

**Faculty Board on Athletics
Meeting of May 8, 2013
500 Main Building**

Members present: Patricia Bellia (Chair), Stephen Fallon, Ann Firth, Maudess Fulton, Umesh Garg, John Gaski, Erin Hoffmann Harding, Patrick Holmes, William Kelley, Michael Stanistic, Jack Swarbrick, Ann Tenbrunsel

Members excused: Eileen Hunt Botting, Richard Pierce, James McKenna

Observers and Guests: Missy Conboy, Michael Harrity, Brian Coughlin, Tracey Thomas (Recorder)

1. Call to Order and Opening Prayer

Professor Patricia Bellia called the meeting to order and invited Professor Bill Kelley to give the opening prayer.

2. Minutes of April 10, 2013

The minutes of the April 10, 2013, meeting were unanimously approved.

3. Chair's Announcements

Professor Bellia announced that she has approved schedules for women's golf, fall 2013 and spring 2014, and women's soccer, fall 2013. She has approved a slate of captains for women's soccer and captains for men's and women's swimming and diving. She reminded the Board that it is now operating under the new procedure for approval of captaincies. The Office of Student Affairs does not sign the form. Rather, Brian Coughlin's office alerts her to any pertinent disciplinary history and she makes the decision to approve the nomination or refer it to the full committee for its consideration. The procedure is working well.

4. Student-Athlete Disciplinary Report

Brian Coughlin, of Student Affairs, was invited to give an annual report on student-athlete disciplinary incidents. The report covered the period of May 2012-April 2013. The report included a comparison of student-athlete disciplinary incidents in relation to incidents in the overall student population.

There are three main protocols to respond to an incident—warning letters, disciplinary conferences, and disciplinary hearings. The last is the most serious, when the incident dictates that the student be considered for possible separation from the University. Warning letters were sent in 6% of incidents—these typically involved illegal downloading of music and/or videos, for the most part. Disciplinary conferences occurred in 89% of cases, while 5% resulted in

disciplinary hearings. It is not unusual for conferences or even hearings to result in a “not responsible” finding.

Mr. Coughlin provided a breakdown of the types of violations involving student-athletes, including who referred the incidents to the Office of Residence Life. This information is being tracked for the first time, for all campus-wide incidents, in an effort to better understand patterns and to identify areas for concern. Mr. Coughlin also provided a breakdown of the sanctions incurred by student-athletes.

Mr. Coughlin reported that the Office of Residence Life has begun using a new software program which will enable it to track a wider array of data; in the next report, he hopes to be able to share some of this expanded information with the Board. In response to a question concerning the difference between “intoxication” and “abusive drinking,” he defined intoxication as simply the legal definition of intoxicated, and abusive drinking as involving actions such as drinking games or drinking from containers meant to contain shared quantities of alcohol (such as a keg).

Ms. Firth asked if data on student trainers and managers has been included in past reports. Mr. Coughlin said no, noting that he is not sure if that was because there had been no incidents or whether the data had been excluded from the report. The office will cease collecting data on parking violations as of this report, which will affect the overall numbers in future reports.

Professor Bellia initiated a discussion of ways to regularize the report. It would be helpful to have the report at the same time each year, so as to help the FBA track trends as they appear. Mr. Coughlin agreed; he suggested that a report given in the fall would include all available data on the previous academic year. Ms. Harding suggested that coaches could be included in the reporting process, which might be useful during the policy and standards discussions that take place within teams.

There is little benchmarking available to compare Notre Dame’s data with peers. Ms. Conboy noted that there would be no parietais incidents at other schools; she added that the high proportion of Notre Dame student-athletes who live on campus would distinguish Notre Dame from other institutions.

The trends on campus include a consistent use of alcohol, which Mr. Coughlin called “a pathway to poor decisions” for Notre Dame students. There has been a rise in campus-wide reports of sexual harassment, sexual misconduct, and sexual assault cases. This trend may be a result of an increase in the awareness of these events as incidents (due to increased educational awareness programs) and/or an increase in trust in the system.

In addition, Mr. Coughlin reported an increase among all students in the use of the drug Adderall; this represents the most concerning trend. Students do not view the drug as illegal, they share prescriptions, and they use it as a tool to stay awake or perform better academically or athletically. Professor Bellia noted that under the draft drug testing policy for student-athletes, Adderall would be considered a performance-enhancing drug. Mr. Swarbrick noted that the

Athletics Department is aware of the need to clearly communicate information about this issue during orientation of freshmen.

