

FACULTY BOARD ON ATHLETICS

UNIVERSITY OF NOTRE DAME

Meeting of May 8, 2006

5th Floor Conference Room, Main Building

Members present: Prof. Fernand Dutile (Chair); Prof. Patricia Bellia; Prof. Harvey Bender; Prof. Eileen Botting; Prof. Stephen Fallon; Mr. Patrick Holmes; (Rev.) Mark Poorman, C.S.C.; Prof. Donald Pope-Davis; Prof. F. Clark Power; Dr. Frances Shavers; Prof. John Weber; and Dr. Kevin White.

Members absent: Mr. Bobby Brown; Prof. Francis Castellino; and Prof. David Kirkner.

Observers present: Mr. Michael Karwoski and Mr. Stan Wilcox of the Department of Athletics; and Ms. Kitty Hoye, recorder.

Guest present: Mr. Kevin Cannon, director, Student Financial Services.

1. Call to order and prayer: The Chair called the meeting to order at 3:05 p.m.; Father Poorman led the group in prayer.

2. Minutes of previous meeting: Prof. Botting moved for approval of the minutes of the meeting of April 10, 2006; Prof. Bellia seconded her motion, which passed unanimously.

3. Announcements: The Chair informed the Board that he had approved on its behalf captains for the 2006-07 season in football (Brady Quinn, Travis Thomas and Tom Zbikowski); men's swimming (Timothy Kegelman, Theodore Brown and Louis Cavadini); and men's soccer (Greg Dalby and Dale Rellas). The board then ratified the decisions of its Chair.

The Chair next announced that on May 4, 2006, he had met in Washington, D.C., with the Athletic Affairs Committee of the University's Board of Trustees. That committee invited the Chair to reflect on his six years of service as Chair of the Faculty Board on Athletics and as NCAA Faculty Athletics Representative. The Chair summarized for the Faculty Board his report to the Athletic Affairs Committee:

Early during that six-year period, the Faculty Board completely revised the University's *Statement of Principles for Intercollegiate Athletics*. Ultimately signed by the president, the director of athletics and the Chair of the Faculty Board, the new *Statement* reflected the dramatic reorganization that occurred in athletics at the University during the first part of the year 2000. The *Statement* put a new focus on presidential control of

intercollegiate athletics and specified a wider responsibility on the part of coaches and others. The Faculty Board on Athletics also established during the first of those six years a standing subcommittee for each of the following three areas: academic integrity, student-athlete welfare and communication. These subcommittees have helped to refine issues before they come to the full Faculty Board. The year 2001 saw the publication of a more extensive and more formal collection of guidelines, rules and practices related to the Faculty Board on Athletics. This work, newly titled *FBA Manual*, has since been updated annually. The Faculty Board instituted its own listserv, through which the group both discusses and votes on issues coming before it. From the beginning of this six-year period, the Chair has worked to provide the Notre Dame community with more informative minutes of Faculty Board meetings. Creation of a Faculty Board Web site, to which the entire Notre Dame community has access, supplemented this effort to give the community a better understanding of the multi-faceted work of the Faculty Board. Members of the Faculty Board participated heavily in the NCAA certification process that culminated in full approval of the University's athletics program in early 2004. During the six-year period, the Faculty Board, in cooperation with the Department of Athletics, wholly revised the appeals process for two separate situations affecting student-athletes: denials of permission related to possible transfers, and nonrenewals of grants-in-aid. The Faculty Board made exhaustive assessments of, and changes in, University rules relating to practice, travel and competition during First-Year Orientation and during religious holidays. Regulations relating to the approval of petitions for a fifth year of eligibility underwent two significant revisions during the last six years. The Faculty Board has also sent to the president a formal recommendation that the term limits (two three-year terms) currently applicable to the Chair of the Faculty Board be abolished, but with reappointments subject to consultation with the Faculty Board. With regard to the controversy surrounding the most recent transition in head football coaches at Notre Dame, the Faculty Board on Athletics played an important role in channeling and resolving the many layers of community concern. Early in the controversy, the Faculty Board issued a brief statement to the faculty committing itself to a full exploration of the situation. After several meetings, the Faculty Board issued an extensive statement of its conclusions with regard to the matter that was unanimously approved by those members present and voting. Finally, three concerns should be mentioned. First, student-athletes are devoting more and more time to the athletics side of their lives. As a result, student-athletes today specialize in their sport, usually focusing on that one sport all year long. Sports now have a "non-championship" season, thus putting demands on student-athletes outside the regular season for particular sports. To be sure, Notre Dame's graduation rate for student-athletes continues to be the envy of other institutions. Still, the mere fact that graduation occurs does not reflect the fullness of an education. Student-athletes need more time to attend lectures and concerts, to take part in campus organizations and to participate in late-night dormitory discussions of politics and culture. A second concern: the admissions-credentials gap between our typical entering student and some student-athletes, especially in our high-profile sports. This gap makes it difficult for some student-athletes to participate fully in their courses and, on occasion, leads to professorial challenges in managing those courses. Third, the Athletic Affairs Committee of the Board of Trustees should know of the need to promote

