

**Faculty Board on Athletics
Meeting of February 6, 2012
500 Main Building**

Members present: Patricia Bellia (Chair), Eileen Botting, Rev. Tom Doyle, C.S.C., Stephen Fallon, Maudess Fulton, John Gaski, Patrick Holmes, Anthony Hyder, William Kelley, Richard Pierce, Ann Tenbrunsel

Members excused: Jack Swarbrick, Tracy Kijewski-Correa, James McKenna, Frances Shavers

Board Liaisons present: Missy Conboy, Bill Scholl, Michael Harrity

Observers and Guests: Tracey Thomas (Recorder)

1. Call to order and opening prayer: Professor Patricia Bellia called the meeting to order and gave the opening prayer.

2. Chair's Announcements

Professor Bellia approved revised schedules for rowing, men's tennis, and baseball; none of these changes involved class misses. She also approved post-season travel for men's and women's diving and men's and women's swimming. These teams are competing in the Big East championships, and the championships involve more class misses than usual because of the travel time involved. Finally, an additional captain for men's basketball was approved—Eric Atkins—as a result of the injury to captain Tim Abromaitis. Coach Brey felt that an additional captain who could provide leadership on the floor was needed.

Professor Bellia noted that at a fall meeting there was a question about circulating meeting materials electronically. Because members had in the past raised concerns about the security issues that electronic transmission might create, Professor Bellia consulted with the division of OIT that deals with transmission and storage of sensitive information. Under OIT policy, there are three categories of University information: public, sensitive, and highly sensitive. OIT determined that FBA meeting materials, including minutes, would fall into category 2—sensitive. OIT concluded that it would be reasonable to transmit these materials by email through Notre Dame's servers. They cannot, however, be transmitted to accounts hosted on third-party servers, such as Gmail accounts. Accordingly, a threshold question before the FBA could consider any policy change is whether there are any members who mirror their Notre Dame accounts to a third party server. Since there were several members who did, the question was tabled. Professor Bellia noted that if a member had a particular need for electronic versions in a given month, the member could contact her to make a special arrangement.

3. Minutes of December 5, 2011

Mr. Holmes offered technical changes to the draft of the minutes of the December 5, 2011, meeting. The minutes were unanimously approved with these amendments.

4. Women's Soccer—Request for Orientation Weekend Game

Coach Randy Waldrum, head coach of Women's Soccer, presented a request to the Board to schedule an away game at Wisconsin on the Friday of orientation weekend, August 17, 2012. He thanked the Board for this opportunity to make this request. He explained the circumstances that necessitate the request.

Under NCAA rules, a team can play as many as 20 games, up to 3 of which can be exhibitions, creating a 17-game minimum. If a team does not hit the 17-game minimum, it does not qualify for post-season competition. Coach Waldrum noted that he has been successful in scheduling 18 games with 2 exhibitions in the past, which means that the team only plays on Fridays and Sundays and minimizes class misses. The scheduling this year presents unique challenges. The Big East schedule had factored in a game with TCU, which later changed its conference affiliation. The loss of TCU on the conference schedule means that Notre Dame currently has only 17 games scheduled rather than the usual 18. But the team's projected schedule includes two potentially problematic games, one with West Virginia and one with Wisconsin.

First, West Virginia is in the process of adjusting its conference affiliation and wishes to change conferences before the season begins, which would cancel one of the 17 games currently scheduled. West Virginia has not announced and will not announce its decision in time for Notre Dame to be able to respond effectively. To mitigate the possible cancellation of the game, Coach Waldrum has been able to schedule a new game, with East Carolina, on August 26, which means that the team will travel to Tulsa for a Friday night game and then quickly return for the Sunday home game with East Carolina. The East Carolina game will represent Notre Dame's 17th game if West Virginia does in fact cancel.

Second, the opening date for women's soccer is Friday, August 17. This opening date coincides with Notre Dame's orientation weekend, as has been the case since the NCAA shifted the calendar for the sport a few years ago. In the last three seasons, Notre Dame has been able to arrange a home game on the first day of the season, and with the FBA's approval has adjusted the timing of the game to allow first-year students to attend mandatory orientation events in the evening. This season, however, Notre Dame must play a "return" game with Wisconsin, which previously traveled to Notre Dame for the first game. Wisconsin has only one possible open home date on which to play a game—Friday, August 17.