Mr. Coughlin concluded by noting that this report contains no data that is overly concerning. Professor Bellia thanked him for providing this informative report.

5. Academic Profile/Academic Performance Reports

Pat Holmes gave two presentations to the board.

Student-Athlete Academic Profile. The population of student-athletes was 697 (a fairly stable number) participating on 26 varsity teams, representing 8% of the general student population. Women represent 47% of the Notre Dame undergraduate student population; women represent 42% of student-athlete population. Sixty-two percent of Notre Dame student-athletes receive grant-in-aid (GIA) (slightly higher than in recent years). Women student-athletes receive 41% of available GIA.

Minorities represent 23% of the Notre Dame undergraduate population and 19% of the Notre Dame student-athlete population. African-Americans represent 3% of the Notre Dame undergraduate population and 9% of the Notre Dame student-athlete population. African-American males represent 3% of the Notre Dame male undergraduate population and 11% of the Notre Dame male student-athlete population. Eighty-three percent of Notre Dame undergraduates are Catholic; 67% of Notre Dame student-athletes are Catholic.

Forty-seven percent of Notre Dame undergraduates are enrolled in either the College of Arts & Letters (24%) or the Mendoza College of Business (23%). For student-athletes, the corresponding percentages are 25% and 33%. Twenty-eight percent of Notre Dame undergraduates are enrolled in either the College of Engineering (13%) or the College of Science (15%). Four percent of student-athletes are enrolled in the College of Engineering and 9% percent are enrolled in the College of Science.

The most common student-athlete majors include the following: Finance, Marketing, Psychology, and Science/Pre-Professional, which is fairly close to the popular choices for the Notre Dame undergraduate population: Finance, Psychology, Economics, Political Science, and Biology. Male student-athletes most frequently choose Finance, Marketing, Science/Pre-Professional, FTT and Management-Consulting. Female student-athletes most frequently choose Psychology, Finance, Marketing, Sociology, and Science/Pre-Professional.

After the fall 2012 semester, the average cumulative GPA for all students was 3.385; for student-athletes it was 3.107. For student-athletes on GIA, the cumulative GPA after fall 2013 semester was 3.047.

The Graduation Success Rate (GSR), using numbers reported in fall 2012 for GIA student-athletes entering between fall 2002 and fall 2005, places Notre Dame at number one among Football Bowl Subdivision (FBS) schools at 99%. The Federal Graduation Rate (Fed Rate) of 91% places Notre Dame at number two, behind Stanford. Nineteen teams had a 100% GSR.

The APR (Academic Progress Rate) numbers will be released by the NCAA in June 2013. Notre Dame will rank first among FBS schools with 17 sports receiving APR public recognition awards for ranking in the top 10% of squads in that sport; ten were in men's sports and seven were in women's sports.

Notre Dame's 12 sports with perfect APR scores (1000) lead all FBS institutions. Boston College and Duke tied for second with nine. Eleven other Notre Dame sports teams produced scores of 991 (out of 1000) or higher. The scores compare favorably with recent trends.

Mr. Holmes noted that the piece that concerns his office year after year is that Notre Dame reports its eligibility differently from other schools. The NCAA simply requires that student-athletes pass six credit hours to maintain eligibility. Notre Dame's criteria exceed NCAA minima. In the four-year period covered by this year's report, only one student-athlete failed to meet the NCAA 6 credit-hour minimum, yet Notre Dame lost 45 eligibility points for student-athletes who satisfied the NCAA standard but not Notre Dame's higher standards for academic good standing. Notre Dame's numbers would be even higher if Notre Dame could report using the NCAA minimum. The NCAA has not permitted this sort of reporting, however.

Professor Gaski asked whether it would be beneficial to report two sets of scores to demonstrate Notre Dame's higher standard. Mr. Holmes noted that the University has tried this approach, but there was very little media recognition of the fact. The University continues to "fight" on this issue; there has been dialogue, but very little positive response from the NCAA. The issue continues to be significant, especially now that there are penalties attached to the APR.

