

FACULTY BOARD ON ATHLETICS

UNIVERSITY OF NOTRE DAME

Meeting of Monday, April 26, 2004
5:00 p.m., Room 331, Coleman-Morse Center

Members Present: Prof. Fernand Dutile (Chair); Prof. Matthew Barrett; Prof. Harvey Bender; Prof. John Borkowski; Mr. Bobby Brown; Dr. Matthew Cullinan; Prof. Stephen Fallon; Prof. Umesh Garg; Prof. David Kirkner; Prof. Layna Mosley; Prof. Donald Pope-Davis; and Prof. John Weber.

Members Absent: Mr. Patrick Holmes; (Rev.) Mark Poorman, C.S.C.; and Dr. Kevin White.

Observers Present: Ms. Sandy Barbour, Ms. Missy Conboy and Mr. Bernard Muir, all of the Department of Athletics; Ms. Kitty Hoye, recorder.

1. Call to order and prayer: The Chair called the meeting to order at 5:05 p.m. Professor Barrett led the group in prayer.

2. Minutes of previous meeting: Prof. Barrett moved the approval of the minutes for the meeting of March 30, 2004. Professor Mosley seconded that motion, which passed unanimously.

3. Announcements: The Chair asked Board members to keep former Athletics Director Michael Wadsworth in their thoughts and prayers. Mr. Wadsworth, seriously ill with bone cancer, had been taken to the Mayo Clinic. [Mr. Wadsworth died on April 28, 2004.]

The Chair thanked Prof. Mosley for her work in setting up the new website of the Faculty Board on Athletics. That website, whose address is www.nd.edu/~facboard/, is now operational.

The Chair announced that he had approved, on the Board's behalf, amendments to the class-miss schedule of several teams. The afternoon of April 15 has been added to the schedule for outdoor track; that schedule remained within University guidelines. Due to bad weather at Chicago's O'Hare, several student-athletes on the outdoor track team were delayed in returning from a California meet. Accordingly, the Chair authorized the issuance of class-miss excusals for the morning of April 19. Due to unanticipated delays in play, occasioned partly by weather problems, the Chair approved missed-class excusals for the men's golf team on the morning of April 5, 2004. The unanticipated failure of a bus to appear at the scheduled time when the rowing team arrived at O'Hare occasioned missed-class excusals for the morning of April 5. Finally, the Chair approved missed-class excusals for the afternoon of April 13 for men's tennis, whose arrival in South Bend an airliner mechanical problem (flat tire) delayed.

The Chair approved the following captains for the 2004-05 academic year: Matthew Bertke (men's swimming); and Christopher Sawyer, Jack Stewart and Kevin Goldthwaite (men's soccer). The Chair also approved a slate of student-athletes from which captains for the women's-soccer team will be selected. [Pursuant to Board custom, its silence reflects its ratification of these decisions.]

4. Petitions for a Fifth Year of Eligibility: Prof. Bender, on behalf of the Subcommittee on Academic Integrity, presented to the Board recommendations that the five following student-athletes be approved for a fifth year of eligibility: Caylan Leslie (women's tennis), Bridget Higgins (women's lacrosse), Todd Mobley (track), Meghan Perry-Eaton (women's diving), and Casey Rotella (women's golf). [As usual, public minutes of the Board omit any discussion of individual student-athletes.] Prof. Barrett, alluding to the excellent academic and athletics achievements of [one of the petitioners], wondered why that student-athlete had not been put forward for a Byron V. Kanaley Award. This student-athlete could possibly be selected by the NCAA as part of its "Elite 8" next year. Prof. Bender echoed that concern; clearly the coach should initiate the process, but the system seems to fail when we discover that a student-athlete who so clearly seems to deserve it has not been nominated. What role should the Board have in this? The Chair noted that he writes a letter to each head coach, early in the second semester, to solicit nominations. Later in the semester, Ms. Barbour e-mails head coaches to remind them to turn in their nominations. As a safeguard, this year the Chair contacted Sports Information to help ensure that no worthy candidate had been missed. Ms. Conboy: Since one may win the award only once, perhaps the head coach thought not in terms of the specified criterion ("senior monogram winner"), but rather in terms of the student-athlete's last year here, which for [this student-athlete] will be next year. The Chair, noting that all head coaches are asked to return the form, whether or not a nomination is included, suggested that in future years the Chair might contact yet again any head coach from whom the Chair has not heard. Prof. Weber suggested that the Board might wish to change its policy so as to make eligible fifth-year student-athletes as well as senior monogram winners. At this point, the Board voted unanimously to approve for a fifth year of eligibility the five student-athletes put forth by the Subcommittee on Academic Integrity.

