

THE FACULTY ATHLETICS REPRESENTATIVE AND THE ASSOCIATE ATHLETICS DIRECTOR FOR ACADEMIC SUPPORT: AN IMPORTANT TEAM FOR SUCCESS

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I. INTRODUCTION

Athletics programs at major universities strive to provide educational and athletic opportunities for all of their student-athletes. As an old NCAA commercial states, “there are over 430,000 student-athletes and just about all of them will be going pro in something other than sports,”³ so it is important that they receive a true education while competing in their respective sports. There are many plans and guidelines in place to help assure that student-athletes have a full opportunity to obtain a college education. These typically include compliance with university, conference, and NCAA rules as well as best practice plans developed within the Athletics Department.

On the academic side, a great deal of responsibility falls to both the Faculty Athletics Representative (FAR) and the Associate

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³ See BURTON, HIRSHMAN, O’REILLY, DOLICH, & LAWRENCE, 20 SECRETS TO SUCCESS FOR NCAA STUDENT-ATHLETES WHO WON’T GO PRO (Ohio University Press, 2018).

Athletic Director for Academic Support (AADAS).⁴ A good working relationship between the two is important, if not essential, for success in their shared goals and those of the program. This paper seeks to provide guidance in building that relationship.

The first step for developing a good working relationship is to make sure that the respective parties understand the departmental goal. An academic support mission statement can help with that first step. An example, taken from the University of Mississippi (Ole Miss), sets forth the mission as follows:

*To promote academic excellence and provide quality developmental and need-based programs to help student-athletes become independent and self-reliant learners. In an environment that promotes student development, the staff provides programming and support for all student-athletes from the time they arrive on campus through graduation and beyond.*⁵

The FAR and the AADAS should both know the mission statement and be willing and able to support it.

Knowledge of the rules is also fundamental to establishing a good relationship. The Academic Support staff and auxiliary staff such as tutors must regularly be briefed by compliance officers regarding NCAA regulations, and the Academic Support staff should also regularly conduct briefings for coaches and other staff on NCAA and similar rules.⁶ At Ole Miss, the Academic Support staff meets bi-monthly with the compliance staff and attends the monthly coaches' compliance meetings. The compliance staff trains tutors, mentors, and academic strategists on NCAA legislation prior to each term. Additional training is provided by the Academic Enrichment staff.⁷

⁴ See Symposium, *Reflections on the Role of a Law Professor as Faculty Athletics Representative*, 2 MISS. SPORTS L. REV. 251 (2013).

⁵ The Mississippi Director of Athletics has explained: "Like any other program, we have a vision statement and a purpose statement. We have core values. We have a commitment to developing our students to their full potential through athletics." Ross Bjork, *Akeem Judd*, in *IF NOT FOR ATHLETICS: A COLLECTION OF STORIES THAT DEMONSTRATE THE POWER AND IMPACT OF SPORTS* (2017, Zac Logsdon, ed.).

⁶ NCAA enforcement is a serious concern for all member institutions. See Ronald J. Rychlak, *The NCAA: It's Necessary, but it's not the FBI*, 5 MISS. SPORTS L. REV. 83 (2015).

⁷ The Academic Support Department also provides a comprehensive Tutor Manual to each tutor, mentor, and academic strategist prior to orientation.

The FAR and Academic Support staff should attend monthly coaches' meetings and regularly receive materials from the compliance office.⁸ The Ole Miss FAR addresses the tutors on behalf of the faculty at the start of each semester. These activities help the FAR develop a full understanding of the issues facing the Academic Support staff and helps lay the foundation for the relationship with the AADAS and his or her staff, which is so important for the success of the overall program.

II. TAKING STOCK OF THE PROGRAM

There are many aspects of an academic support program, and while the AADAS is well acquainted with them all, it is important for the FAR also to develop a working knowledge of them.⁹ This requires the Academic Support staff to be fully transparent and include the FAR in important matters where tough decisions must be made. Among the most important areas to review within academic services are:

1. Organization
2. Involvement in Various Processes
3. Academic Progress and Monitoring
4. Tutorial/Learning Assistance Programs
5. NCAA Reporting Responsibilities
6. Other Academic Services Operations

One of the first decisions for the institution is to establish a desired level of support. This will be influenced, if not determined, by the level of financial support the institution is able to provide to the program. The analysis should begin with a determination of

⁸ It is also helpful for the FAR to attend the annual NCAA meeting, meetings of the Faculty Athletics Representatives Association (FARA), 1A FAR meetings, and well as any relevant meetings sponsored by their conference. See *About 1A FAR* <https://oneafar.webtest.iu.edu/about/> (last visited April 26, 2019). Both the FAR and the AADAS benefit from attending the annual meeting of the National Association of Collegiate Directors of Athletics (NACDA) and NCAA Regional Rules meetings.