GPA Report. Mr. Holmes provided GPA figures for all student-athletes and GIA student-athletes, including trends over the past four years.

Three teams—men's and women's golf and women's cross country—earned fall 2012 semester GPAs higher than 3.400. Two teams—women's golf and women's cross country—have cumulative GPAs higher than 3.400. Men's soccer recorded its highest semester team GPA ever, at 3.320. Women's rowing currently has its highest cumulative team GPA ever—3.391. Eleven full-time student-athletes earned a perfect 4.000 GPA in fall 2012. More than 12 percent of student-athletes were on the dean's list and 33.7% had GPAs at or higher than 3.400. Kim Holden, women's swimming, earned an NCAA Postgraduate Scholarship. Alex Coccia, men's fencing, won a Truman Scholarship. Four student-athletes earned Academic All-American Awards: First Team: Mike Golic (football), Manti T'eo (football), and Elizabeth Tucker (women's soccer); Second Team: Harrison Shipp (men's soccer). There will be a second set of winners for the spring semester.

Members discussed the GPAs of specific teams, including the "revenue" sports of men's basketball, women's basketball, and football. Discussion points included the influence of team culture on academic performance, how coaches respond to GPA reports, the effect of grade inflation on student-athlete GPAs, and the importance of ensuring that Admissions analyzes outcomes. Some members questioned whether the data sets for some of the teams were too small to permit conclusions; they favored broader longitudinal analysis, perhaps looking at a ten-

year trend in test scores and GPAs. Others noted the importance of accounting for the fact that varsity athletes have the equivalent of a full-time job; one would expect that if all non-athletes had equivalent time commitments, there would be a demonstrable impact on GPAs.

Mr. Holmes noted that GPA is only one of several ways to measure the value of and quality of an education. The biggest concern for his office is evidence of academic engagement. The student-athlete who presents concern is the one who “does not buy in,” who does not “value the Notre Dame education.” The protocol for admission must include analysis of “the whole profile.” The key factor in his experience is the high school GPA.

Mr. Holmes remarked that the discussion of these issues is important. He noted that most institutions never have such a discussion. Notre Dame is “a good place to do what we do,” and he expressed his confidence that the majority of Notre Dame student-athletes have the ability to get a Notre Dame education if they want it. Professor Gaski noted that he sees a “big difference” from his undergraduate years, when student-athletes were less engaged in the classroom. Mr. Swarbrick complimented Academic Services for the success stories in which an at-risk student-athlete is supported to become a success. He concurred that the primary goal today is to insure that the University is meeting its obligations to admitted student-athletes, in line with the values of the University. He expressed his confidence that these obligations can be met and are being met today.

As the discussion concluded, Mr. Holmes invited members to contact him with further questions as they arise.

6. Proposed Changes to the Drug Testing Program for Student-Athletes

Professor Bellia reported on proposed changes to the drug testing program for student-athletes. She was chair of a committee convened by Father Jenkins to review the existing program, which took its current form in 2002, and to recommend any changes identified. The decision about policy changes will be made by Father Jenkins. Members of the review committee are: Jill Bodensteiner, Ann Firth, Maudess Fulton, Umesh Garg, Rob Hunt, Dr. Kevin McAward, Brandon Roach, and Bill Stackman. Dr. Jim Moriarity was involved as a consultant. Professor Bellia provided members with several handouts to support the report. One document compiled benchmarking information of ACC institutions, such as Boston College, Georgia Tech, Clemson, Duke, Florida State, Maryland, Miami, North Carolina, N.C. State, Syracuse, Virginia, Virginia Tech, and Wake Forest. Northwestern and Oklahoma State were also included in the benchmarking. The committee also looked at the readily available summary data on drug testing policies at BCS institutions.

The committee established the following goals for the drug testing policy:

- ensure that the University’s athletic programs adhere to basic principles of fair play and sportsmanship;
- protect the health and safety of the University’s student-athletes and their teammates and competitors;

- provide appropriate assistance, treatment, and support to student-athletes found to have engaged in substance abuse; and
- reflect the University’s high expectations for student-athletes as representatives and ambassadors of the University.

The committee tried to ensure that the policy reflected these goals.

