

**Faculty Board on Athletics
Meeting of October 24, 2011
500 Main Building**

Members present: Patricia Bellia (Chair), Eileen Botting, Rev. Tom Doyle, C.S.C., Stephen Fallon, Maudess Fulton, John Gaski, Patrick Holmes, William Kelley, Tracy Kijewski-Correa, James McKenna, Richard Pierce, Ann Tenbrunsel

Members excused: Anthony Hyder, Frances Shavers, Jack Swarbrick

Board Liaisons present: Missy Conboy, Bill Scholl

Observers and Guests: Jill Bodensteiner—Associate Athletics Director, Jennifer Vining-Smith—Assistant Athletic Director, Tracey Thomas (Recorder)

1. Call to order and opening prayer: Prof. Patricia Bellia called the meeting to order and invited Bill Kelley to give the opening prayer. She introduced James McKenna, the newly elected Arts and Letters representative, and noted that Anthony Hyder would represent the College of Science during Prof. Umesh Garg’s leave of absence this year.

2. Approval of the September 19, 2011 minutes

The minutes were approved with one abstention.

3. Chair’s announcements:

Prof. Bellia, referring to a discussion at the September meeting about excused absences for the football team, reported that the team had been able to reduce its class misses by waiting until after class to depart for its walk-through at Purdue. That change left football with three full Friday class misses and one partial Friday class miss.

Prof. Bellia announced that she had approved the following game-day captains for football: for Purdue—Tyler Eifert; for Air Force—Jonas Gray; for USC—Manti Teo and Cierre Wood.

Men’s soccer had to reschedule a home game on Wednesday, October 19, due to weather and field conditions. To accommodate the opponent, Seton Hall, which must travel back to South Bend for a second time, the game has been scheduled for noon on Monday, October 31. In order to minimize the class misses, the team members who are usually part of the “travel squad” will take a full day class miss, while other team members will be dismissed from class in time to get to the field close to game time. Men’s soccer is now one class miss over the limit in the M-W-F segment.

Prof. Bellia reported that, in response to a brief discussion at the September meeting, she made a formal request to OIT to conduct an analysis of the security issues involved in electronic transmission of FBA meeting materials and minutes. Once OIT provides its evaluation, the Board will be in a better position to assess whether to circulate materials among members electronically rather than in hard copy.

3. Compliance Office Annual Report 2010-2011

Jill Bodensteiner and Jen Vining-Smith presented the 2010-2011 Annual Report of the Athletics Compliance Office. This report represents the Office's first attempt to produce a formal annual report. Members complimented the Office about the usefulness of the document; Ms. Bodensteiner noted that improvements will be made in future years.

The document compiles many of the data collected by Compliance. The charts include information on squad sizes, scholarship awards, termination of athletics aid, official and unofficial visits, NCAA violations, use of the student-athlete opportunity fund, and rules education efforts of the Compliance Office staff. In reviewing the report, Ms. Bodensteiner and Ms. Vining-Smith apprised members of statistics and trends, including the number and value of scholarships distributed by team, number of compliance violations self-reported by Notre Dame to the NCAA, the number of visits paid to campus by recruits by sport, and the number and types of NCAA rules education efforts performed by Compliance and the groups so educated.

Members discussed with the visitors the trend in participation in sports by gender. Title IX rules guide compliance here. Because of the growing number of female students on college campuses, Athletics departments are constantly challenged to reach gender equity. Ms. Bodensteiner noted that Title IX regulations are subject to reinterpretation with new administrations, which affects implementation at the institutional level.

In discussing the data on termination of athletics aid, members discussed the fact that NCAA changes in rules governing athletics grants-in-aid are imminent, possibly including adding a cost of attendance element into the calculation and permitting institutions to award multi-year grants-in-aid. Ms. Bodensteiner noted that Notre Dame does not cancel or reduce aid to student athletes except in extreme situations. For example, Notre Dame never terminates aid due to injury.

Ms. Bodensteiner explained the purpose behind the Student Athlete Opportunity Fund (SAOF), which involves funds provided by NCAA to be administered to student athletes based on demonstrated need. At Notre Dame, a large portion of the funds cover summer school expenses. In addition, the Athletics department instituted a laptop program using SAOF funds, in which it purchased 50 laptops and has so far distributed 20 of them.