greater academic influence in the Big East Conference, home of most of Notre Dame's sports. To the Faculty Board Chair's knowledge, no other Division I athletics conference acts in a less academically friendly way than does the Big East. Whereas faculty athletics representatives in other conferences play a major role in policy development and, in some conferences, even cast the policy votes for their respective institutions, the representatives in the Big East Conference do not even attend the actual policy-making meetings. Predictably, decisions carrying important academic implications are made without even their knowledge. Both Fr. Jenkins and Dr. White recognize the problem and have committed themselves to helping improve the situation.

At the Chair's invitation, Dr. Shavers, who also attended the meeting of the Athletic Affairs Committee of the Board of Trustees, reported that a committee, made up at least in part of trustees and members of the Faculty Board on Athletics, will consider adapting to Notre Dame the *Statement on Board Responsibilities for Intercollegiate Athletics*, adopted by the Association of Governing Boards (AGB) in March 2004. Prof. Power, noting the concern of the Faculty Board on Athletics with regard to the direct participation of trustees in athletics-personnel decisions, asked Dr. Shavers whether the trustees agree with the AGB proscription against direct participation by trustees in such decisions. Dr. Shavers: The Athletic Affairs Committee's brief discussion focused more on the "nature and degree of involvement." She assured Prof. Power that his view will be shared with the working group. The Chair added that he would be very surprised—and disappointed—if that concern failed to be addressed.

4. Petitions for a Fifth Year of Eligibility: On behalf of the subcommittee on academic integrity, Prof. Bender and Mr. Holmes brought to the Board two petitions for a fifth year of eligibility. Both petitioners seek to use the fifth year to complete their undergraduate degrees. The subcommittee recommended approval of the first petition without reservation. Having experienced some concern regarding the second applicant, the subcommittee met with that student-athlete, had a healthy discussion concerning the student-athlete's academic situation, and now recommended approval subject to two conditions. First, the student-athlete must complete the spring 2006 semester in good academic standing. Second, the student-athlete must meet with the subcommittee on academic integrity in the middle of the Fall 2006 semester to discuss the student-athlete's academic progress to that point. Prof. Bender moved for the approval, subject to the stated conditions, of the two petitions for a fifth year of eligibility. (Because the motion emanated from the chair of a subcommittee, no second was needed.) The Faculty Board unanimously approved the two petitions. The Chair thanked the subcommittee on academic integrity for its work with regard to applications for a fifth year of eligibility.

