

**Faculty Board on Athletics
Meeting of February 29, 2012
500 Main Building**

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

Members excused: Eileen Botting, Anthony Hyder, James McKenna, Jack Swarbrick

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

Observers and Guests: Tracey Thomas (Recorder), Brian Coughlin—Associate Vice President for Student Development

1. Call to order and opening prayer: Prof. Patricia Bellia called the meeting to order and asked Prof. John Gaski to give the opening prayer.

2. Chair's announcements

Prof. Bellia approved schedules for women's golf and volleyball for fall 2012 and men's soccer for spring 2012. These schedules were within the guidelines for class misses. She approved revisions to the spring 2012 softball and outdoor track schedules, also with no net class miss implications. Also approved was travel for men and women's basketball, and the accompanying cheerleading squads, for post-season competition. Finally, she approved an adjustment to the women's fencing schedule. Two student-athletes participated in a meet and missed class for travel, but since a scheduled meet for the women's team had been canceled, the net effect for the class misses was the same as with the original schedule. Finally, Prof. Bellia approved captains for women's lacrosse and softball.

Prof. Bellia also noted that, prior to the last meeting, she had had discussions with the sport administrator and academic counselor for hockey regarding potential class misses over the 3 MWF/3 TuTh limit in fall 2012. Those conversations resulted in an agreement that hockey would pursue a different alternative (or bring a request before the full committee, since Prof. Bellia believed that this particular request was outside the scope of her delegated authority). Prof. Bellia inadvertently omitted this item from her chair's announcements at the Feb. 6 meeting.

3. Minutes of February 6, 2012

The minutes were unanimously approved with one abstention.

4. Revision of *du Lac*; Student-Athlete Disciplinary Issues (Brian Coughlin, Associate Vice President for Student Development)

Prof. Bellia welcomed Brian Coughlin, Associate Vice President for Student Development, who has been invited to update the Board on the revisions made to *du Lac* and on student-athlete disciplinary issues.

a. Revision of *du Lac*

Mr. Coughlin discussed the process of revising *du Lac*, the student handbook. Back in 2007, a “fresh eyes” committee was formed with a mandate to look closely at the handbook. In 2009, the Office of Student Affairs formed a working group to address specific areas identified in that review. The review focused on substantive policies and sanctions, not on the procedures by which the Office handles disciplinary cases. The *du Lac* working group continued its work on substantive policies and sanctions through the late spring of 2010, at which point the Board of Trustees accepted the revision and it went into effect. The Office had carved out a subgroup to focus specifically on the University’s policies on sexual assault and sexual misconduct. This two-year project was completed in the summer of 2011.

Mr. Coughlin presented notable aspects of the revision:

- In the event of a violation, the sanction of disciplinary probation has been separated from the sanction of prohibition on participation in extracurricular activities. Until 2010, these two sanctions were combined, so that when a sanction of disciplinary probation was imposed, a student was automatically prohibited from participating in extracurricular activities of any sort, including athletics. Although the revision separated these two sanctions, a prohibition on participation in extracurricular activities can still be assigned as a separate sanction. Mr. Coughlin noted that the media interpreted this change “poorly.” While Student Affairs met with students about the changes, Mr. Coughlin acknowledged that communication with other constituencies could have been better.
- The policy connected with DUIs was modified. Previously, a DUI that followed a prior alcohol violation was considered a “second” DUI and was sanctioned accordingly. Under the revision, a DUI that follows an *intoxication* violation (rather than a mere *alcohol* violation) will be treated as a “second” DUI.
- Sexual assault and sexual misconduct policies were revised, as a result of work with federal officials and a modified interpretation of Title IX. There is now a distinct disciplinary hearing process for such allegations.

The revisions completed in 2010 and 2011 did not encompass revisions to the procedures by which the Office of Student Affairs handles disciplinary cases. A review of these procedures is ongoing. The Office of Student Affairs benchmarked seventeen institutions, convened three focus groups of campus stakeholders, and held numerous open office hours. The Office has conducted a thorough vetting process to identify best practices and is currently working to tailor those to be Notre Dame-specific. These procedural changes will be finalized and implemented over summer 2012. One thing that the process has made clear is that the Office must be completely transparent in the implementation of its new procedures. Mr. Coughlin said the number of “ghost stories”—misconceptions about the disciplinary process—is staggering.