⁹ In 2017, the chancellor of the University of Mississippi directed the FAR to arrange for an outside evaluation of the Academic Support program. The university was pleased with the outcome of the report, but some adjustments were made in response to it. The purpose of this paper is not to address the specifics of that confidential report, but to share insights about the process and the issues that were investigated so that FARs and AADASs at other schools can improve their programs for the benefit of their students.

what activities are essential and what additional activities can reasonably be provided given the current resources. In all instances, each program should work within its university's mission and core values, with the utmost integrity and transparency. In essence, three questions should be asked:

1. What support activities are currently being conducted?
2. What additional support (if any) does the department want to provide?
3. What resources (i.e., staffing, facilities, etc.) are needed to provide the additional support?

These are questions that the AADAS is well familiar with and may have discussed with the Athletic Director. The FAR, however, should make a special effort to become well-informed on these matters.

Realistically, fiscal decisions determine the level of support that can be provided. As such, the department must prioritize available services. AADASs certainly have thoughts about these decisions, but FARs are much less likely to know about them. As such, AADASs should help inform FARs so that they can provide sound advice when decisions that impact academic outcomes are being made.

The FAR and the AADAS may have to work together to influence the department or the university to provide appropriate levels of support. This can sometimes take a long time, and it may involve various supervisors and chains of authority. However, positive outcomes can come from cross-collaboration between departments on campus, and this often leads to improvements for the entire student body, not just athletes. Sometimes the FAR can clarify the issues with faculty who are not involved in matters that affect student-athletes and also get the proper attention from the main administration, perhaps by pointing to NCAA standards, conference standards, or other best practices.

III. THE TOPICS

Once there is an agreement as to the desired level of academic services that the department is willing and able to

provide, the FAR and the AADAS can begin to review the Academic Support program, focusing on certain key elements.¹⁰

A. Organization

Academic support services can be problematic due to factors both in and out of the institution's control. Recurring issues include scheduled missed class time, improper tutorial assistance, and academically underprepared student-athletes. Motivation can also be a concern, making unexcused absences a more serious matter.

Within each student-athlete cohort, there is a broad range of academic support needs and expectations. To ensure that they all have reasonable access to services, it is important for the FAR as well as the AADAS to first know the level of student that is being admitted, what learning concerns they may have and know what support is available within the department and on campus. Coaches are likely to be most concerned about eligibility to play, but the FAR and the AADAS should be concerned about the academic performance of all student-athletes, including those what want to attend a good graduate program and are working hard to maintain a very high GPA.

Ole Miss conducts an annual analysis of the level of academic support services designed to: (i) identify which services are being offered by the Academic Support staff; and (ii) determine whether those services are effective. Analyses like these should begin with consideration of what services the department is able to offer given the current resources.

In addition, the University of Mississippi annually monitors the number of "underprepared" or "at-risk" student-athletes and the impact of that number on the services required of the Academic Support staff. Even though they may be "qualifiers" as defined by the NCAA,¹¹ some students are at-risk, requiring more

¹⁰ One possibility is establishing a set of performance metrics that measure current and trending progress, provide peer-benchmarking data, and help the Academic Support department improve its services and display the academic success of its student-athletes. The FAR should regularly review this data and be prepared to make recommendations based upon it.

¹¹ See NCAA, *Play Division I Sports*, (last visited July 18, 2018) <http://www.ncaa.org/student-athletes/play-division-i-sports>.

time with the academic counselors, assistance from learning specialists, mentors, and an increased number of tutorial sessions. A part of this analysis is determining whether these demands indicate the need for an expansion of staff and services.

Finally, Ole Miss conducts an annual workload analysis for each full-time Academic Support staff member to determine the appropriate student-athlete need relative to the staff contact hours. It is important for the department, the institution, and the FAR to understand both the needs of its student-athletes as well as what resources exist to serve those needs. Much of the work conducted in Academic Support requires human interaction or contact hours, which are limited resources. A workload analysis assists leadership in making assignments for the most objective and efficient use of assets.

Once this data is collected, either on an ongoing basis for an individual student-athlete or for sport or departmental trends, the information needs to be communicated to appropriate constituents. The Director of Athletics, the Provost, and the President or Chancellor certainly should be included. The same goes for the FAR, who needs to be knowledgeable about this information.

B. Involvement in Various Processes

All universities should have procedures in place to evaluate incoming and continuing student-athletes. This is done both for regular eligibility matters and to assess the need for any special accommodation in the classroom. In some cases, student-athletes have learning disabilities, mental health concerns, or physical injuries that call for accommodations. It is important for both the FAR and the AADAS to understand and perhaps be involved with these eligibility evaluations on the front end.