Professor Bellia turned to a document summarizing the proposed changes. One objective was to clarify who will be covered by the new policy. There had been ambiguity in the 2002 policy: were cheerleaders, managers, and trainers included in the policy? The new policy focused on student-athletes and cheerleaders, who are visible representatives of the University.

A second objective was to clarify the relationship between the drug testing program and University Standards of Conduct. One concern is determining what to do with the evidence of drug use that emerges from the testing program. The review committee concluded that because of the way in which the information is collected—that is, through a process that applies uniquely to student-athletes—the information ought to be the basis for disciplinary action under the testing program and not under the University Standards of Conduct.

Another objective was to craft a stronger role for the Drug Testing Oversight Committee (DTOC) in establishing testing protocols. The new policy will provide parameters, but with flexibility that permits the DTOC to respond to changes in usage trends and testing methods as they arise.

There will also be established a three-person Appeals Board. Under the previous policies, appeals were heard by the drug testing committee. The review committee felt that the group formulating policy should not be the group hearing appeals.

The new policy explicitly establishes prohibitions, tracking NCAA language. It also establishes a “safe harbor” for a student who voluntarily discloses use of a street drug prior to being selected for testing, which is consistent with the goal, above, of protecting well-being. A student invoking the safe harbor will be referred for treatment but subjected to probationary testing for a defined period.

The testing program will continue to use both hair and urine testing, with the DTOC determining the balance between the two. Some review committee members felt strongly that hair testing should continue to be an option because of the invasive nature of the collection process involved in direct observation of urine testing. The DTOC will have authority to add other testing methods (such as oral fluids) as they become more reliable.

The new policy also adds a for-cause testing provision. This enables a coach to act on suspicion that a student-athlete is “using” and complies with the goal of protecting the student’s well-being. The mechanism to trigger for-cause testing filters up to the Director of Athletics.

A provision for probationary testing has been made mandatory for a stated time period after a positive test or after a student invokes the safe-harbor.

Sanctions to be imposed are significantly different from those in the 2002 policy. The old policy moved from no punishment (but treatment options) on the first positive test to full loss of athletic eligibility on the second positive test. The review committee “struggled with this path.” The review committee proposes to distinguish between the type of drug use. For performance enhancing drugs, in light of the commitment to fair play and sportsmanship, the first positive test will now result in a one year competitive ban, which is in line with NCAA policy. The second positive test would result in a permanent loss of athletics eligibility.

For street drug use, the first positive test will lead to successive penalties. The proposal distinguishes between marijuana and other street drugs. For marijuana, at the first positive test, probationary testing will be mandated, which was not part of the previous policy. There will be a path of increasing participation sanctions leading to permanent loss of eligibility. For street drugs other than marijuana, the first positive will lead both to probationary testing and participation sanctions. The sanctions escalate quickly to a permanent loss of eligibility.

Professor Bellia invited questions. Professor Fallon complimented the committee on its work. He mentioned that the utility of the hair test was questioned as long ago as a decade; has there been any resolution to the questions? Professor Bellia stated that two factors enter into the time period in which hair will hold the residue of drug use. Gender is one: women’s hair grows faster than men’s hair, and that growth allows it to pick up the presence of a drug more quickly. The other is hair color: dark hair holds drug evidence longer. These factors have caused some concerns. She stressed, however, that the hair test never gives a false positive result. The DTOC was given flexible authority to modify the testing program in light of these kinds of factors.

Mr. Swarbrick remarked that the DTOC will also determine the University’s “testing panel,” which is the list of drugs for which the University will test. Synthetic marijuana is not currently on the list but should be; this is true for Adderall as well.

In response to a question, Professor Bellia remarked that the proposed drug testing policy merges two ideas: the University’s response to cheating and the University’s response to addiction among students. This accounts, in part, for the differential treatment of performance enhancing drugs and street drugs.

Members discussed the different treatment being accorded marijuana in relation to other street drugs. Ms. Firth, a member of the committee, reported that the committee found marijuana use “a complex issue to grapple with.” The committee opted to give the student-athlete encouragement to seek treatment and have the scrutiny of regular testing as a way to protect the well-being of students. Professor Bellia noted that the sanctions matrix reflects an increase in penalties for all categories of drugs, including marijuana. The previous policy required no further testing after the first positive, so that the only risk a student faced was that of being subject to a second random test. Under the new policy, probationary testing will very quickly reveal that student-athlete is continuing to use a drug. The incentives for student-athletes to seek treatment are much stronger under the new proposal.