In terms of possible changes, there will be an effort to tailor responses to first time offenders so as to be specific to the student going through the process. The process will involve education

and self-reflection, as part of an effort to use the process for developmental purposes. Students also would like more consistency of policy implementation from hall to hall. That will be part of the challenge going forward, as effort is being made to tailor the process to individual students. There has been a lot of discussion with student government as well as with the Board of Trustees. There will be communication across the campus before the changes are formally incorporated in *du Lac*.

Mr. Coughlin took questions. Prof. Bellia asked about the process of reviewing the substantive policies and sanctions, and how it differed from the process currently underway with the revision of procedures. Mr. Coughlin noted that input was gathered from the Campus Life Council, as well as through the extensive benchmarking. Prof. Kijewski-Correa asked about the decoupling of disciplinary probation and the prohibition on participation in extracurricular activities. Can coaches impose additional penalties on athletes? There is no specific rule to prevent this, but Mr. Coughlin noted that there is good communication between his office and the teams. While individual team rules and policies are welcome, it is clear that two parallel processes are detrimental to institutional goals. For infractions that are related to campus activities, the campus policy will prevail. Mr. Coughlin's office has offered to give presentations to any and all teams.

Members discussed the perception of inconsistency between treatment of student-athletes and treatment of other students. Father Doyle noted that it is a "delicate balance" between the disciplinary actions a coach might take and those the University might take. Because the coach has so much contact with student-athletes, s/he has increased insight in some cases. The University is prepared to tolerate some inconsistency in support of student and team development. Ms. Conboy noted that student-athletes understand that coaches have different environments. She noted, too, that the more likely scenario is a student-athlete breaking a team rule that results in a penalty but that does not rise to the level of an infraction of Student Affairs rules. In the case of a potential Student Affairs infraction, typically coaches step back and wait for the outcome of the Student Affairs process.

Prof. Bellia turned to the question of team captaincies as related to disciplinary sanctions. She noted that, per FBA rules, a student-athlete nominated to serve as a captain must be "cleared" by the Office of Student Affairs. Mr. Coughlin explained that this rule is a Board rule and therefore, the Board's threshold is what sets the parameters. Ms. Conboy asked whether Student Affairs has ever provided a history that the Board could then use in its decision-making. Mr. Coughlin reported that the standard for captaincy clearance has been the same as for clearance to play, so this issue has not arisen. Prof. Bellia noted that General Counsel confirmed that FBA can know past disciplinary history for a legitimate educational reason. Student Affairs, however, has not been asked to provide that information, but rather to "clear" the nominee. Prof. Bellia observed, however, that the nomination form instructs coaches to "anticipate" concerns that the Board would have, and coaches on occasion use the opportunity to discuss past disciplinary violations and how a student has overcome them.

Prof. Pierce noted that he is not comfortable "relying on coaches" for disciplinary information because of potential informational gaps due to coaching changes etc. If the onus is on the coach to provide past history, that could be a problematic situation. There was discussion about the

necessity of taking into consideration past history. Mr. Coughlin noted that it provides “clearance” based on current status, in part because the focus of Student Affairs is to assist students in overcoming poor decision-making. Should the Board need different information, however, Student Affairs can provide it.

In conclusion, it was agreed that FBA will “put on its radar” a heightened awareness regarding infractions, as the sanctions policy no longer includes prohibition of participation in extracurricular activities.

b. Disciplinary Violations

Mr. Coughlin gave a broad report on the incidence of violations of rules by the general student population, augmented by a look at violations by student-athletes.

Members discussed the data. The general consensus was that while there is no inference to be made when comparing the student-athlete population with the general student population, there is something to be learned by comparing individual teams. There are a range of cultures among the teams. In response to questions, Mr. Coughlin reported that the data has not been shared with coaches in the 18 months since Mr. Coughlin took his position. When a team has a high rate of violations, however, Mr. Coughlin typically reaches out to the athletic administrator who has been assigned to the team. Sometimes that leads to an interchange with coaches.

