Faculty Athletics Committee  
August 13, 2020  
Location: Zoom

Present:  Committee Members: Rita Balaban, Lissa Broome, Stacey Daughters, Melissa Geil, Kevin Guskiewicz, Dave Hartzell, Amanda Holliday, Daryhl Johnson, Aimee McHale, Robert Martinez, Ed Shields, Jay Smith, Abbie Smith-Ryan, Tania String

Advisors: Michelle Brown (ASPSA), Bubba Cunningham (Athletics), Vince Ille (Athletics)

Guests: Emily Blackburn (Chancellor’s Office), Debbi Clarke (Provost’s Office), Robbi Pickeral Evans (Athletics), Dwight Hollier (Athletics), Marielle vanGelder (Athletics), Kara Simmons (University Counsel)

I. Welcome and Introductions

Welcome and Introductions

Committee Chair Daryhl Johnson welcomed all attendees to the meeting. All committee members and guests introduced themselves.

Minutes. The minutes from the May, June and July meetings were approved.

II. Chancellor’s Remarks

Chancellor Guskiewicz thanked Daryhl Johnson and the Committee for their hard work. He is proud that students, faculty, and staff who are adhering to community standards by wearing face masks and practicing physical distancing. This is a very different semester with tents around campus and food trucks providing additional dining options.

The ACC Board of Directors will convene later today to discuss how to ensure the health and safety of our student-athletes. Guskiewicz thanked Bubba Cunningham and his team for developing a sound roadmap for the Athletics Department that was in line with the University’s Roadmap. He acknowledged that it is tough to be practicing and preparing for the unknown, but we, as a University, are doing this in every aspect of campus life right now. We want student-athletes to have the opportunity to partake in the activities that they came here to enjoy.

Regarding the search for the new ACC Commissioner, the ACC Presidents and Chancellors have hired Turnkey Search and will begin working with them closely and Guskiewicz will be helping to screen applicants. The goal is to have the new Commissioner in place in January or February to have some time with outgoing Commissioner Swofford before his retirement on June 20, 2021.
Guskiewicz thanked the faculty for their tireless work to ensure our students can enjoy a high standard of learning either in person or remotely. Guskiewicz also thanked the University’s infectious disease experts, Doctors Weber, Baric, Cohen, and Fischer. Guskiewicz is proud of the work of the entire community to execute the return to campus.

Guskiewicz is grateful to the Board of Trustees for the removal of Aycock, Daniels, Davis, and Ruffin Sr., from the names of campus buildings, but our work is not over. University leadership is receiving training from the Racial Equity Institute in the hopes of championing diversity, equity, and inclusion in all aspects of campus life.

III. Faculty Athletics Representative and Athletic Director’s Remarks/Update

Faculty Athletics Representative Lissa Broome presented her report, which is also attached. The NCAA Division I Council Coordination Committee issued a blanket waiver on the minimum number of contests in fall sports other than football (field hockey and soccer, for instance, only need to have six contests). The NCAA Board of Governors (all 3 divisions) met on August 4 and decided that each division must determine by August 21 whether their respective fall sports seasons and NCAA championships should occur this year.

Additionally, the NCAA BOG required that if 50% or more of eligible teams in a particular sport in a division cancel their fall season, there will be no fall NCAA championship in that sport in that division. Marielle vanGelder noted that, at this time, all fall sports remain are below the 50% threshold, so if the decision holds, there will be no championships. Bubba Cunningham said notwithstanding this our fall sports are continuing to prepare for conference play this semester.

In the Alston litigation the Ninth Circuit ruled on May 18, 2020, that athletic grants in aids cannot limit education-related benefits to room, board, tuition, fees, books, and cost of attendance. Academic or graduation awards or incentives may be given by a conference or an institution. Computers, science equipment, musical instruments and other tangible items not included in COA but related to the pursuit of academic studies could also be provided to student-athletes. Additional benefits could include post-eligibility scholarships to complete undergraduate or graduate degrees at any school, scholarships to attend vocational school, tutoring, expenses related to studying abroad that are not included in COA and paid post-eligibility internships. The NCAA’s request to stay the judgment was denied, but an appeal to the U.S. Supreme Court is planned. Even if the Supreme Court takes the case, there will be no resolution this year before another recruiting year begins.