Ms. Harding spoke about the proposed drug testing policy from her position as Vice President for Student Affairs. The philosophy and goals of the drug testing program are laudable and commendable. The last three goals in particular are consistent with those of the University's Standards of Conduct. The consideration being given to student well-being is commendable; helping students to move away from substance abuse is an important goal. She expressed two concerns about the policy. First, the program creates a separate system of oversight and sanctions for student-athletes from the general student population. While the method of discovery may differ, a positive drug test will provide evidence of prohibited drug use that will not subject a student-athlete to action under the University's Standards of Conduct. She noted that student-athletes may therefore receive mixed messages about the consequences for drug use on campus. She also noted that the high profile nature of some cases could cause confusion and frustration for non-student-athletes and parents. A student found using drugs through testing will not be treated similarly to a student found to be using drugs in other instances. During the review, her office offered some alternatives that would acknowledge the imposition of testing, yet still provide for information sharing across the University and ultimately for the drug testing program to operate in concert with the University Standards of Conduct. She regretted that the review committee ultimately did not accept these alternatives, which she viewed as a lost opportunity for consistency and integration.

Ms. Harding noted, secondly, that the helpful benchmarking information gathered by the review committee indicates that six of the institutions have "significant Student Affairs involvement" in these cases, including as part of the Appeals Board. The review committee chose not to shape its policy with this integration; Ms. Harding expressed that as a loss of opportunity for the University.

Regarding Ms. Harding's first point, Professor Garg, a member of the committee, added that the committee allowed for discretionary sharing of information with Student Affairs "for the well-being of the student-athlete." There is not "complete separation." Ms. Firth, noting that the Notre Dame policy is still more strict than that of the institutions benchmarked, said that it was significantly compelling to the review committee that student-athletes are required to submit to mandatory drug testing, which is intrusive and exposes them to vulnerabilities that are not experienced by the general student population. This led to the choices made by the committee. Professor Bellia noted that the committee "felt strongly" about the need for probationary testing to protect the well-being of the student-athlete. That testing constitutes a non-random form of scrutiny to which other students are not subject.

Regarding the composition of the Appeals Board, Professor Bellia noted that the programs that do have Student Affairs involvement at the appeal level tend to be otherwise housed exclusively within Athletics. Because Notre Dame's policy is not housed within Athletics, the DTOC will already have two members from departments within the Division of Student Affairs. The review committee excluded from the Appeals Board anyone who had a supervisory role over a member of the DTOC, since the Appeals Board's tasks will include review of the DTOC's discretionary decisions.

Ms. Harding noted that Student Affairs and the committee had "long productive conversations." She respectfully disagrees with some of the conclusions the committee reached. She thanked the

review committee members present for the opportunity to engage in discussion on this topic. Professor Bellia concurred that the two groups had a productive and helpful conversation.

Professor Bellia thanked the board for this informative discussion. Father Jenkins will make the final determination on the proposed drug testing policy. [The Drug Testing Policy Review Committee subsequently met and revised the policy in light of comments by FBA members and head coaches. The final policy, approved on May 22, 2013, is attached as an Appendix to these minutes.]

7. Acknowledgement of Retiring Members

Professor Bellia remarked how sorry the Board is to be losing so many members at the end of this academic year, as their terms are over. She offered her thanks to Maudess Fulton, who was “an incredible student member,” having taken on many tasks—serving not only on the FBA but also on the Drug Testing Policy Review Committee—while completing her law degree. Professor Bellia also offered her appreciation for the many years of devoted service performed by Professor Steve Fallon, who has served as the chair of a subcommittee and as liaison to the women’s soccer team. She spoke for all in offering him the deep thanks of the Board. Professor Bellia thanked her Law School colleague, Professor Kelley, who in addition to serving on the Academic Integrity subcommittee, graciously gave her many informal consultations over the years. Last, Professor Botting, who was unable to attend this meeting, was also recognized for many years of service to the committee. Professor Bellia said the University is “grateful for the years of service of each of these dedicated members.”

Members gave a round of applause to these members; Professor Bellia thanked all members for their hard work in this academic year. As time had expired, the meeting was adjourned.