

**Faculty Board on Athletics
Meeting of September 19, 2011
500 Main Building**

Members present: Patricia Bellia (Chair), Eileen Botting, Rev. Tom Doyle, C.S.C., Maudess Fulton, John Gaski, Patrick Holmes, William Kelley, Richard Pierce, Clark Power, Frances Shavers, Jack Swarbrick, Ann Tenbrunsel

Members excused: Stephen Fallon, Tracy Kijewski-Correa

Board Liaisons present: Missy Conboy

Observers and Guests: Marianne Corr—Vice President and General Counsel; Christine Halfpenny—Women’s Lacrosse Coach; Tracey Thomas (Recorder)

1. Call to order and opening prayer: Prof. Patricia Bellia called the meeting to order and invited Father Doyle to give the opening prayer. Prof. Bellia observed that there are a number of internal issues—academic integrity, issues of institutional control and communication with the faculty—and external issues—conference realignment, NCAA reform—to be discussed during this upcoming year. It behooves the Board to be well informed, in order to be of influence where possible.

2. Introduction of new members:

Prof. Bellia welcomed two new members to the FBA: Prof. John Gaski, elected representative from the Mendoza College of Business, and student representative Maudess Fulton, a second-year law student. She also mentioned that there are elections underway in Arts & Letters and the College of Science that should be completed shortly.

3. Minutes of April 13, 2011, and May 2, 2011:

Prof. Bellia presented the minutes for the April 13, 2011, meeting for approval. She noted that the minutes had been reviewed by all visitors except for Don Bishop. Prof. Bellia proposed to vote on the minutes subject to any changes that might be offered by Mr. Bishop. Six members voted to approve the minutes, while three members not present at the April meeting abstained.

Prof. Bellia presented the May 2, 2011, minutes for approval with two minor corrections previously offered by Professor Fallon. So amended, the minutes were approved with two abstentions.

Members briefly discussed the utility of electronic circulation of the minutes. It was noted that this change was considered during the previous Chair’s leadership. At that time, members evaluated the practice and agreed to return to paper circulation of minutes. The primary reason for this is the maintenance of confidentiality.

4. Chair's Announcements:

Professor Bellia referred members to two handouts listing captaincy and schedule approvals. The handouts are attached as appendices to these minutes.

Prof. Bellia briefly discussed schedules that required exceptions to the FBA's 3MWF/3TuTh rubric or other policies. She reminded members that the Board had previously approved study day games for both men's and women's basketball, as indicated on the appended list. As is typical, both golf teams have scheduling issues related to the difficulties of building a competitive schedule. Baseball required an additional class miss because of the scheduling of the Big East/Big Ten challenge—a perennial issue.

Prof. Bellia noted challenges resulting from the change in the football scheduling model from a 7-4-1 model to a 6-5-1 model. The change adds one additional road game. This year, the football team is scheduled at home rather than away at the end of fall break. In addition, Coach Brian Kelly prefers to conduct a walk-through of the opponent's stadium on the Friday before a game. Often the team cannot control the timing of the walk-through or, in cases requiring air travel, the precise time of the charter departure. The result is that the team will be traveling on five Fridays that do not fall during semester breaks. Prof. Bellia, the team's academic counselors, and football staff worked out adjustments to the departure schedule for the two games not involving charter flights—games at Michigan and Purdue—to minimize class misses while still preserving an orderly departure for the walk-through. The departure changes resolved many issues, and those that remain will be handled on a case-by-case basis in consultation with academic counselors. Prof. Bellia noted that although similar scheduling issues had arisen in the past, this was the first time such an issue arose with football since the 2008 policy change that conferred discretion on the Chair to handle these situations rather than having the issue come before the full committee for a vote. Thus Prof. Bellia wanted to be sure that committee members were aware of the issue and how it had been resolved.

The process of approval of team captains was straightforward this year for most teams. For the football team, a different method was used this year. Senior Harrison Smith was named a "season" captain. In addition, the coaching staff proposed to name a set of "game day" captains each week. In the past, coaches submitted to the Chair a long list of potential game day captains, which the Student Affairs office and the Chair would then evaluate and approve. Prof. Bellia noted that in addition to requiring captains to be in good academic standing and cleared by Student Affairs, the FBA standard requires that captains demonstrate "high standards of conduct and strong leadership." Because the submission of a long list of potential captains may preclude a thorough assessment whether this standard is met, Prof. Bellia had asked that Bill Scholl, in his capacity as sport administrator for football, present the proposed game day captains on a week-to-week basis. This process has worked smoothly.