Members asked about on-campus violations versus off-campus violations. Mr. Coughlin reported that, since 2010, three factors have guided the handling of behavior that occurs at other locations besides the Notre Dame campus: 1. Does the behavior affect the reputation of the university? 2. Did the conduct have a negative impact on the local community? 3. Did the conduct occur at a University-sponsored event? Knowledge of an off-campus infraction generally comes from someone who “reaches out to let us know.” A general rule of thumb is that poor conduct that occurs in “Michiana” is addressed; poor conduct that occurs in the summer at the student-athlete’s distant home is handled on a case-by-case basis.

Mr. Coughlin shared a conduct trend with FBA: there has been a slight but perceptible increase in the use of marijuana and the illegal use of prescription drugs. The campus has a “zero tolerance policy” on illegal drug use. Use violations result in a temporary separation from the university. For dealers of illegal drugs, the sanction is a permanent separation.

Prof. Bellia thanked Mr. Coughlin for sharing this information with the Board. She noted that she will follow up on this presentation with Mr. Swarbrick.

5. Request for Waiver of Off-Campus Housing Policy

Prof. Bellia briefly reviewed a request by a student-athlete for permission to move off campus even though he is not going to be a senior. This request is being handled as a waiver of FBA rules as it does not meet the criteria for an appeal. Prof. Bellia reminded members that they heard and granted a request for a waiver of the rule by a student-athlete last summer, 2011.

The student-athlete is experiencing a chronic sleep problem, for which he is being treated by medical professionals. Materials related to this condition have been distributed to members. Prof. Bellia has met with the student-athlete. The student-athlete would prefer to be able to stay on campus in a single; unfortunately, because of the timing of and rules for room distribution, it is highly unlikely that his request for a single will be promptly resolved. She has discussed this case with both the Housing Office and the Disability Office, to raise the question whether the situation is one that falls under the Americans with Disabilities Act. That is, does the ADA require that the University accommodate the student by giving him higher priority for an on-campus single, and/or does the ADA require demand a waiver of the FBA's rules on undergraduates living off-campus? Ultimately, the General Counsel's office must decide these questions. Because of time constraints, however, and the need to put a deposit on a room for fall 2012, the student needs a more immediate answer to the question whether living off-campus will be an option for him. Prof. Bellia asked the committee to set aside the ADA issue and to decide the waiver request on the merits of the information before it.

Members discussed the request and were disposed to grant it. Members discussed, however, whether a clear decision by FBA might relieve other campus entities from addressing the situation. Prof. Bellia noted that she has clearly indicated that the FBA would consider a "yes" to be a conditional waiver that would come into play only if his other relief options are exhausted. After discussion, members agreed to a conditional waiver, to go into effect if there is no other decision within seven days.

The motion to grant a conditional approval of the waiver request, in the event that there is no resolution that guarantees the student-athlete a single on campus, within a week, was moved and seconded. The motion was unanimously approved.

6. Request for Women's Basketball Study Day Game—Jill Bodensteiner

Prof. Bellia reminded members that at the February 6, 2012, meeting, the FBA had approved new guidelines for the consideration of study-day game requests. Today, Ms. Bodensteiner is appearing to request permission for women's basketball to schedule a study day game in December, 2012. This request has been made by Women's Basketball in each of the last two years. The reasons for the repeated request are as follows. There are a limited number of days available to schedule non-conference games due to the November start date of the season, the January 1 start of conference play, the desire to grant student-athletes a reasonable holiday break in December, and the necessity of not playing games on exam dates. The basketball team agrees to leave an open December weekend in the arena for possible volleyball NCAA tournament play, in addition to accommodating the schedule of men's basketball non-conference play. Also a factor is allowing for 2-3 days rest between most games on the schedule. The result of these numerous restrictions is that in a short period of time, women's basketball must schedule between 15 and 16 games.