The discussion about name, image, and likeness (NIL) continue. The NCAA introduced broad principles for “The Intercollegiate Amateur Sports Act of 2020,” and the Autonomy/Power 5 schools introduced broad principles for “The Student-Athlete Equity Act of 2020.” NCAA legislation is being drafted under the assumption that federal legislation will preempt state law and provide a limited exemption from antitrust for the NCAA around its NIL rules. The current timeline is for a vote on NCAA legislation in January with an effective date as of the beginning of the 2021-22 academic year. The 2021 NCAA Annual Convention in January will be virtual.
The ACC Board of Directors adopted a conference only schedule for fall sports. Schools may schedule additional non-conference opponents if those schools follow ACC medical guidelines. There is a 10-game conference schedule plus one nonconference game for football. The ACC’s Medical Advisory Group updates its health and safety guidelines continuously.

Athletic Director Bubba Cunningham added that there will be 10 conference games for volleyball, and six conference games for men’s soccer, women’s soccer, and field hockey. The current cost and rate of testing student-athletes three times per week is about $85 per test with a contracted lab that guarantees 24 to 48-hour turnaround. Cunningham noted that although there have been positive tests among student-athletes, most have been mild or asymptomatic. After appropriate recovery and retesting, student-athletes may return to practice. Additional medical screening, including heart exams, occur before student-athletes who have tested positive may resume athletic activities. Four students have opted out of their sports seasons (but will retain their scholarships) and two students elected not to return to campus this semester.

Perhaps 30% of student-athletes are taking part in face-to-face or hybrid courses, although some classes have converted to all remote. Cunningham commended this year’s Patterson Medal winners, William Blumberg and Marissa Creatore.

Cunningham said the Athletics Department is encouraging student-athletes to express their views on the important issues of the day and to talk about these issues with their coaches and teammates. The department has developed a commitment to equity characterized by 3 Es (Educate, Empower, and Engage) and 5 Vs (Vow, Vote, Voice, Venues, Volunteer). Cunningham also referenced a positive discussion with the SAAC Executive Group regarding a statement from group of PAC-12 student-athletes. The SAAC group also sent a Letter to the Editor of the Daily Tar Heel expressing their disagreement with the DTH’s editorial decision to drop the use of the term “student-athlete” in favor of “student” or “athlete.”

Longtime head baseball coach, Mike Fox, retired this summer and has been replaced by Scott Forbes.

IV. ASPSA Update

Michelle Brown, Director of the Academic Support Program for Student-Athletes said that the third annual Academic Scorecard for student-athletes is posted on Sakai. She thanked Emily Blackburn for preparing the updated version. During the summer, the ASPSA transition program was online. Incoming students enrolled in summer school were also taking courses online. Football and other student-athletes took the EDUC 330 The Science of Learning course, which was a great way to prepare students in the summer.

Brown noted that working with incoming student-athletes only online is very different than being able to work with them in person. She wondered whether a pass-fail option would be provided in the fall semester to students, particularly for first-year students who are trying to adjust to college under these unusual circumstances. Tutor appointments will all be virtual at least through this fall. Any student needing to meet with an academic counselor must have an appointment as access to the Loudermilk facilities is limited.
V. Campus Roadmap Update

Debbi Clarke, Associate Provost, Strategy and Special Projects, shared with FAC that the Roadmap team meets at least ninety minutes each day. The UNC-CH Office of Fraternity and Sorority Life is issuing a letter in collaboration with Orange County Health Department to announce their own guidelines and standards. The UNC-CH Dashboard provides weekly updates on positive tests, equipment availability, and campus residential density rates and should be monitored for the most up-to-date information.

VI. FERPA and NCAA By-Laws Discussion

A motion to go into closed session was made, duly seconded, and passed pursuant to N.C.G.S. 143-318.11(a)(3) (to consult with an attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged).

In closed session, the committee discussed with Kara Simmons from the Office of University Counsel and Marielle vanGelder from the Athletics Department how to comply with FERPA and NCAA bylaws. See the attached presentations by University Counsel Kara Simmons and Marielle vanGelder.

A motion to enter open session was made, duly seconded, and passed.

VII. Team Liaison Update and Connections

Daryhl Johnson and Melissa Geil asked the committee to read and review the attached guidelines and suggestions for how to be an effective team liaison.