In discussing the self-reporting of NCAA violations, Ms. Vining-Smith reviewed the differences between level 1 and level 2 violations. She discussed penalties for such violations, noting that when an institution self-reports a violation, it proposes penalties that are then typically approved by the NCAA. During the discussion of examples of self-reported violations, Ms. Bodensteiner discussed software the Compliance Office uses that tracks calls made from phones used by coaches. For example, if NCAA rules restrict the number of calls a coaching staff can make to a prospect, the software issues a warning when a coach is about to call a prospective student-athlete in violation of the rules. This system, in its pilot phase, appears to be working well. She noted, however, that the NCAA may soon revise rules limiting phone contact between coaches and prospects. She noted that this change could have negative effects for coaches and student athletes alike. This contemplated change is part of a broader plan of the NCAA to give back to

institutions control of many of the day-to-day and minor details that are currently so highly regulated by the NCAA.

Ms. Bodensteiner reported that because the NCAA has so many rules, there are frequent occasions to seek waivers for a rule. She stated that it is important that the student athletes see the Compliance Office staff as advocates for them on these occasions. The NCAA is generally accepting of waivers; of the twenty-six Notre Dame sought last year, all were granted.

Regarding the Compliance Office's education efforts, Ms. Bodensteiner informed members that the Compliance Office's website has been revamped. She invited members to view public service announcement videos featured there. The videos have proven to be excellent communication devices to athletes and coaches about potential violations. She mentioned that her office recently conducted a meeting with rectors; the rectors are an important link in the chain of support for student athletes. In addition, she circulated to members a copy of a newly created bulletin containing practical advice for parents of current football players.

In conclusion, Ms. Bodensteiner briefed members on a current waiver situation that had been misreported in the news as a rules violation. Tim Abromaitis, men's basketball player, was withheld from competition in his sophomore season, which permitted him to gain a fifth year of athletics eligibility. NCAA rules permit a freshman who is withheld from competition for the season to participate in exhibition games. The coaching staff, however, was unaware that this rule applies only to freshmen. Coach Brey inadvertently played Abromaitis in the team's two exhibition games during that sophomore season. Under the NCAA eligibility rules, Abromaitis's participation in the exhibition games would have "burned" an entire season of eligibility. When the coaching staff realized the repercussions of the rule, Notre Dame sought an eligibility waiver to restore the eligibility that was effectively lost during Abromaitis's sophomore season. The waiver was granted, making Abromaitis eligible to participate as a fifth year student. As a condition of restoring his eligibility, the NCAA required Abromaitis to sit out the first four contests of that fifth year (double the number of exhibition contests in which he participated as a sophomore). Although the waiver was granted two years ago, it is only in this season—the final season of eligibility—that the condition takes effect. Media reports have referred to this situation as involving a "violation," but that is incorrect. The missed games constitute a condition of the waiver restoring eligibility, not a punishment for a rules violation.

Prof. Bellia thanked Ms. Bodensteiner, Ms. Vining-Smith and the Compliance staff for the detailed and well-organized annual report and for today's presentation.

4. Update on Draft Graduate Academic Code

Prof. Bellia reported that the Graduate School is currently drafting an Academic Code to govern graduate students. The Academic Council recently revised the Academic Code. During the revision, a decision was made to make the new code applicable only to undergraduates, which requires the Graduate School to create its own Code. Because every year a handful of fifth-year student athletes participate in athletics while in a graduate status, the revision could affect those student-athletes. Prof. Bellia has been in discussion with Greg Sterling, dean of the Graduate School, about the proposed rules.

The issue of concern is that fifth-year student athletes with graduate status will be governed by the Graduate School Code, even though most fifth year student athletes enter that year as unclassified, non-degree seeking students. The FBA manual contains rules that apply to undergraduate and graduate students in fifth-year status. For example, one rule requires that these students must take at least three credits at the 40000 level or above. In addition, student athletes must be registered for nine credits. In the draft of the Graduate Academic Code, the rules concerning levels of courses are in tension with these FBA rules. For example, one draft rule states that classes below the 50000 level do not count for graduate credit. Because the draft rule by its terms would not distinguish between degree-seeking and non-degree-seeking students, it raises the question whether student-athletes would be “under-enrolled” for purposes of our institutional rules, which would affect eligibility for competition. The draft also states that continuation in the Graduate School requires students to maintain a 3.0. FBA rules require a 2.0 GPA, consistent with good academic standing rules that apply to all students after completion of the first year. The draft also would exclude any courses taken below the 40000 level from the GPA calculation, raising the prospect that the only course “counting” towards the student’s GPA will be the 40000 (or higher) level class.