5. Request for a reduced tenth-semester program: [For reasons of privacy, the Board's extended discussion of this request has been edited.] The Board next considered a request by a student-athlete that the usual requirement that fifth-year student-athletes carry a minimum of nine credit hours per semester be waived for the student-athlete's tenth semester (Spring 2005). The student-athlete was awarded more money as a junior than as a sophomore because money for that increase became available. During the fifth year, the student-athlete will receive 70% of college costs. To reduce the financial demands on the student-athlete's family, the student-athlete seeks to take six credits rather than nine. Prof. Garg noted the importance of this difference; with nine credits the student-athlete will pay full-time tuition whereas at six credits, the cost will be "per credit." Prof. Mosley reminded the Board that it had recently made a similar allowance for a non-scholarship student-athlete in another sport. There ensued an extensive discussion of "dollar" allocations versus "percentage" allocations with regard to athletics grants-in-aid. Prof. Barrett worried that the athletic program, contrary to University guidelines, would not financially support the fifth year at the same level the program had supported the student-athlete in the past. He noted that the team was providing \$24,000 in

support when the Faculty Board approved the student-athlete's petition for a fifth year of eligibility. Ms. Barbour noted the difficulty when programs provide grants-in-aid termed in real dollars versus percentages. Ms. Conboy agreed: We need to encourage coaches to use percentages both to avoid confusion and to avoid inadvertent NCAA funding violations. Never in recent memory, Professor Barrett added, has tuition declined from one year to the next. Prof. Kirkner, stressing that the student-athlete fully met our "academic engagement" requirement, supported the request. Prof. Borkowski moved to approve the petition. Prof. Bender seconded that motion, which passed with but one dissenting vote.

6. Recommendations of the NCAA Task Force on Recruiting: Ms. Barbour discussed with the Board the working document of the NCAA Task Force on Recruiting, a copy of which had been provided to each member. The Task Force made several legislative recommendations regarding official visits, including: 1) Any airline travel for prospects must involve commercial transportation at coach-class airfare, with no upgrades permitted; 2) Institutions may not use "special" vehicles (e.g., modified to provide television or special decor or appointments); 3) Prospects must be housed in standard lodging (i.e., no suites and no special accessories such as Jacuzzis) and eat standard meals (i.e., comparable to those usually eaten by student-athletes); 4) Institutions may not arrange personalized promotional activities (e.g., personalized jerseys or scoreboard mention) or allow the prospect to run onto the field with the team; 5) Institutions must certify that they have established and have on file written departmental policies related to official visits, policies to whose precepts the institutions will have to adhere; 6) Student hosts for official visits must be either current members of the team considering the prospect or persons chosen in a manner consistent with that used for selecting hosts for prospective students generally; 7) Current ethical-conduct guidelines should be expanded to address inappropriate behavior related to alcohol, drugs and "entertainment activities;" 8) Both the prospect and the host should commit in writing to limit all activities to those defined as appropriate by the institution. These proposals will be voted on this Fall. The Task Force decided not to recommend: 1) allowing institutions to pay for the travel of the prospect's parents; 2) reducing (from the current five) the number of official visits permitted the prospect or shortening (from the current forty-eight hours) the length of the visit allowed; 3) establishing an early signing date for those sports currently without one; and 4) requiring prospects to attend a class or some form of academic orientation during the visit.

Ms. Barbour expressed disappointment at the recommendation that, in effect, institutions develop their own recruiting code; wasn't this the system in place when recruiting scandals hit the headlines? Ms. Barbour pointed out that much ambiguity remains, even in the legislative recommendations. For example, will use of Notre Dame's Hummer for recruiting purposes violate the transportation restriction? Members of the Compliance staff differ on this. Prof. Pope-Davis asked if prospective student-athletes may "upgrade" their airline flights to first class if they use their parents' money. Ms. Barbour: As long as we are not involved, there is no problem. Ms. Barbour alluded to another problem raised by the proposed legislation. The limitation on who may serve as host for prospects may require us to use staff as hosts during athletics events since student-athletes themselves will obviously be unavailable and managers, whom we now use regularly, will be ineligible. We may, as other institutions do, have recourse to the University's admissions staff. Otherwise, Athletics Department staff will be required. Prof. Bender: Interestingly, none of the proposals would preclude what allegedly happened at the