The team's inability to play Wisconsin on the opening weekend would have several undesirable consequences. First, in light of the conference instability and the issues with West Virginia, Notre Dame could drop below the 17-game minimum. Second, because NCAA rules link the team's practice schedule to the date of its first contest, Notre Dame's inability to play on orientation weekend would push its practice schedule out by a week. That change would have significant consequences, because it would limit the number of preseason two-a-day practices that the team can hold. In other words, because two-a-day practice opportunities are not available once classes start, shifting the opening game by a week would force Notre Dame to forfeit a week's worth of practice opportunities—opportunities that other schools would have.

Finally, Wisconsin carries a high RPI score, which makes this a particularly desirable game to schedule.

Coach Waldrum discussed the proposed schedule for the weekend if the game were approved. Because the Wisconsin game is away, the student-athletes will miss the scheduled Friday evening dorm section meetings between first years and residence hall staff. The travel plan includes returning to Notre Dame that evening. Coach Waldrum would not schedule any other practice or competition obligations during the orientation weekend. When playing at home during the orientation weekend, Notre Dame has on two of three occasions played on Friday and Sunday. This year, by contrast, the team would play on Friday night, and then hold no practices and have no games through Monday. Coach Waldrum proposed that the freshmen could meet with dorm RAs earlier than the Friday scheduled meeting, as the students will be on campus from early August on. He noted that it would be difficult if not impossible to play without the ten freshmen.

One last factor that impacts the scheduling is that the team has four weekends from the first day of the season until conference play begins. Traditionally, Notre Dame schedules a home tournament on one of the four weekends. So that leaves three weekends on which to play, one of which is the orientation weekend. It is very tight and complex.

Members asked for clarifications regarding the implications of putting off the first game until August 24, the effect on the two-a-day practice schedule of a delay in the first game date, the value to the competitiveness of the team of exhibition games, the significance of the RPI ratings of Wisconsin and West Virginia, and the factor of having a first-year class of ten student-athletes.

After the coach's departure, members discussed the request. They were in general agreement that because requests similar to this one have been granted before, and because the coach has made arrangements to free up the freshmen for the rest of the orientation weekend, there was little barrier to granting the request. Father Doyle noted that the women's soccer team has an exemplary team culture, and the student-athletes are "outstanding citizens" of the campus. The team supports the kind of lessons that are being inculcated through dorm life. In light of the team culture, Father Doyle was not concerned that the first-year students would be harmed by missing a small portion of the orientation weekend schedule.

The Board unanimously approved the request for an exception to its prohibition on scheduling competitions during orientation weekend.

Professor Bellia asked members if they considered it a necessary part of the acceptance to limit the team from practicing Monday afternoon and evening; ordinarily, teams are permitted to practice after 2:00 pm on the Monday of orientation weekend. Members agreed that this was not a necessary condition for their acceptance.

5. Revision of *du Lac*

This agenda item was postponed until a later meeting due to conflicts in scheduling.

6. Subcommittee Report: Academic Integrity Subcommittee / Update on Graduate Academic Code

A. *Proposal for criteria to use in judging requests for competition during study days*

Professor Steve Fallon, chair of the Academic Integrity subcommittee, presented a proposal to establish criteria for judging requests for exceptions to the FBA rule against scheduling non-conference, regular season games during study days. This proposal was drafted in response to repeated requests for this exception. It was deemed useful to have a rubric for decision-making. The subcommittee recognized that the circumstances are so different for each request that it was impossible to craft an ironclad rule to fit every request. The committee took a softer approach, framing several criteria. These are, generally, an articulation of the criteria that have been in use by the Board over a number of years. The proposed criteria are grouped in pairs; 1 and 2 apply to all requests, both home and away, whereas 3 and 4 apply only to away game requests.