This situation highlights the importance of institutional integrity and the value of multiple levels of oversight. Sometimes a coach's passion to land a star athlete can be perceived as pressure to overlook some flaws in his or her record. It is not hard to imagine that one way to get around academic requirements would be to have special accommodations granted to an athlete who does not really qualify for them. Multiple sets of eyes—

including those of the FAR and the AADAS—can assure that accommodations are given to student who truly need them.

The precise way in which advice unfolds will vary from one campus to another, but both the FAR and the AADAS should be aware of the committees that evaluate initial and continuing eligibility, and they should at least review the work of such committees. Better yet, one or both of them should serve on each such committee.

When AADASs or FARs review documents for eligibility matters, it is important that they not simply act as a rubber stamp. The same is true for anyone on the Academic Support staff who serves on such a committee or who may independently undertake such a review for the institution. One way to assure an independent analysis is to develop a specific protocol using certain analytical tools that are not used by others across campus. This helps assure not only different sets of eyes, but different perspectives as well.

C. Academic Progress and Monitoring

The ever-present concern, of course, is academic fraud.¹² Academic Support (or Athletic) Departments should develop and implement guidelines to help academic advisors identify situations that either: (i) endanger the academic progress/eligibility of a student-athlete, or (ii) reflect risky academic behavior by the student-athlete that calls for a special communication to the head coach and sport administrator. When academic counselors have concerns they feel warrant action by the head coach, they should inform the AADAS, who should follow university procedures and keep the FAR in the loop.

Working together, these officials can have a profound impact on a student-athlete intervention strategy. As such, each Academic Support and Compliance Department should develop and implement a set of guidelines to facilitate the flow of communication between academic counselor, head coach, and sport administrator. A plan for how to identify which academic

¹² See generally JAY M. SMITH & MARY WILLINGHAM, CHEATED: THE UNC SCANDAL, THE EDUCATION OF ATHLETES, AND THE FUTURE OF BIG TIME COLLEGE SPORTS (2015); FRANCIS X. DEALY, JR., WIN AT ANY COST: THE SELL OUT OF COLLEGE ATHLETICS 78 (1990) (chapter on academic fraud).

incidents should be highlighted, and a communication and action plan for how to get that valuable information to the appropriate parties is the first step towards implementation.

An area that might warrant special attention is student-athletes who take online, non-traditional, or off-campus classes. It is important for the institution to develop a means to identify and monitor specific courses taken off-campus by student-athletes. Academic advisors should be aware of any such courses taken by their student-athletes. If several student-athletes enroll in a particular off-campus course, the FAR and the AADAS should both be made aware, and the classes should be investigated. There may be logical reasons to take off-campus classes, but they also present a significant risk.

D. Systems to Reduce Academic Impropriety

The proliferation of online classes has created a level of scheduling flexibility for students that is a welcome alternative to missed class time for competition. On the other hand, the threat of academic impropriety in online courses has become a new challenge for institutions. Currently, Ole Miss student-athletes are permitted to enroll in no more than 50 percent online classes per term, but sometimes exceptions are made (so as not to hinder students from graduating on time or similar concerns).

The concern, of course, is assuring that the enrolled student is really doing the work in an online course and that the work is not being done in concert with someone else. To a certain extent, that is a university-wide issue, not just one for the Athletics Department.¹³ One way to minimize impropriety is by requiring

¹³ Any Athletics Department should be an active participant in campus-wide discussions regarding reducing academic improprieties for all online students. Possible areas to be addressed, taken from the National Association of Academic Advisors for Athletics (N4A) position paper on academic accountability and integrity, are as follows:

1. Enrollment guidelines and any restrictions for student-athletes
2. Academic support strategies for non-traditional courses (i.e., tutorial)
3. Proctoring of online exams and assignments
4. Access/completion of online assignments and exams in athletic facilities
5. Restrictions on non-academic athletics department personnel from providing certain services (i.e., coaches, operations staff, etc.)
6. Evaluation of academic outcomes for student-athletes in non-traditional courses as compared to overall student body
7. Education and training for students and staff

that all online tests be taken at a physical testing center. Other options include a lockdown browser or engaging an online test monitoring company (such as ProctorU).¹⁴ Additionally, departments can require that all work be done through student Blackboard accounts, which can be investigated when needed.¹⁵

In addition, in order to make certain that the student-athletes in question really did the work, Academic Support staff should do at least some minimal investigation, such as asking the students about their classes. Sample questions could include:

1. What is the name of your online course, and who is the instructor of your course?
2. Do you interact with your instructor or the class?
3. What types of assignments are you graded on (e.g., discussion board, quizzes, only tests)?
4. What was your grade on your first test?
5. Do you get tutoring/academic enrichment for this course?
6. Do you have a final exam in the course?
7. Why are you taking this course? Is it a requirement or an elective?