University of Colorado. Ms. Barbour agreed. Prof. Kirkner noted that some recommendations apparently fell on deaf ears because of budgetary concerns. Prof. Borkowski: Why did the recommendation that prospects be required to have some academic component during their visit fail? The costs involved, Ms. Barbour replied; the requirement could eliminate a one-day Saturday stay. If the prospect plays another sport, for example, the visit becomes impossible. There should, nonetheless, be some academic component. Prof. Pope-Davis asked if these proposals adversely affect us. There were, Ms. Barbour offered, some “missed opportunities.” The Chair thanked Ms. Barbour for her report.

7. Report on Notre Dame’s Drug-Testing Committee: Dr. Cullinan, chair of Notre Dame’s Committee on the Drug Testing of Student-Athletes, reported that under the University’s random-selection process, some four hundred student-athletes were tested this academic year at the rate of forty student-athletes every two weeks. Since some student-athletes may have been tested more than once, there may be duplication among the four hundred students tested. (These tests are in addition to the testing of football players done at the beginning of the season and do not include tests administered by the NCAA.) Dr. James Moriarity, chief of medicine, Student Health Center, has discussed with colleagues at UCLA the prospect of testing for “designer” steroids. These colleagues reported that tests for such substances have not yet been fully developed. The NCAA does not currently require such testing. Nonetheless, designer steroids have become a problem in other areas and we want to remain current in our testing. At its meeting in May, the committee will discuss testing for such steroids, though they remain largely unavailable and very expensive. Prof. Kirkner asked what happens should any student-athlete test positive. Such student-athletes, Dr. Cullinan explained, get referred to the Counseling Center for evaluation. Moreover, the Department of Athletics, through Mr. Muir and the relevant head coach, is also notified. Prof. Kirkner: Is some sort of appeal available to check for a false positive? Dr. Cullinan: We treat the first positive as a need for treatment. We treat the second positive very differently; in such a case, the student-athlete may not participate in any sport here. In response to a hypothetical question posed by Prof. Bender, Dr. Cullinan responded that testing positive for steroids following a positive test for marijuana would be treated like a second violation. Prof. Weber asked how often the NCAA conducts drug-testing. Once a year, Dr. Cullinan responded, and randomly. The NCAA also tests at its championships. Prof. Bender inquired about drug-testing of coaches. That only occurs through the employment process, just as with any employee, Dr. Cullinan answered. Dr. Pope-Davis raised an issue discussed extensively by the Board last year: Is the testing of hair racially discriminatory? Dr. Moriarity had committed to follow scientific developments in that regard. Dr. Cullinan informed the Board that he brings this subject up each semester in the hopes of securing some clarity with regard to possible discrimination in the use of hair for testing purposes; so far science has not made that clarity available. Once again, however, our first objective is to get help for the student-athlete. Prof. Bender asked whether the NCAA certification process looked at drug-testing at Notre Dame. Dr. Cullinan: Drug-testing was part of our self-study. The NCAA said nothing about it in its “feedback.” The Chair thanked Dr. Cullinan for his report.

8. The Faculty Board on Athletics, past and future: The Chair reminded the Board that the last real review of the Board in terms of structure and mandate occurred during the Spring 2000 semester. At that time, fundamental oversight over the Athletics Department moved to the President’s Office. At that time, as well, the Academic Council produced, and the Board of