1. A game during this time is demonstrably important for qualification for post-season competition.
2. The coaching staff can demonstrate that every effort has been made to arrive at a full competition schedule outside of these days.

3. The coaching staff can demonstrate that it has made all adjustments possible to minimize the time commitment of student-athletes during these days.
4. Wherever possible, a staff member of Academic Services for student-athletes will accompany a team traveling to a competition during study days.

Professor Fallon explained that the phrase “time commitment” includes travel commitments. He noted that the subcommittee felt that sending an Academic Services staff member to run study hall time if the team is traveling to an away game was a more effective way to insure that meaningful study can happen than merely having the coaching staff establish study time.

Members discussed the proposed criteria. Professor Botting complimented the subcommittee; these are “great” and establish a “clear policy.” Professor Tensbrunsel also applauded the proposal. She asked if there should be some consideration of the historical pattern of these requests. It was agreed that the teams most likely to be affected are the men’s and the women’s basketball teams.

Father Doyle suggested that the criteria might include an opt-out for a student-athlete who chooses not to play in favor of his/her academic commitments. An opt-out would provide protection for the student-athlete from any negative outcome of such a choice. Professor Fallon, noting that the committee had not considered this point, asked if there should be an opt-out. In response to a question about whether such an option could protect a student on academic probation from having to travel with the team, Professor Bellia noted that absent an NCAA waiver granted only in extraordinary circumstances, student-athletes who are on academic probation are not permitted to travel with the team.

Members discussed the likelihood of student-athletes taking up such an option; it was felt that it would be very highly unlikely. Mr. Holmes noted that when a staff member from Academic Services traveled with teams and supported a study hall environment, it was meaningful; “it made a difference.” Father Doyle withdrew his suggestion, given the belief that the culture would not support such an option.

Professor Botting suggested that criterion 3 be moved to the grouping of criteria that apply to both home and away games. Coaches should minimize time commitments for both home games and away games. Professor Fallon accepted this friendly amendment, along with a proposal to add the language “and maximize the time available for studying” following “student-athletes,” so as to frame criterion 3 in the positive.

The proposed set of criteria, as amended, was unanimously approved. Professor Bellia thanked the subcommittee for its work.

B. Proposed revision of FBA policy on course selection for graduate student-athletes

Professor Fallon next presented a proposed revision to FBA policy on graduate student-athletes’ course requirements. To provide background for this proposal, Professor Bellia updated members on the progress of discussions concerning the new Graduate Academic Code.

In May 2011, the Academic Council revised the University’s Academic Code. The new version of that Code applies only to undergraduates. As a result, the Graduate School needed to develop its own Academic Code. In September 2011, Professor Bellia sent a letter to the Dean Gregory Sterling of the Graduate School, flagging some possible unintended consequences of new language in the draft Code. In December 2011, Dean Sterling and Associate Dean John Lubker had transmitted a revised draft of the Graduate School Code to Professor Bellia. She reviewed it carefully with Pat Holmes and with Jill Bodensteiner in the Compliance Office. She and Mr. Holmes then met with Deans Sterling and Lubker. The current draft, which Professor Bellia had circulated with the meeting materials, was a product of that meeting.

Professor Bellia summarized the four issues she had raised with the Graduate School.

1. Under-enrollment of student-athletes. The initial draft said that no graduate credit would be allowed for courses listed below the 40000 level in the course bulletin. It was feared that this provision could be interpreted to mean that courses under the 40000 level would not be included in the 9 credits that graduate students must carry to be considered “full-time.” Under NCAA rules, which require students to be full-time as defined by their institutions, a student-athlete in graduate status must have 9 credits to be eligible for competition. The drafters revised the section, adding “for purposes of progress within a graduate department or program of study or admission to degree candidacy.” This language avoids any implication that a non-degree-seeking graduate student taking classes below the 40000 level is under-enrolled.