Attachments:

- FAR & Athletic Director Update
- FERPA Presentation
- NCAA Rules Compliance Review
- Faculty Athletic Committee Team Liaison Guidelines and Suggestions
Rita Balaban  
Department: Economics  
Topic Group: Academic Performance  
Team Liaison: Softball, Women’s Basketball

Lissa Broome, Faculty Athletics Representative  
Department: Law  
Topic Group: NCAA

Stacey Daughters  
Department: Psychology  
Topic Group: Athletics Administration  
Team Liaison: Swimming and Diving

Melissa Geil, Vice Chair  
Department: English and Comparative Literature  
Topic Group: Governance and Administration  
Team Liaison: Women’s Soccer, Gymnastics

David Hartzell  
Department: Business  
Topic Group: Athletics Administration  
Team Liaison: Men’s Soccer, Women’s Tennis

Amanda Holliday  
Department: Nutrition  
Topic Group: Admissions  
Team Liaison: Women’s Field Hockey, Men’s Tennis

Daryhl Johnson, Chair  
Department: Surgery  
Topic Group: Governance and Administration  
Team Liaison: Football

Robert Martinez  
Department: Education  
Topic Group: Advising and Enrollment  
Team Liaison: Baseball

Aimee McHale  
Department: Public Health  
Topic Group: Student-Athletic Welfare and Equity  
Team Liaison: Track and Field, Cross Country

Ed Shields  
Department: Exercise and Sports Science  
Topic Group: Admissions

Team Liaison: Men’s Lacrosse, Wrestling

Jay Smith  
Department: History  
Topic Group: Student-Athlete Welfare and Equity  
Team Liaison: Men’s and Women’s Gold, Fencing

Abbie Smith-Ryan  
Department: Exercise and Sports Science  
Topic Group: Advising and Enrollment  
Team Liaison: Men’s Basketball, Women’s Lacrosse

Tania String  
Department: Art & Art History  
Topic Group: Academic Performance  
Team Liaison: Volleyball, Rowing

Non-Voting Consultants

Michelle Brown  
Director, ASPSA  
Topic Group Liaison: Advising and Enrollment, Academic Performance

Debbi Clarke  
Associate Provost for Strategy and Special Projects, Office of the Provost

Bubba Cunningham  
Director of Athletics  
Topic Group Liaison: Athletics Administration

Dwight Hollier  
Senior Associate Director of Athletics  
Topic Group Liaison: Student-Athlete Welfare and Equity

Vince Ille  
Senior Associate Director of Athletics  
Topic Group Liaison: Admissions

Emily Blackburn  
Executive Assistant, Office of the Chancellor
NCAA

1. NCAA Division I Council Coordination Committee issued a blanket waiver on the minimum number of contests in fall sports other than football (field hockey and soccer, for instance, only need to have six contests)

2. NCAA Board of Governors (all 3 divisions) met on August 4 and decided that each division must determine by Aug. 21 whether their respective fall sports seasons and NCAA championships should occur this year.
   a. Divisions II and III announced on August 5 that they would cancel the NCAA championships for fall sports.

3. The NCAA BOG also required that:
   a. All fall sports activity (preseason, regular season and postseason) must follow the recently released return-to-sport guidelines from the NCAA Sport Science Institute for all athletic activity. As the guidelines change based on the ever-changing pandemic, schools must follow any future modifications.
   b. The NCAA will establish a phone number and email to allow college athletes, parents or others to report alleged failures [done]. The Association will notify school and conference administrators, who will be expected to take immediate action.
   c. All member schools must adhere to federal, state and local guidelines related to COVID-19. Further, the conduct of NCAA championships must be in line with federal, state and local guidelines.
   d. All student-athletes must be allowed to opt out of participation due to concerns about contracting COVID-19. If a college athlete chooses to opt out, that individual’s athletics scholarship commitment must be honored by the college or university.
   e. Each division must determine no later than Aug. 14 the eligibility accommodations that must be made for student-athletes who opt out of participating this fall or for those whose seasons are canceled or cut short due to COVID-19. College athletes and their families must know what their eligibility status will be before beginning the fall season. [Extended to August 21. D1 Council has recommended to the D1 Board of Directors that there be some protections for SAs whose sport seasons are impacted by COVID-19. The specific recommendations will be finalized before August 21, but the recommendation is that SAs who compete and then opt out of future participation or who have a season cut short due to COVID-19 get (1) an extension of their 5-year eligibility clock and (2) an additional season of competition if they participate in 50% or less of the number of competitions allowed in each sport by D1 rules. TBD is flexibility in the financial aid limits.]
   f. Member schools may not require student-athletes to waive their legal rights regarding COVID-19 as a condition of athletics participation.
g. Member schools, in conjunction with existing insurance standards, must cover COVID-19 related medical expenses for student-athletes to prevent out-of-pocket expenses for college athletes and their families.