5. Appeals Process for Nonrenewals of Athletics Grants-in-Aid: Prof. Botting, Chair of the subcommittee on student-athlete welfare, reported to the Board on the subcommittee's work with regard to revising, with the cooperation of the Department of Athletics, the appeals process applicable to nonrenewals of student-athlete grants-in-aid. A significant question, Prof. Botting said, relates to whether witnesses should be heard in person or their statements taken only in writing. While the current process provides only for the latter option, other institutions in the Big East normally allow both methods. Adopting that approach for appeals of nonrenewals of grants-in-aid would parallel recent changes in Notre Dame's transfer-appeal policy. Mr. Kevin

Cannon, director of Student Financial Services and a guest at the meeting, said that his experience with the process and that of Mr. Jeff Shoup, director of Residence Life and Housing, lead both of them to feel that in-person appearances pose huge logistical problems. Both believe that witness testimony should be submitted in writing and that, even if in-person testimony is provided for, it should be allowed only with regard to serious offenses and for actual witnesses to the particular event in question. Mr. Karwoski: I suppose that “event” means a factual event. Prof. Fallon stated his belief that the witness should have the ability to speak and the responsibility to be questioned. Father Poorman noted that for disciplinary proceedings in his office, oral testimony does provide the opportunity to ask and answer questions; however, his office requires that any testimony be followed up in writing. Moreover, character-witness testimony should be confined to writing. Prof. Pope-Davis suggested that the process might be condensed were the witness first required to submit a written statement and then asked to respond only if questions about that statement arose. Prof. Botting informed the group that other institutions in the Big East make no distinction between character witnesses and other witnesses. Our current procedure allows the hearing panel to meet, discuss and decide the entire matter within an hour or so. Prof. Bellia expressed a variety of concerns: Is there enough discretion available to the Chair? Should rules of evidence be followed? Does the panel have enough leeway? Do we need clarifying language? Prof. Botting responded that the language of the proposal tracks that of the transfer-release policy; it is good that these two processes be as parallel as possible. Moreover, the proposal does allow the panel and its chair to control the meeting. Under the proposal, of course, both the student-athlete and the Department of Athletics must plan ahead to sift out unnecessary and irrelevant testimony. The Chair: It should be emphasized that the phrase “reasonable opportunity” limiting the offer of evidence does not mean “unlimited opportunity.” Prof. Botting agreed; the chair of the panel will be the “point person” with authority to set the tone of the meeting. A second issue, she continued, involves whether the student-athlete should be entitled to be present during the entire hearing—not only when he or she testifies. Prof. Fallon said he could imagine reasons to preclude student presence, but the issue does seem to be one of paramount importance to that student-athlete. Shouldn’t the student-athlete have an opportunity to rebut testimony, rebuttal that becomes possible only if the student-athlete has access to what else is being said? The Chair asked whether Prof. Fallon proposed presence or, in addition to presence, the opportunity to cross-examine witnesses. Father Poorman: Notre Dame’s Honor Code allows the student to be present until deliberations begin. Prof. Botting: Some schools allow cross-examination and some do not. Mr. Karwoski asked for clarification: Is the suggestion that the student-athlete and, say, the head coach, both be allowed to remain? Mr. Cannon: Perhaps providing that the student-athlete be “available” works better. Currently, the panel reviews the student-athlete’s statement, the coach or other representative of the Department of Athletics makes a presentation, and the student returns to clarify. Father Poorman spoke against student-athlete presence. The student is already under enormous pressure; it could be counterproductive to have him or her present. Moreover, added Mr. Karwoski, the student-athlete could feel intimidated by the coach. Father Poorman noted that some hearing procedures now provide for videotaping. The Chair suggested that the group look at this issue from two perspectives. First, will the process be fair? Second, will those involved in the process perceive it to be fair? Mr. Karwoski suggested giving both parties the *option* to be present. Prof. Fallon said that suggestion had merit, although he worried that a student-athlete who exercises the option might feel intimidated. The Chair felt that availability

