its policy, primarily for medical reasons and/or financial hardship. During the last meeting of 2013-2014, the Board had agreed that the Student Welfare Subcommittee should reconsider both the overall policy and the implicit waiver authority. Based on subsequent discussion with the Office of Student Affairs, the subcommittee will defer the discussion about the broader rule but consider codifying and/or refining the waiver authority.

Members were presented with a waiver request from a student-athlete for the junior year (the student-athlete is a current sophomore). The request was based on medical considerations and was accompanied by numerous medical records from the on-campus health center, team

trainer, team physician, and the student's primary care physician. In addition, the coach submitted a letter supporting the request.

Professor Gaski reported on behalf of the Student Welfare Subcommittee. The subcommittee voted to approve the request, but some votes had preceded additional input from Ms. Hoffmann Harding, Vice President for Student Affairs.

Members discussed the Board's policy and its goals and compared it to the policy in effect for non-athlete students. The University policy seeks to integrate first-year students into the residential tradition that is central to the Notre Dame experience. In the case of a first-year student with unique living needs, it would be the highest priority to explore all possible ways to accommodate a student on campus prior to approving off-campus housing. The Board's policy differs from the University's policy in that it pursues several goals: to maintain integration of the student-athlete in the residential life at Notre Dame, to return to the University a portion of the financial support extended to grant-in-aid student-athletes in the form of room and board, to avoid the potential for off-campus disciplinary incidents that might attract significant attention, and to provide a measure of safety to student-athletes (whose travel schedules mean that they are frequently and visibly gone from home).

Professor Bellia summarized past precedents and reviewed the conversations that, after consulting with Professor Gaski, she had had on the subcommittee's behalf. Professor Bellia noted that despite the absence of an explicit waiver authority in the policy, the Board has considered waiver requests when they arise, producing what are essentially "common law" precedents. Professor Bellia reviewed two instances in which students sought a waiver for medical reasons, one from February 2012 and one from December 2006. In the latter case, the committee framed the question as whether it would be "reasonable" to grant the waiver.

Professor Bellia reported that she discussed the case on the subcommittee's behalf with the General Counsel's office and with the Disabilities Office. Those conversations confirmed that in the case of a first-year student seeking to move off-campus for medical reasons, the question would be whether the student has a disability for which a move off-campus is required as a reasonable accommodation. Those conversations also confirmed that, although the Board could limit its waiver authority to cases of diagnosed disabilities requiring a move off-campus as a reasonable accommodation, it need not do so. In other words, while the Board would be *required* to permit a student-athlete to move off-campus if doing so is a reasonable accommodation for a diagnosed disability, it could choose to exercise a broader waiver power (as it has done in the past).

Professor Bellia also reported on information she had gathered from the team physician and the student-athlete. Members discussed the specific facts of the case.

Mr. Swarbrick noted that changes in the NCAA landscape will most likely result in an increase in the number of waiver requests to policies. The Board will need to review process and standards for waiver requests so that it can successfully move forward in this new context.

Professor Tenbrunsel, referring to a waiver discussion at the December 10, 2014, meeting, noted that the Board held as an important value that its policy not be disadvantageous to student-athletes; she added that its policies should not be unduly advantageous to student-athletes. She proposed that the standard for this type of case be the following: would any student be granted a waiver for this request? Professor Bellia reviewed the University policy: only first-year students are required to live on campus. There is no residency requirement for non-student-athletes after the first year. As a result, a non-student-athlete would not need to seek a waiver to move off-campus in a similar situation. Professor Tenbrunsel and Professor Hellmann noted that, in light of this fact, they supported the waiver request.

Members were overwhelmingly supportive of the benefits of residential life at Notre Dame. Nonetheless, there was agreement that in individual cases, other needs might appropriately be prioritized over residential life. Members discussed whether approving the request would open the floodgates to future requests. Some members noted that the coach's approval of the request, and the need to compile significant medical documentation, would limit future requests based on medical issues.

Mr. Stewart made a motion to approve the request for a waiver of the Board's on-campus housing policy, so as to permit the requesting student-athlete to move off-campus for the 2015-2016 academic year. There was one negative vote and no abstentions; the motion was approved.

Mr. Stewart suggested that the policy might be amended to include a standardized form or template for all waiver requests. Ms. Firth suggested that a designated medical authority might be asked to review medical facts in future waiver request cases, as the members of the Board do not generally have expertise to evaluate those facts.