h. Any NCAA fall championship or other postseason contests must be conducted within enhanced safety protocols for student-athletes and essential athletics personnel. These safety enhancements will include regular testing, separation of college athletes and essential personnel from all other nonessential personnel, and physical distancing and masking policies during all aspects of noncompetition.

i. NCAA championships may use reduced bracketing, a reduced number of competitors, predetermined sites and, where appropriate, single sites to limit exposure to COVID-19.

j. If 50% or more of eligible teams in a particular sport in a division cancel their fall season, there will be no fall NCAA championship in that sport in that division.

   i. [Some sports may be below this]

k. If fall sports championships are postponed in any division, a decision to conduct that championship at a later date will be based upon the scientific data available at that time regarding COVID-19, along with other considerations.

4. Of the Power 5 Conferences, the Big 10 and PAC-12 are postponing fall sports; the PAC-12 will not play any sports until January 1, 2021, at the earliest.

5. Alston litigation

   a. On May 18, 2020, the Ninth Circuit held that athletic grants in aids cannot limit education-related benefits to room, board, tuition, fees, books, and cost of attendance. Academic or graduation awards or incentives may be given by a conference or an institution. Could also include computers, science equipment, musical instruments and other tangible items not included in COA but related to the pursuit of academic studies. Could include post-eligibility scholarships to complete undergraduate or graduate degrees at any school. Could include scholarships to attend vocational school, tutoring, expenses related to studying abroad that are not included in COA, and paid post-eligibility internships.

   b. NCAA’s request to stay the judgment was denied, but an appeal to the U.S. Supreme Court is planned. Even if the Supreme Court takes the case, there will be no resolution this year.

6. NIL activity

   a. Proposed federal legislation

      i. NCAA introduced broad principles for “The Intercollegiate Amateur Sports Act of 2020”

      ii. Autonomy/Power 5 schools introduced broad principles for “The Student-Athlete Equity Act of 2020”

   b. NCAA legislation is being drafted

      i. Timeline

         1. August 30 – Divisions have drafted NIL proposals
a. Suggestion to, at a minimum, permit activities that have been approved through D1 waiver process, via rule in D2, or via interpretation in D3.
b. Suggestion to consider permitting commercial or promotional use of NIL by SAs related to their own businesses or work product, provided it is NOT related to athletics.

2. October 31 – Divisions have drafted NIL proposals
   a. Commercial or promotional use of SA NIL in situations that are related to athletics or that involve endorsements of commercial products or services

3. January 31, 2021 – Have enacted NIL legislation with effective dates not later than the start of the 2021-22 academic year

7. NCAA Annual Convention in January to be virtual

ACC

1. ACC Board of Directors adopted a conference only schedule for fall sports (schools may schedule additional non-conference opponents if they adhere to ACC medical guidelines) and a 10-game conference schedule plus one nonconference game for football
2. ACC medical guidelines from the Medical Advisory Group. Update expected soon.

UNC

1. Update on return to campus and COVID-19 testing
2. 3 E’s and 5 V’s
3. Discussion with SAAC Executive Group regarding statement from group of PAC-12 SAs
The Family Educational Rights and Privacy Act (FERPA)

A Presentation to the Faculty Athletics Committee
August 13, 2020
by
Kara Simmons
Associate Vice Chancellor and Senior University Counsel
“FERPA” refers to the Family Educational Rights and Privacy Act, a federal statute that is both a freedom of information-type statute and a privacy statute.