of the option itself would empower the student. In response to the Chair's observation that under the current proposal the Department of Athletics already has a (non-voting) representative on the panel, Mr. Karwoski responded that that person serves only to provide information regarding rules and regulations of the NCAA, the athletics conference and the like, not to provide any insight into a specific issue or particular problem. Mr. Wilcox suggested that the head coach might want to be present when witnesses give information. Prof. Bellia: The student-athlete has much more of a stake in the outcome than the coach. The disparity of power does not seem to present much of an issue. We should not be troubled by giving the student a greater right in this situation. In response to a question concerning who maintains the files once a hearing occurs, Father Poorman pointed out that such educational records remain private under federal law. Yes, Mr. Cannon agreed, and these files are kept in the Office of Financial Aid. Mr. Karwoski noted that NCAA rules require the institution to preserve such records for at least seven years. On a motion by Prof. Fallon, seconded by Prof. Power, that the proposed policy be amended to give the student-athlete an option to be present during the entire hearing, the group voted 6-1 in favor. [Subsequent to this vote, the lone dissenter asked to be counted as in favor, rather than as opposed.] The Chair thanked Dr. Botting and her subcommittee for the time and talent invested in revising the provision regarding appeals of nonrenewals of grants-in-aid. [For the text of the provision approved by the Faculty Board on Athletics, see the Appendix.]

6. Report on Disciplinary Matters Involving Student-Athletes: Father Poorman presented to the Faculty Board his annual report on disciplinary matters relating to student-athletes. Father Poorman pointed out, with regard to the confidential handout provided to Board members, that the current figures do not enable comfortable comparison between "years," due to the use of new software and a shift to a different calendar time span (April-to-April rather than August-to-April). After this transition year, readier comparisons will become possible. During the past year, student-athletes were involved in 65 cases, comprising a total of 87 violations. During the past year, about 7.5% of disciplinary cases implicated student-athletes, as opposed to about 6% last year. This year 40% of the cases involved alcohol, compared with 65% last year. There were no drug cases among student-athletes. At this point, for reasons of confidentiality, Board members returned to Father Poorman the chart he had distributed to them.

7. Report on Academic Profile of Student-Athletes: Mr. Holmes presented to the Faculty Board a handout containing both a full report and a summary with regard to the academic profile of Notre Dame's student-athletes, a report presented annually. Notre Dame currently has 654 student-athletes participating on 26 varsity teams. This number represents 7.92% of Notre Dame's undergraduate population. Of these student-athletes, 396 (or 60.5%) receive athletics grants-in-aid. Women represent 42.7% of student-athletes receiving grants-in-aid and receive 41.9% of aid actually dispersed. Women represent 46.9% of the Notre Dame undergraduate population and 42.4% of the Notre Dame student-athlete population. Minority students represent 19.1% of the undergraduate population and 16.5% of the student-athlete population. African-Americans comprise 3.7% of the undergraduate population and 10.4% of the student-athlete population. African-American males represent 3.6% of the undergraduate male population and 14.2% of the male student-athlete population. Of the African-American male undergraduates, 34.4% are student-athletes. With regard to religious affiliation, 81.7% of undergraduates are Catholic; 64.1% of student-athletes are Catholic. While the Notre Dame undergraduate