Trustees approved, a new bylaw regarding the organization and jurisdiction of the Board. Shortly thereafter the Board completed its revision of the University's *Statement of Principles for Intercollegiate Athletics*. Having now worked under the new structure for four full academic years, the Board might profitably revisit these documents, as well as the *FBA Manual*, which itself has developed significantly over those four years. The Chair raised the possibility of getting a group of Board members together over the summer to "brainstorm" on any issues related to the Board, with a view to bringing those issues, properly refined, to the appropriate subcommittee of the Board during the next academic year. The 2004-05 academic year might be devoted in part to exploring these issues further and developing any needed recommendations for the consideration of the Board and, if necessary, the Academic Council and the Board of Trustees. Prof. Kirkner: Should some other body review the work of the Board? The Chair: I propose this as an internal review; of course, any recommendations calling for structural or jurisdictional changes must go to the Academic Council, which itself would at that point explore the issues involved. In response to Prof. Weber's question, the Chair stressed that no controversy prompts this proposed self-study. Indeed, the lack of such a controversy makes this the ideal time to review. Prof. Barrett, agreeing, informed the Board that he had recommended such a self-evaluation. That comes, he said, from his "corporate-governance" background. Prof. Garg, too, felt it a salutary idea to perform such an exercise, especially when not forced to do so. Prof. Barrett added his view that some areas seemed ripe for discussion. For example, can we improve the subcommittee structure? To be sure, this has been our most productive year; each subcommittee can point to at least one major accomplishment. Nonetheless, are three-member subcommittees large enough? There are also potential issues in the current provisions of the Academic Articles relating to the Board. At present, the Director of Athletics is not a voting member; would we get more regular attendance and better participation if he were? The Chair added the possibility of amending our *Statement of Principles on Intercollegiate Athletics* to include the concept of football independence as a core value, since it has played such an important role in the University's history. Prof. Barrett mentioned revisiting, in that *Statement*, the issue of conference affiliation. Prof. Mosley raised, "with some trepidation," the lack of diversity among Board members. Were she not at the meeting, for example, all voting members would be male. Is this lack of diversity an issue? The Chair felt this to be an important issue and observed that Father Malloy takes it into consideration in making his appointments to the Board. But balance, racial and otherwise, remains difficult to effectuate when so many members are elected at-large or from individual colleges on campus. How can we communicate the need for diversity to those who nominate and to those who elect? On a different note, Prof. Borkowski raised the issue of orientation for new members. The only orientation, the Chair said, involved lunch with him and a copy of the *FBA Manual*. Prof. Pope-Davis found most helpful the discussions he had with various members of the Board. The Chair concluded the discussion with the hope that Board members might get together this summer to pursue such issues.

9. New Business: Prof. Weber, as an item of "new business," brought up the issue of football-ticket prices at Notre Dame, an area of interest to him and others. Our prices seem very high; to his knowledge, only those at USC are higher. He has received much reaction from alumni, especially with respect to price increases. He recognized that the Board may have no explicit authority over that matter, but, knowing of the real concern about it, brought it to the table. The Chair expressed his view that since faculty were involved in the concern the Board constituted an appropriate venue. Ms. Conboy informed the Board that the Department of Athletics needed

to generate more revenue; the football game proposed for Notre Dame by the Black Coaches Association, which would have produced \$1.7 million for Notre Dame, did not materialize. We looked at a number of models, such as increasing the \$300 Building-Fund contribution needed to secure certain season tickets and “scaling” the price of tickets depending on seat location within the stadium. Prof. Bender: Wasn’t there some talk of assessing student fees in order to cover costs? That plan was killed, Dr. Cullinan responded. Ms. Conboy assured the Board that price escalation presents a matter of serious concern for administrators in the Department of Athletics. She noted that other schools use a variety of models for pricing tickets. Indeed, some of them raise the price for their home games against Notre Dame or require season-ticket purchases when Notre Dame happens to be on their schedule. Prof. Weber observed that communicating such information to alumni and faculty would help significantly. In any event, Prof. Weber continued, this issue needs to be addressed. Prof. Garg felt it appropriate for the Department of Athletics to make a presentation to the Board on this issue. Of course, any further discussion of this issue requires data from other schools like the universities of Texas, Nebraska and Tennessee. The Chair suggested that the issue of ticket prices be put on the agenda for the next meeting.

Prof. Fallon raised a problem related to basketball: Too many of the “yellow seats” are empty during games. Many of those tickets, Ms. Conboy responded, go to people who provided funding for construction of the Joyce Center. Remediating the problem remains difficult due to the way the gifts were configured. Dr. Cullinan added that the renovation of the Joyce Center may occasion significant changes in this situation. That renovation, Ms. Barbour added, occupies the highest priority within the Department of Athletics and will take the largest ‘chunk’ of money in our facilities plan. Prof. Pope-Davis: Any thoughts on securing a sponsor, such as Comcast or Dell, for the renovation? Not at this time, stated Dr. Cullinan.

10. Adjournment: The Chair adjourned the meeting at 6:30 p.m.