- It is a freedom of information-type statute in the sense that it allows a student to see almost everything in their own “education record” upon request.
- It is a privacy statute in the sense that it permits only certain other people to access information in a student’s “education record.”
FERPA: Definitions

* **Education Record** – Everything we record about a student, in any format, and keep or have someone keep for us
  * Does not refer to a single file
* **Several Exceptions:**
  * Sole possession records – e.g., personal notes that an instructor makes and does not share with anyone else
  * Law enforcement records
  * Employment records, unless the student is employed because of student status (e.g., RA, TA)
  * Medical records not shared outside the treatment team
  * Alumni records – information acquired after the student has left
**Student** – Someone who is, or has been, enrolled and for whom we maintain education records

**Not applicants for admission** –

- If applicant enrolls, the retained parts of the admissions folder becomes an education record
- **However**, under N.C. law, applicant records are NOT public records

**De-identified data** – where all personally identifiable information has been removed, taking into account other reasonably available information
Upon a student’s request, the student can inspect **everything**, with only certain limited exceptions (e.g., confidential letters of recommendation, records that contain information regarding other students).

This means that upon request, a student can see, for example:

* Copies of emails or letters that an instructor or administrator sent or received about the student.
* Minutes of meetings held by a committee at which the student was discussed.
FERPA generally prohibits the release of information from a student’s education records without the student’s prior written consent.

* This means that you cannot share information about a student with, for example, a student’s parent, friend, lawyer, or potential employer unless you have the student’s written permission.

* But, there are several exceptions to this rule.
One of the exceptions permits you to share information about a student with UNC-Chapel Hill officials (including faculty members and other administrators) who have a “legitimate educational interest” in the information. Examples include:

- Coaches
- UNC Police (but NOT Chapel Hill or Carrboro police)
- Contractors to whom the University has outsourced institutional functions
- Honor Court
- UNC System Office
Institutional officials have a “legitimate educational interest” if it is necessary for them to obtain the information in order to carry out their assigned duties to the University.

“Legitimate educational interest” does not include gossip or making idle comments to another University employee.

It also does not include conducting research about students using student data already in your possession unless you have received additional permissions from the University.
Other exceptions permit you to release information regarding a student without the student’s consent:

- To comply with a court order or subpoena, in which case, please contact the Office of University Counsel immediately

- To “appropriate parties” in connection with a health or safety emergency (University Counsel/the University’s Office of Student Affairs makes this decision)
To anyone who asks, but only “directory information” about a student, which includes:

- name
- address (local and grade/billing address)
- email address
- local/grade billing phone listing
- date and place of birth
- major field of study
- Class
- enrollment status (full-time, part-time, etc.)
- PID number
- anticipated graduation date
- participation in officially recognized activities and sports
- weight and height of members of athletic teams
- dates of attendance
- degrees and awards received,
- most recent previous educational institution attended,
- county, state or U.S. territory from which the student entered the University

But, students can “opt out” of directory information disclosures.
Be thoughtful about sharing student information
  * Remember that FERPA generally prohibits disclosing education record information, unless an exception applies.
  * Do not share information you receive in your capacity as a member of the FAC with anyone outside of the FAC.

Be careful about where and when you have conversations about students (i.e., do so only in private)

Be circumspect about documents in your possession (i.e., do not leave them behind in public spaces or on public printers)
If you receive a phone call or other inquiry from someone about a student (e.g., from a reporter), remember that you need a written release from the student in order to share more than directory information.

Consider referring such inquiries to the FAC Chair, who can work with Media Relations to respond.
Remember that the messages you send and receive regarding students are likely part of their education record and must be produced to them upon request.

- They must also be produced to third parties to whom the student authorizes disclosure (e.g., an attorney).
- There is a tendency to think of electronic messages as an informal form of communication, electronic messages are part of a student’s education record to the same extent as formal memoranda.

Who is on this listserv and should I be using a listserv for this information?
Questions?
As an NCAA member institution, the University of North Carolina is obligated to follow the rules governing college athletics. This obligation extends beyond UNC Athletics and our coaches/staff/student-athletes to all UNC employees. As new and continuing members of the Faculty Athletics Committee (FAC), we wanted to remind you of a few of the basic rules relating to faculty and staff interactions with prospective and current student-athletes.