Members discussed the criteria for nomination to game day captain, and asked whether in light of recent changes in Residence Life policies concerning the eligibility of student-athletes to compete while on disciplinary probation, a situation could arise in which a student-athlete on disciplinary probation could be nominated as a game day captain. Prof. Bellia noted that her delegation from the full committee consists only of the authority to approve captains falling

“clearly within board guidelines.” Accordingly, if that situation arose, she would take the position that such a question would necessarily have to be resolved by a vote of the full Board.

Members also discussed the possibility of appointing a game day captain who might be involved in an incident of academic dishonesty. Prof. Bellia noted that under current policies set by the University Committee on the Academic Code of Honor, she would have no way of knowing whether a student-athlete was involved in a “first” incident of academic dishonesty. The coach might also be unaware of the incident. Therefore, it is unlikely that such an incident could figure into evaluation of a captaincy candidate—either for a game day captaincy or a season captaincy. Prof. Kelley asked if the Chair has sufficient information on other disciplinary incidents to know whether a student is on disciplinary probation. Prof. Bellia said that she is aware of such issues, because there is a good line of communication between her and Brian Coughlin, who handles these issues for Student Affairs.

Prof. Botting asked about the typical procedure for appointing captains among Notre Dame sports teams. Prof. Bellia noted that the process varies, with some coaches putting the captains to a team vote and others making the appointments themselves. Prof. Botting observed that because of the high profile of Notre Dame athletes, it is appropriate for the FBA to have a voice in the choice of team captains.

Prof. Kelley concluded the discussion by expressing, for the record, agreement with Prof. Bellia’s position that she ought not to approve, without a full committee vote, a team captaincy for any student on disciplinary probation.

5. Title IX Review of Sexual Misconduct Policies (Marianne Corr, Vice President and General Counsel)

Prof. Bellia welcomed the General Counsel, Marianne Corr, to speak today before the Board on recent events related to institutional policies on sexual misconduct. Ms. Corr thanked members for inviting her to today’s meeting, and noted that FBA member Father Doyle has played a prominent role in discussion and revision of the University’s sexual misconduct policies.

Ms. Corr presented the recently modified policy in the larger context of media reports about campus occurrences. Sharing with the Board only facts that are publicly known (if not widely reported), she discussed an on-campus incident that occurred during the 2010 Fall semester, including the precise allegation made by the victim, the procedures the Notre Dame police and local police followed in response to the allegation, the result of the local prosecutor’s review, and an inquiry from the Chicago office of the Department of Education’s Office of Civil Rights (OCR) requesting that Notre Dame submit to a confidential review of its sexual misconduct policies. Notre Dame ultimately agreed to participate in this review.

The OCR review, which encompassed a review of relevant policies and procedures as well as a number of case files, and many interviews of Notre Dame employees as well as representatives of St. Mary’s College and others, concluded by determining that the University’s policies and

procedures were in full compliance with Title IX. The OCR review nevertheless resulted in minor changes in Notre Dame's policy.

In July 2011, OCR released a nine-page resolution agreement with Notre Dame. Ms. Corr noted that the agreement includes a four-page list of many of the positive aspects of Notre Dame's policies; OCR has indicated that these policies are a "best practices" model that should be emulated at other universities. Ms. Corr also noted that while some aspects of this investigation presented challenges, overall the General Counsel's office had a good working relationship with the OCR lawyers, who are well versed in this area of law.

Ms. Corr reported to the Board the most significant change to Notre Dame policy: the University is required to do a Title IX investigation anytime the University becomes aware, or should have become aware, of any kind of sexual assault. This investigation is required regardless of the complainant's desires. She reminded members that for decades Notre Dame has followed standard practice, supported by a significant body of research, which advocates restoring to the victim a sense of control of her/his life as soon as possible. At Notre Dame, that meant a strongly victim-driven process. The complainant could decide when and how s/he wanted to go forward with any process, if at all.