2. GPA computation. The draft excluded from the GPA computation courses below the 40000 level, and provided for conversion of C- and D grades to an F. Professor Bellia’s letter

had raised concerns that in the case of a non-degree-seeking student, the exclusion of courses below the 40000 level could result in a student's GPA being calculated on the basis of a single class. This provision could cut two different ways. On the one hand, the 40000-level class may be the student's most challenging class—the one in which it is most difficult for the student to be successful. On the other hand, a student could in theory be free to disengage from any classes below the 40000 level, knowing that (as long as the student meets the NCAA requirement of passing six credits) the grades in such courses do not “count” for purposes of the student's continuing enrollment or eligibility. Regarding the exclusion of C- and D grades, the question was whether the Graduate School intended to prevent instructors from using the full spectrum of grades or simply to require students progressing toward degrees to repeat work performed at below the level of a C.

The committee revised the language to say that “all courses are now included in the GPA.” In addition, C- and D grades are now permitted as part of the computation of semester and cumulative GPAs. They are excluded for completion of graduate degree requirements, required coursework, and/or total credit hours for completion of coursework. Again, since most graduate student-athletes are non-degree seeking students, they will not be affected by this provision. For purposes of GPA calculation, they will receive the grades their professors assign to them.

3. Good standing: The draft contained language that implied various new thresholds for good standing, including a 3.0 cumulative GPA and/or a 2.5 semester GPA, even for non-degree seeking students. The FBA has its own standard for good standing; it appeared that additional requirements were being layered over that. The revised Code now states that the 3.0 cumulative GPA standard has been confined to degree seeking students only. In addition, good standing is no longer defined on the basis of this standard.

In this same area, the earlier draft had implied the possibility of dismissal for failure to meet the new 3.0 cumulative GPA and/or 2.5 semester GPA standards. Under the revised version, probation and dismissal are discretionary and require either two semesters of underperformance or one semester of extreme underperformance. Despite the fact that probation and dismissal are discretionary, the FBA's 2.0 semester GPA threshold would still apply to preclude competition for students not meeting that requirement. It is possible that a student could be dismissed for extreme underperformance, but there will be no automatic dismissal for failing to meet the 3.0 cumulative GPA and/or 2.5 semester GPA standards.

4. Minimum course-level requirements: Professor Bellia and Mr. Holmes discussed with the Deans the relationship between the FBA's minimum course-level requirements and the Graduate School's enrollment requirements. The draft defined graduate student status with this language: “[F]ull-time students are expected to register for at least 3 hours of credit at the 60000 level or higher every semester that they are enrolled.” The Deans explained that Graduate School wants even non-degree seeking students to take a 60000-level course. Historically, the FBA has required enrollment in at least one 40000-level course. In discussion, the Deans clarified that virtually any 40000-level class (the level most likely to be taken by graduate student-athletes) can be cross-listed at the 60000 level after discussion with the professor about possible extra assignments. This cross-listing procedure is available to any and all graduate students seeking to meet the 60000-level requirement with an upper-level undergraduate course.

Although in practice few 40000-level courses are already cross-listed, the procedure for cross-listing is not onerous. It may be that the professor will agree to cross-list and add an additional requirement to the original work load. Because graduate student-athletes take fewer hours than undergraduate student-athletes (9 instead of 12), Professor Bellia and Mr. Holmes felt that it was not unreasonable to ask them to do a bit more work.

Professor Bellia and Mr. Holmes did ask for a “safety valve” with respect to the 60000-level requirement. Mr. Holmes had looked at cross-listed courses and had noted that the Mendoza College of Business does not have an existing practice of cross-listing. To protect against the possibility that professors who teach 40000-level classes in MCOB would not cross-list their classes, the clause “except with permission of the Associate Dean of Students in the Graduate School” was added to the language requiring registration for 3 credits as the 60000 level.

Professor Fallon thanked Professor Bellia for explaining the context that has led to the Academic Integrity subcommittee’s proposed revision of the policy on course selection for graduate student-athletes. In light of the Graduate School Code requirement that full-time students are expected to register for at least three hours of credit at the 60000 level or higher, the subcommittee proposes to revise the FBA policy to be in line with graduate school policy.