Ms. Bodensteiner explained that the proposed game is one with Utah State. This is a team that, while not ranked, is "a very strong mid-major team," a useful addition to the non-conference schedule. This team needs to schedule its travel time over a weekend, for the benefit of its students. The game will be scheduled for noon on Saturday, which means a decreased impact on

the whole day. The coach has also offered to structure the student-athletes' Friday schedule so as to minimize the impact of the weekend's play on the student-athletes.

Members were invited to ask questions. Prof. Bellia asked if there are a minimum number of games to be scheduled in order to make possible sufficient wins to qualify for post-season play. Ms. Bodensteiner said the more important number is the RPI, referring to the strength of the teams played. Utah State's status as "a strong mid-major" is relevant here.

Prof. Fallon, while complimenting the Women's Basketball team for its successes, noted that this request does not appear to meet one criterion of the new study day policy: this game does not appear to be demonstrably important to post-season competition. It would be hard to make an argument that without this game, the team would not qualify for post-season play.

Ms. Conboy explained that it is significant for NCAA assessment to carry a full schedule; a non-game is almost equivalent to a loss. Given the limited number of days, the team might be forced to schedule three games during a week or shorten the Christmas break in order to fit in the full complement of games.

Mr. Holmes reviewed the study day schedule. Since the game will be scheduled at noon on Saturday, Friday will be available to the students for study. The students could be back in their dorms by 3 p.m. on Saturday. He said that he "was very comfortable" in saying that a study day game is "not going to impact the students negatively."

Prof. Kelley stated that while a full schedule of 28 games is a compelling milestone for a team, it is nonetheless true that a team will not be demonstrably disadvantaged by playing only 27 games. He noted that Utah State is a top WAC team but not a high-profile matchup; this game will not be significant to the women's basketball team at the end of the season. He added that he remains "skeptical about having study day games at all."

Ms. Fulton asked about typical practice schedules during study days. Ms. Bodensteiner stated that since there has been a study game in the last several years, there is not a typical pattern to reference. During finals period, all scheduled events for student-athletes are voluntary. If there is a game scheduled for Saturday, then Friday will likely be a walk through, with some shooting prior to the game on Saturday. There will no games scheduled until December 16. Prof. Bellia noted that the FBA rules do not prohibit practices during this time, and that in-season teams typically do practice during study days.

Prof. Pierce noted that in 2012-2013, the team will be "a young team" with a large number of freshmen. It must not be assumed that the team will be "a lock" for the NCAA tournament, given its relative youth.

Prof. Tenbrunsel expressed her sense that the situation does not meet the recently developed criteria. She suggested considering ways of shaping the weekend so as to make clear to the student-athletes that the priority is study and preparation for finals; a mandated study session, for instance, might compensate for the aspect of study days which the Board fears the team will lose.

Ms. Conboy suggested that perhaps the coaches already have some thoughts about ways of scheduling the weekend to compensate for the impact of the game. She suggested that the FBA might require further information in order to make its decision. Ms. Bodensteiner offered to procure any information the FBA might want. She reminded members that when the team traveled to Purdue last year, a member of the Academic Services staff accompanied the team and conducted a study session in the hotel, to compensate for the lost study time.

Prof. Bellia supported the idea of a block of mandated study time on Saturday. Prof. Tensbrunsel agreed that such a plan would send a clear message to the team, especially a young team, about the importance of the academic experience.

Prof. Bellia thanked Ms. Bodensteiner for her presentation. After her departure, members continued to discuss the request.

Mr. Holmes expressed concern that the Board might respond differently to a request from a team that is less sure of getting an NCAA tournament bid. He noted that the Board should be careful to develop a consistent policy for these kinds of requests, particularly for men's and women's teams. Prof. Tenbrunsel, reviewing the language of the new policy, asked if the committee had considered including an assessment of team academic achievement as part of the policy. Prof. Fallon reported that while that idea had been broached, it was assumed by the committee that it would be a prudential matter. Prof. Bellia noted, too, that the Board wants to be careful not to "visit the sins of the past on the future team."