Under the policy change, it is no longer an option to defer to the desire of the complainant. , Further, all campus officials must report any information they hear about a possible incident, which will trigger an investigation. Father Doyle and Ms. Corr shared University concerns for the issues of privacy and healing that confront a victim in these cases. Father Doyle noted that the "safety of the community" issue has been gaining increasing prominence in discussions about crimes of sexual violence. Concern that perpetrators tend to repeat acts of sexual violence drove this change in campus policies.

In response to University concern for victim needs and for confidentiality, as part of the new policy, the University has carved out some "safe places" on campus where victims can talk about their experiences with total confidentiality and without triggering a University investigation. These safe places are the Counseling Center, Campus Ministry office, and rectors/rectresses. Rectors and rectresses must report any incidents to Student Affairs, which is concerned to watch for repeat offenders. But no investigation will be triggered by any conversations held in these contexts unless there is an determination that the accused presents a threat to the community.

All members of FBA constitute officials of the University and are thus subject to the strictures of this policy. All coaches and athletics staff members are also deemed University officials. Since these groups may have close contact with student-athletes, they must be aware of their mandated reporting obligations. (It was noted that faculty are also generally considered University officials.) Members discussed with Ms. Corr the parameters of these obligations, offering hypothetical scenarios to clarify the obligations. Any information about an alleged incident must be reported by FBA members, including any information received second- or third-hand. Members also discussed the distinction between a University Title IX investigation and a police investigation. It was noted that the time frames are quite different. A victim can begin a process at any time s/he chooses, while the University is now obligated ordinarily to conclude an investigation within 60 days of a covered University official first learning of the incident. In

addition, a distinction was made between a Title IX investigation and a Residence Life investigation. The Title IX investigation precedes a Residence Life hearing, which is functionally the conclusion to the Title IX investigation. Generally the Residence Life hearing is instigated by the victim, but under the new policy, the University retains the right to proceed with a Residence Life hearing even when the victim declines to instigate it.

Several members focused on the aspect of media reporting that had been discussed by Ms. Corr. In response to questions, Ms. Corr noted that the University is primarily concerned to respect the federally protected privacy of students; consequently, the University takes the high road with respect to comments or press releases in the media. She also noted that while the University often releases formal comments that may more proactively present the University's position, these statements often do not get printed. While the reporting in this case has on occasion been exaggerated, the University is satisfied that its commitment to student welfare has been legally and ethically correct. OCR largely validated the policies that Notre Dame has had in place. This year Notre Dame has reporting obligations to OCR, which it will do its utmost to meet scrupulously.

In response to a question seeking clarification of OCR's authority in this area, Ms. Corr noted that in the process of working with OCR, there was a lot of push-back to keep the new rules within a range that was acceptable to Notre Dame. In addition, the General Counsel's office had initiated a review of best practices to ascertain peer policies. And, she noted, there had previously been a University obligation to perform an investigation; the changes in the new policy involves timing and extent. In addition, she assured members that the University would protect a student under "extraordinary circumstances" if need be.

Prof. Bellia thanked Ms. Corr for her thorough and helpful review of this important topic.

6. Request for Waiver of 5th-Year Eligibility Rule

Prof. Bellia introduced to members a letter received from a 5th-year walk-on football player asking for a waiver of the enrollment requirements for 5th-year student-athletes. The student had completed all of his requirements for graduation with a business degree, but was staying on to complete a Theology minor. He has six credits remaining to complete his minor, but FBA policies require students in his situation to carry nine credits of coursework. He seeks a waiver of the FBA rule due to family financial considerations. Prof. Bellia noted that because the student is completing requirements for a minor rather than a degree, NCAA rules require full-time enrollment. Notre Dame had already requested and received an NCAA waiver of this requirement on behalf of this student, leaving the FBA rule as the sole impediment to the student taking only the six credits required for his minor.

It was noted that the purpose of the FBA's minimum credit requirement was to ensure that 5th-year student-athletes maintain academic engagement. In recent years, the requirement for students completing an undergraduate degree has been nine credits, which maintains parity between 5th years in undergraduate status and 5th years in graduate status.

Members voted unanimously to grant the waiver.