The current language of the FBA’s fifth-year policy states: “Fifth-year students who are enrolled in a graduate program or who are unclassified graduate students must complete at least nine credit hours per semester, three of which must be at the 40000 level.” The revision would add the following clause after “40000 level”: “or above; in addition, the student’s schedule must be in conformity with the Graduate School’s Academic Code.”

The intent is that the student-athlete, in advising, will learn about the Graduate School policy and then take responsibility to ask the professor of the 40000-level course to cross-list that course as a 60000-level course, thereby meeting the Graduate School requirement. There are a number of unknowns, including whether courses in the Mendoza College of Business can be cross-listed as 60000-level courses. Academic Services will have the responsibility to explain and advise the student-athletes. The intention is to pilot this new language and the accompanying advising process to determine if this revision will work effectively. Thus the proposed language has been left somewhat broad to accommodate some case-by-case adjustments.

Professor Bellia said that Compliance has reviewed the language of the Graduate School Code, but not the language of this revision to the FBA policies. It is important to the Graduate School that all students enrolled in a graduate program or who are unclassified graduate students meet this standard. Mr. Holmes concurred that this is a reasonable standard, to ask a Notre Dame graduate to take a 60000 level course as a graduate student. Professor Bellia noted that the Graduate School expressed willingness to consider a future change if it proved difficult to implement this policy.

Members voted unanimously, with one abstention, to accept the revision to the FBA’s policy as so presented.

8. Update on NCAA Reform

Professor Bellia reviewed the discussion at the December 2011 meeting of current NCAA reforms. The President's Retreat in August 2011 produced a number of working groups that were charged with crafting some significant and necessary reforms to NCAA rules affecting college athletics. In October 2011, these were sent to the Board of Directors, which voted on and adopted a set of reforms. At that point, the NCAA opened a 60-day voting period, during which institutions could object to the reform policies. NCAA procedures required 75 votes to trigger a formal override vote and 125 votes to stay the effect of a proposal. During the 60-day voting period, there was sufficient consensus to call for an override of two of the proposals, both arising from the work of the Student-Athlete Well-Being group.

Professor Bellia reported on three major areas of proposed reform.

1. Academic Performance

The various academic reforms approved in October 2011 did not receive enough votes for an override. At its January 2012 meeting, the Board of Directors took additional steps toward implementing the approved reforms. Regarding initial eligibility standards, the Board of Directors approved the GPA vs. ACT/SAT scale that will govern access to competition/academic redshirting. Regarding team academic performance and possible penalties for low Academic Progress Rates, the Board of Directors approved an Academic Performance Program Waiver Directive, which is designed to provide guidance to NCAA staff and an appeals committee concerning when waivers should be granted. Notre Dame is unlikely to be affected by the relevant metrics.

2. Student-Athlete Well-Being

a. One of the October 2011 reforms would have established a "miscellaneous expense allowance" to be awarded to certain student-athletes, to correspond to the institution's "cost of attendance" and not to exceed \$2000. This proposal was coupled with another proposal that would have excluded non-athletically related aid from team equivalency computations. The coupled proposals were doubly controversial. There were sufficient override votes registered in the 60-day voting period to suspend the operation of this combined proposal.

In January, the Board split the proposal into two parts and rescinded the second element in its entirety. The miscellaneous expense allowance element was "reaffirmed" and sent back to the working group to develop an alternative proposal, including consideration of (i) permitting institutions to award a percentage of the miscellaneous expense allowance for "equivalency" sports; or (ii) permitting an institution to establish "exempt" funds to use to provide the miscellaneous expense allowance at its discretion for full grant-in-aid recipients and proportionately for students in equivalency sports.

Professor Bellia explained that the working group will be considering possible models for this policy. There are Title IX concerns that need to be addressed. The Board has requested that the

working group present the revised proposal at the April 25-26 Board of Directors meeting. If the Board of Directors adopts a proposal, that would open another 60-day voting period.

b. Multi-Year Grants-in-Aid: This proposal had received 82 override requests, at which point the Board had stayed its effect. At its January meeting, the Board reaffirmed the proposal, which is now proceeding to an online vote. It will take a 5/8ths majority of the voting members to reject this rule.