population generally divides about equally among the four grade levels, the student-athlete numbers decrease as student-athletes advance through Notre Dame—in part due to a natural process of attrition and in part to a number of sports, such as rowing and track, having large first-year numbers. With regard to distribution in Notre Dame's colleges, 51.7% of undergraduates are enrolled in either Arts and Letters (33.2%) or Business (18.5%). Of all student-athletes, 60.4% are in Arts and Letters (33.2%) or in Business (27.2%). Engineering (9.2%) and Science (12.0%) claim 21.2% of all Notre Dame undergraduates. Engineering (4.1%) and Science (6.0%) claim 10.1% of student-athletes. The most popular majors for Notre Dame undergraduates as a whole are political science, psychology, English, finance and accounting. The most popular majors for student-athletes are: finance, marketing, psychology, sociology and political science. Male student-athletes choose finance, marketing, accounting, sociology and political science. Female student-athletes choose psychology, marketing, sociology, graphic design and science pre-professional. The average SAT for all students is 1364; for student-athletes it is 1223 (1217 for men and 1230 for women). The average SAT for all grant-in-aid student-athletes is 1165 (1157 for men and 1175 for women). Following the fall 2005 semester, the average cumulative grade-point average for all students at Notre Dame was 3.36, with the corresponding number for student-athletes 3.14 and for all grant-in-aid student-athletes 3.09. Finally, with regard to NCAA graduation rates, 86% of first-year grant-in-aid student-athletes who enrolled in the Fall of 1999 were graduated; the four-class average for first-year grant-in-aid student-athletes enrolling in the Fall of 1996, 1997, 1998 and 1999 stands at 89%. Mr. Holmes discussed each category set out in the summary. He pointed out that the numbers describe the situation obtaining at the conclusion of the Fall semester. (Some specific point in time must be used, he said, because the number of student-athletes at Notre Dame varies as the year progresses.) Prof. Pope-Davis asked about the “not specified” number appearing in the section on ethnicity. Mr. Holmes: The “not specified” datum comes from the Office of Institutional Research. Obviously, he said, we depend on other parts of the campus for many of our statistics. Prof. Bellia wondered about the larger attrition of female student-athletes from one year to the next. Mr. Holmes: As a general matter, women on a team who do not get much playing time are more likely to walk away from the team but remain at Notre Dame. Often, men who choose to leave a team are also more likely to transfer. Dr. White added that many articles in national publications have referred to the fact that men, more often than women, will stay on a team even if they are not playing regularly. Rowing, a women's sport at Notre Dame, is unique. Since many high-school programs do not offer that sport, the Notre Dame team sees a large number of walk-ons during the first weeks of the year. Those numbers fall later on. Prof. Bender asked whether many student-athletes achieve a higher grade-point average than their incoming profile would project. Are such data available? Mr. Holmes responded that the Office of Institutional Research has run such numbers, but only for the use of the Office of Academic Services for Student-Athletes. The office does not share that information precisely because several areas of concern make them of questionable use. Father Poorman suggested that data showing that Notre Dame student-athletes performed academically above expectations would provide a strong recruiting device. Prof. Pope-Davis expressed concern that we might not have any idea of the cause of such performance. Is it the tutoring we provide, or is it something else? Dr. Shavers, agreeing with Mr. Holmes, stressed the need to be cautious in the use of such information; these sorts of statistics have very significant limits. Prof. Fallon emphasized that it is difficult to earn a grade lower than a “B” in some courses. He also noted that nearly every women's team has a

higher grade-point average than the corresponding men's team. Mr. Holmes responded that many things factor into these data, but all students receive the same opportunities. Female student-athletes typically perform better academically than do male student-athletes. Some of the variation relates to the fact that more men than women major in business. Prof. Bender added that performance on the verbal, as opposed to the quantitative, part of the SATs, about which we have no breakdown, might also factor into the disparity. Yes, Mr. Holmes concluded, many variables pervade the situation. The Chair thanked Mr. Holmes for his report.

8. Report on Off-Campus Residence of Student-Athletes: [Student-athletes with grants-in-aid must reside on campus during their first three years at Notre Dame. Student-athletes who achieve a 2.7 cumulative grade-point average over their first five semesters, or a 3.0 grade-point average in each of their fourth and fifth semesters, may, if approved by the Department of Athletics and the Office of Student Affairs, live off campus during their senior year. Each year, the Department of Athletics presents to the Faculty Board a report on off-campus residence of student-athletes]. Mr. Karwoski distributed to members of the Faculty Board a chart indicating that for the 2005-06 academic year, 78 student-athletes applied to live off-campus; 4 of these applications were denied—all on the basis of grades. For the 2006-07 academic year, 86 student-athletes applied; 8 applications were denied—7 on the basis of grades and 1 for failure to gain the approval of the Office of Student Affairs. Mr. Karwoski noted that the slight increase in the numbers for next year appeared to be statistically insignificant. The Chair noted that the system appears to be working well and thanked Mr. Karwoski for his report.