Members briefly discussed a potential upcoming case that bears some similarity to the previous situation, in that it may trigger a waiver request—this time on behalf of a student-athlete who will not be competing but who nevertheless might wish to remain eligible to compete. In discussing the broad rationale for minimum academic enrollment for 5th-year student-athletes, members noted that maintaining the minimum level of academic enrollment during the 5th year, despite significant adversity, presents a student-athlete with a leadership opportunity. Members were reluctant to consider a waiver in this situation, and it was agreed that academic counselors in Mr. Holmes's office should discuss with the student the options available to him.

7. Women's Lacrosse Coaching Transition/introduction of Christine Halfpenny, Women's Lacrosse Coach:

Prof. Bellia invited Mr. Swarbrick to share with members both the rationale for the coaching transition in women's lacrosse and the process by which the new coach was selected. Regarding the latter, Mr. Swarbrick noted that the process of the job search began with a set of criteria that emphasized some of the unique features of the Notre Dame culture. Some of the key criteria include: experience at an institution with high academic standards; experience administering a program as a head coach for some significant time; and demonstrated player development skills. Coach Halfpenny scored very well across all criteria. One outstanding factor in the search was that among the many coaches, players, and staff consulted, Coach Halfpenny's name was mentioned over and over as a coach who would be a "great fit" with Notre Dame. Since her arrival on campus, Coach Halfpenny has validated that statement repeatedly; she has instituted a systematic process for taking over the program and stayed "right on point."

Coach Halfpenny was invited into the meeting to speak with members. She offered her thanks for the invitation, and noted that the decision to accept the coaching position was "an easy one." She is appreciative of the opportunity to work at one of the best academic institutions in the country, which has incredible leadership at the helm, in Father Jenkins and Mr. Swarbrick, and a great vision for the future of Notre Dame. She related the warmth with which the Notre Dame community welcomed her from the beginning, during her campus interview. She noted that "excellence in a warm atmosphere" aptly describes her team ethic. Her goals, which dovetail with Notre Dame's vision, include winning championships and producing outstanding student-athletes. She mentioned that she had just finished a weekend of entertaining seventeen student-athlete prospects, where the coaching staff articulated the value and importance of the four-year experience of Notre Dame.

Coach Halfpenny has previously coached at William and Mary and served as an assistant at Brown, Virginia Tech, and Duke. At each of the institutions, she had experience with maintaining the balance between athletics and academics. She expressed her pleasure in working with the "outstanding" student-athletes at Notre Dame, and she is looking forward to a strong, productive year.

Members asked Coach Halfpenny questions. Father Doyle asked her to relate her own experience as a collegiate student-athlete to today's experience. Ms. Halfpenny noted that the

climate of college athletics has changed significantly. One notable aspect is that parents are much more closely involved in the student-athlete's experience than in her college athletics days. This means that communication lines must be open and strong, so that parents and supporters of the student-athlete can stay informed without crowding the athlete.

In response to a question, Coach Halfpenny said that the current pressure to begin recruitment of players at younger and younger ages is something she is committed to resisting. She supports a delay in the quick commitment, knowing that the student-athlete's important decision warrants careful consideration of all the factors that shape the student-athlete's college experience. She said that she and other coaches hope to encourage the NCAA to support a firmer stance on this issue. She also noted that Notre Dame will not be harmed by its academic emphasis in its ability to recruit.

Coach Halfpenny responded to Prof. Pierce's question about proposals to change the headgear requirements for women lacrosse players. She believes that adoption of helmets similar to those used in the men's game would actually lead to an increase in injuries. She would argue that a more effective change would be to increase the vigilance of officiating. The NCAA rules committee is cognizant of the increased physicality of play in women's lacrosse and is "amping up" the rules and penalties for breaking them. A significant change in equipment would make the game more strongly resemble the men's game.

Prof. Kelley asked Coach Halfpenny how she expects to be evaluated in her job. Ms. Halfpenny said that she expects to compete for a national championship; winning is the measure of athletic success. She also noted that she expects to have a 100% graduation rate, a meaningful measure of academic success. She noted, too, that developed players who willingly return as alumni will speak well of the program. She said these goals are reachable; she has a five-year, a ten-year and a twenty-year plan to win and do well.

Prof. Power asked the coach to speak about lacrosse in the Midwest. She acknowledged that there is much work to be done. It is an untapped market but one with potential. She is excited to assist in growing the sport in the Midwest; she already has plans to develop a youth-level clinic. A former player now coaching in Indianapolis will prove a great resource in developing these plans.