3. Resource Allocation Working Group:

While this working group had not reported out its proposal prior to the FBA's December meeting, Professor Bellia had updated members by email after that point. The group had proposed various scholarship reductions (FBS football from 85 to 80, women's basketball from 15 to 13); these proposals were defeated. The Board also defeated a proposal to eliminate foreign tours. The Board also tabled proposals concerning numerical limitations on non-coaching staff members in football and men's basketball; this matter will be reconsidered in April 2012. The Board approved a moratorium capping the number of contests/dates of competition at levels that currently exist in all sports. The Board will commission a study to determine the optimal length of season; once the new caps are in place, they will remain in place for 10 years.

Members discussed these reform proposals. Professor Fallon asked about FBA's role in advising the University about its response to these reforms. Professor Bellia said that she had conveyed members' views in the discussions with the Director of Athletics, Compliance, Financial Aid, and the President's office. These discussions will continue. Although the proposals are at different stages of the process, the FBA can still provide input.

Ms. Conboy reported that there has been a lot of conversation among different units on campus about the miscellaneous expense allowance. There is a movement to support this policy, here and at other institutions. In some circles, the proposal is viewed as one way to resist the pressure to "pay" athletes. She reported that the Director of Athletics, Mr. Swarbrick, would be in favor of providing the award both to student-athletes who received full grants-in-aid and student-athletes in equivalency sports. Regarding multi-year grants-in-aid, Notre Dame in effect already provides them. Absent unforeseen circumstances, Notre Dame plans to implement this policy. She also noted that some institutions, acting in the small window in which the multi-year grant-in-aid proposal was in effect, were offering or being pressured to offer a 5-year grant-in-aid plan. That is complicated for Notre Dame; while in almost every case, Notre Dame will offer a 4-year grant-in-aid, it is not prepared to offer 5 years. The result could be a competitive disadvantage. This aspect of the proposal had not been foreseen by the working group.

Professor Bellia noted that regarding the miscellaneous expense allowance, there are two models that have been discussed: 1. Increase the denominator for a full grant-in-aid by \$2000, thus redefining a full grant-in-aid to capture the institution's cost of attendance. 2. Maintain the value of a full grant-in-aid at its current level, and in addition create a fund to be administered by the institution. Ms. Conboy noted that of these two, Notre Dame does not have a preference; Notre Dame would plan to give the allowance to every student-athlete who qualifies.

Small conferences may have a preference for the second version, because the impression under the first proposal might be that an institution not awarding the miscellaneous expense allowance had not given a “full” scholarship. Professor Botting observed that the first version may provide more awards to the group of student-athletes who already receive the largest benefits, increasing the sense of inequality among student-athletes.

Professor Kelley asked if competitiveness is the main reason to support this proposal. Ms. Conboy noted that in college athletics generally, there is a clear pressure to find a different model of handling the financial situation of student-athletes. This proposal may act as a stop-gap to prevent the move to a less widely accepted model, paying student-athletes. A repeated theme of discussion is the question of potential exploitation of student-athletes. In response to a question about financial need, Professor Bellia noted that at Notre Dame, there are student-athletes, even on full scholarship, who have nothing to spare, even with Pell grants. She reported that one model on the table would be to distribute an expense allowance through the regular financial aid process, using need as the determining criterion. There has not been wide support for this model, however.

Professor Hyder suggested that this kind of proposal puts institutions on the slippery slope to paying athletes for play; he would argue it is not an incremental change but a monumental one. Professor Gaski and Professor Botting supported this position. Father Doyle also noted that the need to incur some debt creates a sense of responsibility for a student. As designed, this proposal will force the institutions to bear this responsibility, not the individual students.

Professor Bellia thanked members for their informative feedback about these complex NCAA reforms.

Professor Bellia noted that at Professor Botting’s request, she had circulated some recent *New York Times* articles on the subject of the role of the NCAA in college athletics. Part of the Board’s role is to discuss some of larger issues that swirl around college athletics. She noted that members are welcome to identify material that could serve as the basis of further discussions going forward.

As time had expired, the meeting was adjourned.