9. Reports of Ex-Officio Members: Dr. Shavers, a member of the Faculty Board and also Chair of the University Committee on the Drug Testing of Student-Athletes, reported that this year's drug testing of student-athletes resulted in no ultimate positives, although one false-positive was resolved as a negative. Resolved as well were three cases initially classified as "positive" because the student-athletes involved had not appeared for the tests. Fortunately, these, too, were ultimately resolved as negative.

Father Poorman, alluding to the sexual-assault allegations plaguing the men's lacrosse program at Duke University, provided Board members with statistics relating to "forcible sexual offenses" on campus. Notre Dame, he observed, appears to fare quite well in comparison with other top-level educational institutions with regard to such statistics, which must be reported to the federal government under the Clery Act. Nonetheless, he cautioned that these numbers must be viewed cautiously; for example, they include only on-campus incidents and, therefore, tell us nothing about other areas where students spend much of their time. He emphasized that both the Office of Student Affairs and the Department of Athletics provide a tremendous amount of programming and information with regard to the issue of sexual assault. Prof. Bender asked Dr. White whether the Faculty Board should be doing anything further with regard to concerns about athletes and sexual assault. Dr. White: The Faculty Board needs to continue doing what it does—namely, holding the Department of Athletics accountable. As Father Poorman pointed out, we do a good deal of programming and our message to the coaches and the student-athletes is clear. Can I guarantee that what happened at Duke will never happen at Notre Dame? No, of course not. In fact, we recruited many of the same lacrosse student-athletes that Duke enrolled. Father Poorman agreed; the Duke-lacrosse situation could, alas, arise at Notre Dame. That said,

he continued, Duke does have a “Greek system,” which offers a culture and an environment very different from our campus. Any event like the Duke situation, as Dr. White points out, presents an important “teaching moment.” We must “stay nervous.” We cannot do enough to address this situation—one of critical importance to the safety of our students. Moreover, were something similar to what is alleged to have occurred at Duke happen at Notre Dame, the media attention would be enormous. Dr. Shavers added that the University’s *ad hoc* committee on academic freedom will also look at this issue. Father Jenkins, its chair, realizes that our campus culture sets the stage. Prof. Bellia stressed that we must not be complacent by relying solely on the numbers disclosed pursuant to the Clery Act. Many sexual offenses go unreported. We should invite Ms. Heather Rakoczy, director of the Gender Relations Center, to a Faculty Board meeting to give us more realistic numbers. Dr. White suggested that Ms. Charmelle Green, director of student-athlete development, also be invited to speak to the Board. Prof. Power, too, said that many sexual assaults go unreported. Father Poorman emphasized that his office fully pursues any and all such reports.

At this, the last meeting of the academic year, the Chair thanked Prof. Kirkner and Mr. Brown, soon ending their service on the Faculty Board on Athletics, for their contributions to the Board’s work. The Chair, whom term limits now bring to the end of his service, pledged to help in any way he can toward a smooth transition for his successor, Prof. Pope-Davis. The Chair thanked the members for all they have done over those six years to promote the Board’s mission. Board members brought to their work tremendous cooperation, civility, good faith, integrity and dedication to the best interests of Notre Dame and its student-athletes. What better place than Notre Dame, the Chair asked, at which to work at the intersection of the academic and the athletic? For his part, serving as Chair of the Faculty Board on Athletics and as Notre Dame’s Faculty Athletics Representative has been occasionally challenging, usually enjoyable and always an honor.

At this point, Prof. Pope-Davis, on behalf of the entire Faculty Board, presented Notre Dame memorabilia to the Chair as “tokens of appreciation.” A beautiful (and tasty) celebratory cake capped the occasion.