Ms. Fulton asked Coach Halfpenny to talk about her recruiting strategy. Coach Halfpenny said that in the recent recruiting visit, the students were introduced to all aspects of the lacrosse program and given an opportunity to experience the important features of the Notre Dame experience. They moved from dorms to class to the field, even spending time in the study hall. It was a very successful recruiting visit.

Prof. Bellia thanked Coach Halfpenny for speaking with the Board; Coach Halfpenny thanked FBA members who were active in assisting her and her young family in transitioning to South Bend. Members wished the women's lacrosse team a successful season.

8. Update on Conference Realignment/NCAA Reform:

Mr. Swarbrick was invited to speak about NCAA reform and conference realignment. On NCAA reform, Mr. Swarbrick, referring to the “significant dissatisfaction some have felt about a really terrible year in college athletics,” said that NCAA president Mark Emmert convened, in August 2011, a summit of numerous higher education leaders—University presidents, conference presidents, athletic directors—to begin to address the issues facing college athletics. One result of this conference was the formation of four subcommittees. Mr. Swarbrick was named a member of the subcommittee dealing with the welfare of student-athletes. This committee identified several key issues.

First, there is a clear and inevitable movement toward providing the full cost of attendance (COA) for student-athletes. There are many details to work out because the COA of each institution varies, influenced by many factors, including private versus public status. There will be variations among schools and between conferences. In addition, the issue of student-athletes who receive partial scholarships must be addressed. Mr. Swarbrick indicated, however, that these concerns will be worked out and that this change will eventually occur, with student-athlete welfare serving as the justification.

A second issue is that of academic preparedness of student-athletes. The committee reviewed significant data on the predictive nature of high school performance on college success. While the data is confidential, Mr. Swarbrick indicated that it led to a discussion of crafting barriers to athletic participation in the freshman year under certain circumstances. There is concern, though, regarding impact on scholarship awards. There is much work to be done in this important area.

A third topic covered benefits generally, with the goal of relieving the NCAA of the obligation to set and monitor rules for issues that more properly should be the concern of each institution. For instance, a university should be responsible for offering appropriately nutritious food to its athletes; if the institution fails at this, it is not the NCAA’s obligation to monitor. Too much time is spent debating whether peanut butter can be served with bagels. Another area that absorbs an excessive amount of time is the close monitoring of how far in advance of competition a team can depart campus. The committee will identify a host of small issues which can be deregulated by the NCAA, streamlining the role of the NCAA.

Overall, the goal of the work of the committee is to reassert the University’s control of the student-athlete’s experience, with the intention of letting the NCAA focus more on academic progress and success.

Members discussed these issues. Prof. Botting asked if providing student-athletes with COA is equivalent to paying them. Mr. Swarbrick, noting that that would be revenue sharing, said that there is no chance at all that student-athletes will be paid as are professional athletes. Nor is it appropriate to expect COA adjustments to eliminate violations of NCAA rules about taking money—student-athletes do not sell their championship rings for pocket money. On the other hand, student-athletes are generally prohibited from taking summer jobs, etc., by their athletic commitments, and providing the full COA will address that problem.

Prof. Kelley asked where institutions will find the additional monies to offer COA. Mr. Swarbrick agreed that that could be a problem, which is why the program would contain an opt-in; it is possible that whole conferences will opt out, just as the question of scholarships varies from Division I to Division II to Division III schools.

Mr. Swarbrick turned to the topic of conference realignment. Noting that this topic is volatile, and that any report will likely be superseded by further changes, he began by describing Notre Dame's position. He strongly emphasized that Notre Dame's assessment of the ongoing changes and discussions takes into consideration all facets of the University, athletic and otherwise. The goal is always to advance the interests of the University, and this will continue to be the goal.

Mr. Swarbrick related that the industry of college athletics is in a difficult period. Two dominating factors in the current milieu are the role of the media and a pervading sense of panic among institutions. The media is a dynamic that all are prepared to deal with. The sense of panic is less understandable to Mr. Swarbrick. Reason for panic does not exist, but nonetheless, it is driving the immediate changes. As a result, the decision-making models being used are not helpful to the overall industry. Insufficient attention is being paid to the sports themselves; financial considerations are dominating.

Prof. Bellia thanked Mr. Swarbrick for his useful reports.