**BENEFITS/SERVICES**

- Faculty/staff MAY NOT provide items of value to prospective (9th-12th grade) or enrolled student-athletes unless those items (or services) are generally available to all prospective or enrolled students.
  - Examples of impermissible expenses that may negatively impact a student-athlete’s eligibility to compete include (but are not limited to): money or discounts, items of value (e.g., hats, shirts), tickets to movies or other events, transportation, and meals.

- On an INFREQUENT basis, a student-athlete or the entire team in a sport may receive a meal in the Chapel Hill locale from an institutional faculty/staff member. An institutional faculty/staff member may also provide reasonable local transportation to student-athletes to attend such meals.
  - NOTE: Requests to provide such a meal must be PRE-APPROVED by the Compliance Office.

**RECRUITING**

- Faculty/staff MAY NOT have face-to-face contacts with prospective student-athletes that are directed or arranged by UNC coaches/staff unless they occur either on campus or off-campus (within 30 miles) ONLY if the prospective student-athletes are on NCAA official paid visits.

- Faculty/staff MAY NOT:
  - Email prospective student-athletes regarding athletics until September 1st of their junior year in high school.
  - Post anything on a prospective student-athlete’s social media page.
  - Mention (i.e., tag or @) a prospective student-athlete in a social media post.
o Publicize the recruitment of a prospective student-athlete or a prospective student-athletes visit to campus (e.g., posting a picture of a prospective student-athletes visit on social media).

o Call prospective student-athletes regarding athletics.

- Faculty/staff MAY receive calls from prospective student-athletes that are unrelated to athletics.
- Faculty/staff SHOULD direct questions from prospective student-athletes about athletics to their UNC Athletics contacts.

**INSTITUTIONAL POLICIES**

- All institutional policies and procedures for UNC students apply equally to UNC student-athletes. Know and review UNC’s academic and student conduct policies and reporting requirements.

Please let me know if you have any questions about the basic rules above or if you would like additional information. If at any time you are uncertain about the application of an NCAA rule or whether an NCAA rule applies – please do not hesitate to contact me directly. My cell phone number is (919) 932-0810 or I can be reached at mvangelder@unc.edu.

All the best – my staff and I look forward to working with you in the upcoming academic year.

Marielle

Fax: (919) 962-6002
Faculty Athletic Committee Team Liaison Guidelines and Suggestions

August 2020

FAC Mission
The committee: “informs and represents the faculty and advises the chancellor on any aspect of athletics, including, but not limited to, the academic and broader university experience for varsity student athletes and the general conduct and operation of the University's athletic program.” Faculty Code § 4-7(b).

What is a Team Liaison?
From the FAC Onboarding Document:

Team Liaisons
Team liaisons are asked to try to meet with students, coaches, and the academic counselor(s) for their teams, perhaps by attending a practice, a team meeting, or scheduling a meeting with each group. The idea is that the liaison will be an additional point of faculty contact for the team and will be a resource for FAC about how actions may impact particular teams. There is a range of involvement and each FAC member is encouraged to find the level of interaction that fits best with their own schedule and the needs of the team. Robbie Pickeral Evans from Athletics can assist FAC members with outreach to their teams.

Do(s)
Reach out through Robbi Pickeral Evans, robbi.pickeral@unc.edu, 919-812-7170, to get in touch with the coaching staff of your team

Schedule a meet and greet with the coach(es)

If interested, ask to stop by a practice to say hello to the team

Be flexible and see what range of involvement (see above) will work to best meet the needs of your particular team

Find out who the SAAC (Student-Athlete Advisory Council) Representatives are for your team

Take an interest in the team—who are they playing? What does their season look like?

Be aware that student-athletes are working with a number of different stakeholders (faculty, coaches, trainers, ASPSA, press) and be sensitive to the pressures that they are under

Make sure you understand NCAA policies regarding student-athletes (ex: can you take a student-athlete out to lunch and pay for it?). Check with Marielle vanGelder, mvangeld@email.unc.edu, 919-932-0810
Reach out to FAC Leadership immediately if there is information you think that FAC needs to be aware of

Don’t(s)

Reach out to student-athletes for FAC purposes without going through the coaching staff first; going around the coaches for the purposes of athletics could undermine the liaison role of your sport and other sports

Violate the policies of FERPA OR HIPAA when speaking with and/or about student-athletes

Violate NCAA policies regarding student-athletes

Use team liaison position to attempt to get tickets or other perks from athletics