

**Faculty Board on Athletics
Meeting of May 3, 2022
11:30 am-1:00 pm—500 Main Building**

Members Present: Patricia Bellia (Chair), Corey Angst, Alex Blachly, Ann Firth, Rev. Gerard Olinger, C.S.C., Jeff Kantor, Tracy Kijewski-Correa, Randy Kozel, Mary Ann McDowell, Susan Ohmer, Kevin Vaughan

Members Excused: Jaimie Bleck, Malcolm Chaka, Patrick Holmes, Richard Pierce, Jack Swarbrick

Athletics Liaisons: Missy Conboy, Jody Sadler, Heidi Uebelhor

Guests: Adam Sargent for Pat Holmes; Claire Leatherwood Slebonick, Assistant Athletics Director and Recorder

1. Opening Prayer

Professor Bellia called the meeting to order at 11:35 am and invited Claire Leatherwood Slebonick to offer the opening prayer.

2. Minutes of Meeting of March 23, 2022

The Board unanimously approved the minutes of March 23, 2022.

3. Chair's Announcements

Professor Bellia announced approval of an excused absence for one member of the outdoor track and field team; the student competes in multiple events and needed to arrive at the venue a day earlier than previously noted on the schedule. The student will not miss class for another event listed on the schedule, so her overall total will remain the same.

Professor Bellia announced that she had shared with the deans information on actual or potential exam conflicts for seven teams, including for regular season competition in baseball, rowing, and men's and women's track and field (previously approved at Board meetings due to changes to the University academic calendar), and for post-season competition in women's lacrosse, men's tennis, and women's tennis. Women's tennis ultimately had no conflict, and men's tennis missed fewer exams than predicted.

Professor Bellia noted that potential changes to the University's Academic Code concerning academic good standing were up for a vote of the Academic Council on May 4. She summarized the potential changes, which were similar to those the Academic Integrity Subcommittee and the Board discussed in February.

4. Volleyball Schedule Request

Professor Bellia invited Missy Conboy, in her capacity as sport administrator for volleyball, to present a schedule request on behalf of head coach Salima Rockwell, who was in New York City on University business. Ms. Conboy explained the difficult circumstances involved in preparing the fall schedule, which resulted in a request for six excused absences in the MWF sequence. The new head coach was not in place until January 2022. At that time, the ACC conference schedule was already complete. The new coaching staff had to work quickly to add competition to the first four weekends of the season, which is the non-conference portion of the schedule. Typically, the staff tries to balance those weekends with two home and two away competitions. Because of the late start in configuring the schedule, however, it was not possible to schedule two home competitions. The staff tried other mitigating measures, including traveling over breaks and asking Louisville to accommodate a change to save a missed class day. Unfortunately, the staff was unsuccessful in these efforts. Ms. Conboy noted that volleyball is unlike most other sports in that there is no ACC tournament, which eliminates class misses that might otherwise occur late in the season.

In response to a question from Professor Bellia, Ms. Conboy shared information about the roster. Several team members had entered the transfer portal late in the fall, and so there will be several new team members. The team anticipates adding two graduate transfers. The rest of the new students will be incoming freshmen. All incoming freshmen will participate in the Summer Bridge program.

Professor Ohmer commented that it seems like the new head coach has done everything possible to avoid the situation. She did not cause the situation, she was handed it; and it seems that she will do everything she can to support the student-athletes. Ms. Conboy noted that the staff is requesting charters to cut down on missed class, but the program has not received final approval yet. She is hopeful that access to charters will ease the burden on student-athletes. Professor Angst seconded Professor Ohmer's comments. Professor Bellia asked how frequently volleyball ends up needing six MWF misses; she recalled this happening twice in the last decade. Ms. Conboy confirmed that it has happened occasionally. The ACC schedules every conference opponent once. In the last three weeks of the season, there are four more matches against opponents ranked similarly to Notre Dame. Although the team always requests that some of the weekends be at home, Notre Dame is one of two ACC institutions whose volleyball teams share a competition venue with men's and women's basketball, which makes scheduling challenging at the end of the season. Professor Bellia noted that, in past discussions about volleyball schedules, staff in the Office of Academic Services for Student-Athletes (ASSA) had raised the possibility that volleyball could be next in line for pre-registration, which could provide more control over class schedules. It could be time to raise that issue again.

Professor Ohmer moved to approve the class miss request. Professor Mary Ann McDowell seconded the motion, which the Board approved unanimously.

5. NCAA Governance and Related Matters

Professor Bellia provided an update on NCAA governance and related matters.

She noted that Mark Emmert had announced that he is leaving the NCAA in June 2023. As the Board is aware, the membership agreed in January to a revised NCAA constitution. In terms of structure, the constitution is thinned out and reflects a devolution in power down to the divisions, each of which is charged with revising its bylaws. SEC Commissioner Greg Sankey and Ohio University Athletics Director Julie Cromer are chairing a Transformation Committee that will be making recommendations for Division I. ACC Commissioner Jim Phillips and N.C. State Chancellor Randy Woodson are both members of this committee.