10. Adjournment: The Chair adjourned the meeting at 5:06 p.m.

APPENDIX

Athletics-Related Financial-Aid Hearing Procedures

Notre Dame has traditionally respected and honored the impressive service and commitment of the student-athlete to the good of the broader university community. Consequently, Notre Dame has sought to strongly protect the security and well-being of its student-athletes, including in matters pertaining to athletics-related financial aid. The cost of a Notre Dame education significantly exceeds that of many of its peers in NCAA Division I athletics. For this reason, Notre Dame’s practice has shunned non-renewals, cancellations, or reductions of athletics-related financial aid. Additionally, in general practice, Notre Dame has not considered a student-

athlete's athletic performance, contribution to the team, or injury as appropriate grounds for non-renewals, cancellations, or reductions of athletics-related financial aid. The administration of the Department of Athletics has treated seriously those rare cases in which non-renewals, cancellations, or reductions of athletics-related financial aid have been proposed; such cases involve student-welfare issues that warrant careful deliberation, complete fairness, and appreciation of the decision's crucial effects on the student-athlete's ability and desire to remain and flourish at Notre Dame.

A student-athlete whose athletics-related financial aid is reduced, cancelled, or not renewed by the Director of Athletics is informed in writing by the Director of Financial Aid that he or she, upon written request to the Faculty Athletics Representative (FAR), has an opportunity for a hearing. The written request for a hearing must be received by the FAR within fifteen (15) days of the University's written notification of the reduction, cancellation, or non-renewal of the student-athlete's athletics-related financial aid.

A hearing is conducted no later than thirty (30) days after the FAR receives the written request for a hearing. The FAR appoints two non-*ex officio* faculty members of the Faculty Board on Athletics and the Faculty Board's student representative as voting members of the hearing panel. The Vice President for Student Affairs or his/her designee serves as a voting member of the hearing panel. The Director of Student Financial Services or his/her designee serves both as a voting member and as the chair of the hearing panel. The sole non-voting member of the hearing panel is the director of NCAA Compliance in the Department of Athletics, who serves as a resource concerning NCAA, conference, and Department of Athletics rules and regulations for the voting members of the hearing panel.

At the hearing, the student-athlete appealing the decision and representative(s) of the Department of Athletics, including the head coach of the student-athlete's team or former team, are given an opportunity to argue for or against the decision under appeal. The hearing is informal. No rules of evidence apply. Neither the student-athlete nor the representative(s) of the Department of Athletics may proceed through legal counsel at the hearing. They may, however, seek the advice of legal counsel or be represented by legal counsel outside the hearing. At the hearing, both parties are afforded a reasonable opportunity for the presentation of relevant witnesses (in person or in writing) and pertinent documentary evidence. The hearing panel may question any and all witnesses, examine documentary evidence and summon other witnesses as it deems appropriate. No witness or party is present during the testimony of any other witness or party, except that the student-athlete may choose to be present for any and all witness testimony and to respond to such testimony. Otherwise, the hearings are open only to the hearing panel and to the parties or witnesses while they testify. No later than seven (7) days prior to the hearing, the student-athlete and representative(s) of the Department of Athletics provide to the chair of the hearing panel every document or other exhibit they plan to use at the hearing, and the names of any witnesses they intend to call. The chair of the hearing panel promptly distributes to the other party copies of all materials submitted by each party. The hearing panel may refuse to hear the testimony of any witnesses not so disclosed or to consider any exhibits not so disclosed.

After the presentation of all the evidence and testimony, the voting members of the panel deliberate in closed session. The panel's deliberations remain confidential unless disclosure is required by law. The panel decides whether or not NCAA, conference, and university rules and regulations regarding the decision under appeal have been applied to the student-athlete's case in a reasonable and fair, and therefore not arbitrary, manner. The hearing panel may accept, reject or modify the decision of the Department of Athletics. It puts forward a single vote, positive or negative, regarding the appeal. Within ten (10) days after the hearing, the chair of the hearing panel transmits a written copy of its decision to the student-athlete and to the Department of Athletics. The decision of the hearing panel is final and may not be appealed.

Nothing in these policies and procedures prohibits or prevents the student-athlete and the Department of Athletics from resolving their dispute by mutual agreement at any time. If such an agreement is reached, the student-athlete or the Department of Athletics promptly so notifies the hearing panel, in writing, and the pending review is dismissed.

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