Prof. Bellia informed members that she has submitted a letter, previously distributed at the September 19 meeting, to Dean Sterling detailing these concerns. She wrote the letter in consultation with Pat Holmes and Jill Bodensteiner, but could not seek the input from the full FBA because the committee considering the revisions was meeting at the very beginning of the academic year. She submitted the letter in her capacity as Faculty Athletics Representative, but now hoped that the full committee could weigh in on the issues. She also initiated peer benchmarking for comparison, consulting FARs and Academic Services personnel at five “sister schools” with high-level academic and athletics programs. The benchmarking was inconclusive, as every school took a different approach to this issue. Some schools encourage students to drop a required course during the senior year, so as to keep the students in undergraduate status during the fifth year. Others encourage students to add a second major, and then to drop the uncompleted major once their athletics eligibility is exhausted. Some schools have a larger number of one-year master’s programs that will accommodate students in a fifth-year status. Others have students in non-degree status or place fifth-years in academic programs outside of the traditional graduate school.

The FBA academic integrity subcommittee has focused on fifth year eligibility issues in the past. Prof. Bellia proposed to refer the current issues to the subcommittee for an examination of FBA rules in light of the current proposals. Members discussed possible ways of sharing the FBA’s perspective with the committee charged with creating the Graduate Academic Code. The unclassified graduate student, the group most affected by the proposed rules, is the status of most fifth year student athletes. The students have completed the requirements for graduation, and would like to continue to pursue educational opportunities but not with a formal degree plan. It was noted that there is not now a suitable category that encompasses this situation. Prof. Bellia stated that as there is no action to be taken at this time, she would keep the Board informed of developments.

5. Courtesy Ticket Privileges

Prof. Bellia introduced a discussion of the “courtesy ticket” privilege that Athletics extends to members of the FBA. Early in her tenure and again last spring, she discussed with the General Counsel whether this privilege constitutes a conflict of interest or conflict of commitment for FBA members. The answer is no, and there is no university policy that governs this issue.

Prof. Bellia noted that, as chair, she puts a high premium on members attending athletic events. This creates a visible faculty presence and a Board presence, which she views as desirable. On the other hand, based on some comments in the context of an Academic Council discussion of FBA membership rules, she believes that there may be some faculty members who view the courtesy ticket privilege as a benefit that motivates faculty membership on the Board. Members agreed that this perception is sometimes heard around the campus. Prof. Bellia expressed concern about responding to this perception. In response to a question, Prof. Bellia noted that courtesy ticket privileges are “standard” at other institutions. She also noted, however, that the Coalition on Intercollegiate Athletics (COIA), a reform group with ties to many faculty Senates (although not Notre Dame’s), takes the position that courtesy tickets should not be granted to members of faculty athletic boards, to avoid any appearance of impropriety.

In discussion, members stated that the problem seems to be the wish to have access to a desirable privilege rather than a belief of a true conflict of interest. Other members expressed concern about the potential for actual bias in FBA decision-making or the appearance of bias that might arise. Some members noted that minutes of the FBA’s meetings are available to the entire faculty. The Board’s actions are transparent, and the minutes provide an opportunity for other faculty members to assess the quality of the committee’s decisions and the advice that it provides to the President. There is no evidence, faculty members stated, of any pro-Athletics bias. Prof. Bellia stated that one potential area for improvement communication between the FBA and the faculty, which is one of the missions of the FBA. Better communication with the faculty about the intersection between athletics and academics might give the FBA better access to discussions, such as discussions of the Graduate Academic Code, that have the potential to affect student-athletes, while providing even greater transparency. It was noted that attendance at sporting events is one way to inform members of the concerns of athletics; other ways include roles as liaisons, and interactions with the sport administrators and with coaches.

Professor Bellia noted that the issue merits further discussion. In response to a comment that the FBA itself ought not to rule on whether a conflict of interest exists, she observed that she planned to address the issue with Father Jenkins at her upcoming meeting with him. She also noted that the General Counsel’s office can assist the FBA in formulating a policy to formalize any action.

As time had expired, Prof. Bellia briefly reported that the Office of Student Affairs is undertaking a review of student disciplinary procedures, and she and Jill Bodensteiner are involved in a focus group as part of that review. She provided copies of the existing procedures to members of the Student Welfare subcommittee and solicited the input of that subcommittee to help inform her participation in this review. She noted that the focus of the review will be the procedures that go into effect from the moment that an infraction of the rules is alleged, through

the conclusion of the process of adjudicating that alleged violation. The Office of Student Affairs has undertaken benchmarking of 17 peer institutions as part of the review. In addition, there will be a number of in-depth focus group sessions to provide insights.

Prof. Bellia adjourned the meeting, thanking members for their time.