## **6. NCAA Update**

Professor Bellia reported on the January 2015 NCAA Convention, which she and Mr. Swarbrick attended, along with Father Jenkins and Jill Bodensteiner. The meeting was well attended by University presidents, particularly within the ACC, which had 12 of 15 presidents present. The Convention provided the first opportunity for the so-called "autonomy conferences" to put together legislative proposals for a vote. The autonomy conferences are the "big 5" or "power 5" conferences (autonomy lets the SEC, ACC, Big Ten, Pac-12 and Big 12 create their own rules, with sufficient votes, in certain areas to benefit college athletes). Under the autonomy structure, 15 designated student-athletes (three from each of the conferences) vote on legislation. Notre Dame's Kaila Barber was chosen to represent the ACC. A significant aspect of this Convention was the strong voice of the student-athlete delegates. They were passionate about their opinions and even turned the room in some instances.

The most significant outcome of the conference was the approval by members of "full cost-of-attendance" legislation. The ACC was a co-sponsor of this legislation, and it carried overwhelmingly. Institutions now have the option to provide funds to cover the full cost-of-attendance, including miscellaneous (travel and personal) expenses. Previously, the value of a grant-in-aid was capped at tuition, room and board, and books.

The autonomy conferences also voted on several proposals related to the full cost-of-attendance proposal. Many institutions, including Notre Dame, have covered the cost of things like emergency trips home, laptops, and appropriate winter outerwear with Student Assistance Funds (SAF) distributed by the NCAA. The ACC sponsored a legislative proposal to ensure that SAF could still be used for these kinds of needs; this legislation passed. A difficult question is how to execute full cost-of-attendance legislation in the case of “equivalency” sports, in which coaches have the option of awarding a full grant-in-aid or a lower percentage or fixed dollar amount (with the total aid awarded equivalent to a designated number of full scholarships). A proposal for restricting how institutions apply the full cost-of-attendance model to equivalency sports was withdrawn. A proposal to remove the artificial limit of \$800 on the value of books was defeated.

Another proposal concerned concussion safety. The proposal authorizes the formation of a Concussion Safety Protocol committee, to include representatives from each of the conferences as well as others at the NCAA. Each institution will submit its concussion safety plan to this committee for review. In addition, each institution needs to review annually its safety plan. Finally, each institution is obliged to provide to the committee information that the committee requests concerning individual concussion cases.

The ACC also sponsored a proposal to restrict coaches from canceling, reducing, or declining to renew a scholarship based on injury or performance. Notre Dame has consistently followed this policy; now all institutions in the autonomy conferences will have to do so. This proposal generated significant passionate discussion, particularly among the student-athletes, who were equally divided between supporting and rejecting this legislation. Some felt that coaches should have the authority to release an athlete who is holding back the team’s success. Others felt that the NCAA should protect students’ continued access to education by protecting their scholarships, even if they are injured or if a coach’s predictions about contributions to a team prove wrong. Professor Bellia reported that the discussion was lengthy, and the new student-athlete delegates played a significant role.

Professor Bellia noted that now that the autonomy conferences have adopted an initial round of legislation, each conference will continue to examine legislative priorities. The ACC is interested in legislation that addresses the time demands on student-athletes, for instance. In response to a question, Professor Bellia discussed a resolution submitted by all of the conferences summarizing legislative priorities. Professor Bellia offered to send the full text of the resolution to members.

Professor Kelly asked for insight into why Boston College voted “no” on the full cost-of-attendance legislation, the only institution to do so. Professor Bellia stated that meeting full cost-of-attendance will place a large financial burden on institutions. Some may choose not to meet full cost-of-attendance, and they may be disadvantaged in the recruiting process. In addition, some private institutions believe that even if they opt to meet full cost-of-attendance, their institution’s published cost-of-attendance will place them at a disadvantage in recruiting. Private institutions tend to have a lower published cost-of-attendance than public ones. Those institutions that seek to meet the full financial need of their students must incorporate the published cost-of-attendance figure into calculations of financial need for all students, so

increasing the cost-of-attendance figure has a major budgetary impact. Student-athletes who are weighing competing scholarship offers may favor the offer that incorporates the higher cost-of-attendance, because such an offer appears to provide greater cash-in-hand to the student-athlete.