A second major change in the constitution is explicit recognition of student-athletes' ability to receive compensation for their name, image, and likeness (NIL). The constitution also affirms the importance of student-athlete physical and mental health, and recognizes new support obligations for institutions. Finally, the constitution changes the Board of Governors structure, bringing in more student-athletes and trimming the voting membership.

Three areas of focus for Notre Dame will be the work of the Transformation Committee, NIL, and the transfer portal. Professor Bellia, Ms. Conboy, and Mr. Swarbrick will likely receive a Transformation Committee update from Commissioner Phillips at ACC meetings next week. Regarding NIL, Marianne Corr chairs a committee that has a vantage point on the individual NIL deals in which students are participating. There are significant policy questions about what as an institution Notre Dame will support and allow; those conversations are ongoing. Regarding the transfer portal, Father Dan Groody is leading a review of Notre Dame's transfer processes and policies, with an eye toward how to update those processes and policies.

Professor Kijewski-Correa inquired about the impact of state laws on NIL and asked what Indiana's position is on the matter. Professor Bellia confirmed that state laws were indeed a significant impetus for changes in this area. Thus far, Indiana has not enacted a law on the subject. She noted that Mr. Swarbrick has long observed that a federal solution is necessary in this area, but so far that solution has not been forthcoming.

Professor Jeff Kantor and Professor Kevin Vaughan asked about the NIL "collective" that had been reported in the news. Heidi Uebelhor explained that the collective is not affiliated with Notre Dame. She described how collectives work in general and discussed the recruiting implications of collectives, including some abuses at other institutions. Members explored the policies Notre Dame has requiring students to disclose NIL activities, the potential impact of collectives on donations to the University, the challenges for students whose NIL commitments could detract from academic performance, the interplay between NIL and the transfer portal (with students leaving institutions to find more attractive NIL deals), and the limited NCAA enforcement mechanisms.

Professor Vaughan inquired about the NCAA's continued use in the constitution of the term "student-athlete." Professor Bellia explained the as-yet limited reach of the NLRB general counsel's memo raising concerns about use of that term.

6. Report of Academic Integrity Subcommittee

Professor Angst reported on the activities of the Academic Integrity Subcommittee. The subcommittee met on April 20 and reviewed the applications of six student-athletes seeking to use athletics eligibility as non-degree students during a fifth year of academic study. Professor Angst noted that the group included four football players, one fencer, and one women's soccer player. The group included three students with very high GPAs, and included two students not receiving athletics aid. The subcommittee had more in-depth conversations about student-athletes with GPAs under 3.0. Their essays were better than in prior years, and it appears that students are spending more time on the process.

Professor Angst noted that, as always, the one difficulty the subcommittee faces is that he students list the courses they plan to take, but they do not always know what specific courses will be offered or whether they will get into the planned courses. One issue that arose this year is that multiple students listed a Film, Television & Theater course that turns out to be offered from 4:30-6:30 pm. Members observed that the course is extremely popular and useful, because it encourages students to reflect upon the depictions of alcohol use in culture. The affected students, however, ultimately will not be able to take it. Members discussed the difficulties of approving applications without certainty that the courses involved will be available. Professor Angst and Professor Bellia commented that the application process is valuable because it signals to coaches and to students that there are guardrails around the fifth year; it is important not to lose the opportunity to send that message, particularly with students transferring in as graduate students. ASSA audits the non-degree fifth-year students every fall to ensure that the Board's requirements are met. Mr. Sargent stated that he believes the process is a good one. It is important to have students being deliberate about their goals for the fifth year.

The discussion concluded with Professor Bellia suggesting that the Academic Integrity Subcommittee may wish to take up this conversation again in the fall.

7. Reports of Ex Officio Members and Liaisons

Professor Bellia noted that, among the reports the Board typically receives in an academic year, one report missing this year is that involving the student-athlete survey. The Athletics Department did not administer the typical survey in 2020-2021 due to Covid-19 disruptions, so it makes sense to wait until the 2021-2022 results are in.

A second annual report is that of the Drug Testing Oversight Committee (DTOC). Professor Bellia invited Ms. Ann Firth, who chairs the DTOC, and Kevin Vaughan, who serves as a committee member, to discuss ongoing conversations about the direction of the student-athlete drug testing policy. Those conversations relate to developing a less punitive and more restorative approach for cases involving marijuana, particularly in light of the growing trend toward legalization and concerns about disparate impact of the current policy. Ms. Firth discussed the committee's benchmarking and potential shifts in the policy. Professor Vaughan noted that the NCAA had also made a significant shift in this area, by changing the metric for a positive test from 35 mg per ml to 150 mg per ml. Members commented on the relationship between the student-athlete drug testing policy and the University policies for all students; the

need to ensure that consequences, if individualized, remain equitable; and the possibility of treating incoming students (not yet educated on the drug testing policy) differently from other students.

8. Adjournment

Members confirmed a delegation to Professor Bellia to act on the Board's behalf in the summer months, with a report on any such actions to follow in the fall. Professor Bellia adjourned the meeting at 1:05 pm, with thanks to the Board members for their hard work this year.