Members addressed the idea of amending the policy before voting on the request. Prof. Bellia asked if the criteria were adopted as "rules" or "standards"? She expressed her opinion that the policy was a codification of issues discussed rather than a hard-and-fast set of rules in which each of the four elements must be applied. She noted that the minutes of the February 6, 2012, meeting reflect the belief that the Board felt it would be impossible to craft a universally applicable, rigid set of criteria.

Prof. Fallon acknowledged Mr. Holmes' point about being consistent in application of the policy to men's and women's teams. He noted, however, that when the same teams make the same request year after year, the policy "has no teeth." If the argument for scheduling this game is compelling, then the policy needs to be amended. One possible change would be to require some compensatory action from a team that requests a study day game. Prof. Kijewski-Correa suggested that the quantity of study day games could be limited to a stated number.

Mr. Holmes noted that this problem will not "go away" because the factors that have necessitated this request will continue to impinge on the team's ability to create a full schedule. Ms. Conboy added that some responses to a denial will be for the team will be to ask for an additional class miss, for the team to schedule a less competitive team, for the team to deny to volleyball the "hold date," or for the coach to begin practicing on study days, since that is not prohibited. Prof. Bellia asked if the team in question were Baylor, would that change the Board's response; Ms. Conboy noted that if the team were Baylor, it would require a much greater investment of time and energy on the part of the team. Prof. Kijewski-Correa asked which was less preferable, another class-miss day or a study day game.

Members briefly discussed the volleyball hold day. While volleyball has not needed the hold day in the past few seasons, it has needed it with some frequency in the past. There cannot be any doubling up of events, as the NCAA rules for post-season play require that there be no events scheduled in the venue in the relevant timeframe. Other institutions have a separate gym for volleyball, which avoids this problem.

Prof. Tenbrunsel noted that if this request is to be granted, there needs to be acknowledgment of the importance of the underlying issue, the need for study time prior to exams. Members discussed various study session options, keeping in mind the schedules of review sessions for courses and the need to communicate the importance of study time. Prof. Fallon noted that if the rule is to be tested every year by the same handful of teams, then the policy should be changed to better meet the circumstances. He suggested something like “one study day game per team per year if X requirements are fulfilled.” Prof. Tenbrunsel noted that if circumstances were to change (if, for instance, volleyball were to get a gym), then a rule such as this would no longer be needed. She agreed that the current policy does not seem to fit the circumstances.

Ms. Fulton expressed her approval of a study day game, noting that it would be “highly probable” that practices would be scheduled on those days if there were not a game. She added that “something” will take away from study on those days. When asked about her own experience with study days as a basketball student-athlete, Ms. Fulton commented that she certainly did not have basketball-free study days. Mr. Harrity shared his experiences at other institutions. He said there were always competitions scheduled on study days.

After some discussion of options, and with the input of Mr. Holmes, members agreed that blocks of study time spread out over the three days of the reading period would be required in order to grant this request. Several distributed sessions are needed, with the actual timing of sessions to be left to discussion between Academic Services and the team. The FBA has a commitment to sustained study over the study days.

The motion to approve the request for a study day game, conditioned on the women’s basketball team presenting a schedule of at least six hours, over three days, of study sessions for team members, was made and seconded. The motion was approved with five yes votes, one opposed, and two abstentions.

Members discussed the implications of this discussion. Prof. Bellia recommended that the Academic Integrity committee take this policy back for review. It was suggested that one revision might be to set a limit on requests per team; this would incline coaches to think carefully about when they want to “play their card.” It was noted that the requests come from the two basketball teams; however, they are the only teams in non-conference play during the study and exam period of the fall semester.

Prof. Bellia alerted the Board to upcoming topics: the approval process for students seeking a fifth year of eligibility will be underway soon, with a number of candidates from football whose applications would ideally be considered before spring practice begins on March 21. Prof. Bellia noted that 5th year applications are approved by the Academic Integrity subcommittee, by

delegation; the meeting will be on March 19, 2012 at 1 p.m. for any who would like to attend. The Kanaley award process will soon begin; an Academic Integrity meeting, to which all members are invited, will precede the next FBA meeting on March 28.

As time had expired, the meeting was adjourned.