Professor Noble noted that there will need to be effective monitoring mechanisms to ensure that the intention of the rule prevails. Ms. Conboy reported that full cost-of-attendance figures are set for the whole institution, which would make it much more difficult to manipulate the figure to favor recruiting efforts.

Members also asked about the proposal, ultimately approved, that permits individual student-athletes to borrow against their potential future earnings to purchase “loss-of-value” insurance. Loss-of-value insurance allows elite student-athletes to protect against the possibility that an injury or illness will reduce their earnings potential (e.g., that injury or illness will prevent them from going as high in a professional draft as they otherwise might). It is similar to disability insurance for student-athletes, except that disability insurance only pays out if the injury or illness is career-ending. Students are currently allowed to borrow against future earnings to purchase disability insurance, but not loss-of-value insurance. As a result, loss-of-value insurance is accessible to fewer student-athletes than disability insurance. The proposal permits more students to have financial access to loss-of-value insurance.

## **7. ACC Updates**

Professor Bellia reported on the January 2015 ACC meeting of faculty athletics representatives (FARs) and athletics directors. The FARs met and discussed a variety of best practices, including a definition of the FAR role, the structure and role of academic services offices, and the connection between faculty and athletes. One subject of discussion was the development of online courses, as to which the ACC is collecting data from member schools. Professor Bellia is responding to the ACC survey in consultation with Elliott Visconsi, Chief Academic Digital Officer at Notre Dame. It may be appropriate for Notre Dame and the ACC to press for best practices on student-athletes’ use of digital courses. It may be helpful for the Board to hear from Professor Visconsi at a future meeting.

There was one significant action item resolved at the January ACC meeting, and there is another significant action item on the horizon.

### Men and Women’s Lacrosse Championship Scheduling

For two institutions, the proposed dates of the men’s and women’s ACC lacrosse championships conflict with final exams. One of the affected institutions urged an alternative date that would not create a conflict with its final exams, but that would place three weeks between the ACC championship and the NCAA tournament. The proposed dates for the lacrosse championships were approved, but the FARs adopted and presented a set of principles that should guide the Senior Women Administrators in scheduling championships that may present exam conflicts:

- (1) Avoid exam conflicts where doing so will not significantly disadvantage the conference teams in NCAA competition;

(2) Prioritize in all cases avoiding exam conflicts in sports that have a substantial number of at-risk student-athletes;

(3) Encourage each institution to develop a student-centric exam rescheduling policy that, to the extent possible, ensures that students have adequate study days and can space out their finals.

Professor Bellia noted that Notre Dame's policy on the rescheduling of final exams for conference and NCAA championships is in line with this third principle.

#### ACC Intra-Conference Transfer Rule

The ACC has the most stringent rule on intra-conference transfers. A student-athlete who transfers from one ACC institution to another cannot receive financial aid in the first year, must sit one year in residence before competing, and loses one year of eligibility. The FARs discussed this rule in depth at the January meeting. The current rule is motivated by the concern that a team and a coach should not have to compete against a student-athlete who was recruited at the original school and who may know the team's system. The question that the ACC is wrestling with is whether its rule is necessary to accomplish that goal. NCAA rules already require student-athletes who transfer in the sports of football, men's basketball, women's basketball, ice hockey, and baseball to complete a year in residence before competing for a new institution. In addition, a coach's denial of a transfer release in any other sport will disqualify a student-athlete from the one-time transfer exception that otherwise permits immediate competition. Thus, the question is whether the conference needs to impose an additional "layer" of deterrence to curb transfers or to prevent coaches from "poaching" another team's student-athletes. Professor Bellia has met with coaches and the Student-Athlete Advisory Council on this topic. Feedback needs to be provided to the ACC by February 27, 2015, and she welcomes Board members' input.

Members discussed this rule. It will not apply to Notre Dame's football team, since that team is not a member of the conference. Mr. Stewart noted that the conference loses the value of the athlete if he or she leaves the conference schools. Professor Bellia commented that many at the conference meeting felt strongly that the conference should not "send its talent elsewhere." Others felt strongly that, if the ACC loosens its rules, "poaching" will occur. On the question of poaching by other coaches, it was noted that coaches do have the power to deny a transfer release and produce a result similar to the current conference rule; the question is whether the conference needs to thwart a transfer that both institutions would permit.

Professor Bellia thanked members for their input.

Professor Bellia noted that Father John Jenkins will be in attendance at the February 27, 2015, meeting.

The meeting was adjourned for brief subcommittee sessions to discuss logistics.