As time had expired, Prof. Bellia noted that she had distributed the 2011-2012 version of the FBA manual. Within are listed subcommittee memberships.

In addition, Prof. Bellia spoke briefly about a letter, drafted in conjunction with Mr. Holmes, Academic Services, and Jill Bodensteiner, Office of Compliance, that was sent to Dean Greg Sterling of the Graduate School, concerning proposed changes to the Graduate Academic Code that might affect 5th-year student-athletes in a graduate status. Although the timing of a recent meeting of the Graduate Council required that she send the letter without the full FBA discussing the issues, she welcomed members' feedback as discussions continue. In addition, she was not previously at liberty to circulate the draft Graduate Academic Code, but she now is free to do so. She provided members with a copy and noted that this topic will be revisited at the next meeting.

The meeting was adjourned. The next meeting will be on Monday October 24, 2011, 3:30-5:30, in 500 Main.

APPENDIX A: CAPTAINCY APPROVALS (May-September 2011)

Approval Date	Sport	Student-Athlete(s)
5/13/11	Men's Soccer	Greg Klazura Aaron Maund Dillon Powers
5/13/11	Men's Swimming and Diving	Christopher Johnson Marshall Sherman
5/13/11	Men's Tennis	Niall Fitzgerald
5/23/11	Women's Soccer	Jessica Schuveiller Courtney Barg Ellen Bartindale Melissa Henderson
5/23/11	Women's Swimming and Diving	Amy Prestinario Lauren Scott
5/31/11	Women's Tennis	Kristy Frilling Shannon Mathews
6/23/11	Volleyball	Frenchy Silva Kristen Dealy
8/3/11	Men's Cross-Country	Jordan Carlson John Paul Malette
8/26/11	Men's Golf	Max Scodro Tom Usher Chris Walker
8/26/11	Women's Golf	Becca Huffer
Spring-Fall	Football	<i>Season Captain:</i> Harrison Smith <i>Gameday Captains:</i> Trevor Robinson & R.J. Blanton (South Florida) Zack Martin (Michigan) Ethan Johnson (Michigan State)
9/8/11	Cheerleading	Nicholas Nowotarski Courtney Leader (Gold) Meghan McMahan (Blue/Green) Carl David Jones (Blue/Green)
9/8/11	Hockey	Billy Maday Sean Lorenz Anders Lee (Alternate) *additional alternate captain approved; coach's decision pending
9/12/11	Cross-Country	Rebecca Tracy Rachel Velarde
9/12/11	Women's Basketball	Brittany Mallory Devereaux Peters Natalie Novosel
9/19/11	Baseball	Tommy Chase Will Hudgins

APPENDIX B: SCHEDULE APPROVALS (May-September 2011)

Approval Date	Sport	Within 3MWF/3TuTh Misses Each Semester?	Reason for Exception
6/30/11	Baseball	Spring 4/3	Continuation of Big East / Big Ten Challenge
8/30/11	Men's Basketball	Fall 2/3, Spring 4/3	Conference schedule
8/19/11	Cheerleading	Y	
6/21/11 Rev.	M/W Cross Country	Y	
9/7/11	Football	Fall 3/0 with two additional part-day misses	6-5-1 schedule with only 1 game falling during University break
7/5/11	Men's Golf	Fall 4/3	Tournament schedule
6/21/11	Hockey	Y	
8/26/11	Men's Lacrosse (Fall)	Y	
5/11/11	Men's Soccer (Fall)	Y	
8/12/11	Men's Swimming	Y	
8/18/11	Men's Tennis	Y*	*involves individual competition in fall semester; any extra misses will be dealt with on a case-by-case basis
8/26/11	Indoor Track & Field	Y	
8/26/11	Outdoor Track & Field	Y*	*More than 3/3 on schedule, but individuals will not exceed 3/3
8/31/11	Women's Basketball	Y	
6/21/11 Rev.	Women's Golf	Fall 4/3, Spring 3/3	Tournament schedule
8/3/11	Rowing	Y	
9/2/11	Softball	Y	
6/21/11	Women's Swimming	Y	
9/2/11	Women's Tennis	Y*	*involves individual competition in fall semester; any extra misses will be dealt with on a case-by-case basis
5/31/11 Rev.	Volleyball	Fall 3.5/1	Travel complications; 10/28 miss involves 1:55 pm class only