8. Syllabus collection

9. Annual reporting structures

10. Off-campus testing procedures

11. General security standards

12. Education of staff in recognizing questionable activities

¹⁴ One approach suggestion posted on the Blackboard Community discussion board (<https://community.blackboard.com/thread/2031>) is to set up computers in the testing center so that:

1. There is only one usable browser, and the only accessible website would be Blackboard. The browser would be limited to having only one window/tab open at a time.

2. Warning messages would be set to appear if students try to navigate outside a test before completing it.

3. Monitoring software could determine whether students visited any non-test URLs while their exam was in progress.

4. An IP filter would be set on the desired test to make sure no one else logs in to take the test.

5. For extra security, a password could be set on the test and only given out in the room once all phones and devices have been collected.

¹⁵ The Academic Support staff can obtain “see only” access to review the student’s work without having the ability to make changes (thus avoiding the risk of unauthorized work by the staff). In fact, the staff should be prohibited from asking for or retaining any student-athlete Blackboard login information.

The answers should be compared to a syllabus from the instructor, which the students should be required to supply.

In order to help students concentrate and to prevent unauthorized assistance, schools that have a study hall or study lab should develop an alert system or signal that will inform the staff and other students when someone is working on graded assignments while at a station or on a computer in the hall or lab. Some institutions use items as simple as a flag that gets posted atop a computer to identify a student who is working on material to be submitted for a grade. Of course, today almost all such work is graded.

Both full-time and part-time staff members must be well-trained on the permissible level of academic assistance. One challenge is knowing whether a student-athlete is working on graded or non-graded work while at the work station. The flag system can help staff members quickly identify when graded work is being completed. Of course, having a camera recording system can facilitate evaluation if an issue is identified.¹⁶

E. Clustering

There is serious concern by university administrators about clustering in classes and in majors.¹⁷ Too often, student-athletes find themselves pigeon-holed into certain classes or majors either through no fault of their own or from lacking the motivation to pursue more difficult majors. This can be due to pressure from coaches who influence students to take easy courses to remain eligible or their own poor attitudes toward higher education.¹⁸ For that reason, the AADAS and the FAR should monitor classes and majors for clustering.

The information to be gathered would include:

¹⁶ See also *infra*, § 3 F (Academic Integrity).

¹⁷ E.g., Ray G. Schneider, Sally R. Ross, & Morgan Fisher, *Academic Clustering and Major Selection of Intercollegiate Student-Athletes*, 44 COLLEGE STUDENT J. 64 (Mar. 2010).

¹⁸ Of course, sometimes, the timing of classes and practices precludes students in some team sports from enrolling in certain classes. Paul M. Barrett, *In Fake Classes Scandal, UNC Fails Its Athletes—and Whistle-Blower*, BLOOMBERG BUSINESSWEEK (Mar. 3, 2014).

1. Courses in which a significant number of student-athletes are enrolled in proportion to the number of non-student-athletes in the course;
2. A review of student-athlete grades versus non-student-athlete grades in these courses and the number of student-athletes and non-student-athletes in each course;
3. The identification of all internships, the instructor, and the location of the internship; and
4. The identification of non-traditional courses (online, independent study) in which a significant number of student-athletes are enrolled.

Most of this information should be collected after the semester or academic year has concluded, though some information should be requested at the beginning of the semester.¹⁹

The FAR should work with the AADAS to develop a formal process for the review of this type of academic information, including course clustering, major clustering, non-traditional course enrollment, patterns in grading, internships, etc. The Academic Support and the Compliance Office staffs should be involved in the process, but it is a good idea to have the information reviewed and any follow-up done by entities outside of the Athletics Department. At most institutions, the provost's office would fill that role well.

F. Academic Integrity

Academic integrity is central to the role of FARs and AADASs. Precise procedures might vary based upon campus policies, but if information arises within the Athletics Department

¹⁹ The analysis would be based on information gathered after the academic year. There are, however, a few questions to be asked at the beginning of the semester to determine what, if any, monitoring activities need to be put in place during the term. For example, if a student-athlete has an internship within the Athletics Department, that might warrant questions about how the supervisor within the athletics department is monitoring the required number of hours. Another example would be if an independent study course has a very high percentage of student-athletes compared to the total student population in the class, it might merit a discussion between the FAR, the AADAS, and the Compliance Office regarding the reasons for the high percentage. If follow-up is necessary, entities outside of the Athletics Department and the FAR should be involved.

concerning academic impropriety involving student-athletes, that information needs to be forwarded to both the FAR and the AADAS. First and foremost, the department should follow the school's honor code or follow the policies for academic dishonesty which often are initiated by faculty. If there is not already a protocol for this, they should demand that one be put in place to cover situations such as the following:

1. An instructor contacts the Academic Support staff about alleged improprieties that he or she has identified concerning a student-athlete;
2. The Academic Support staff has identified possible academic impropriety involving student-athletes.
3. The Academic Support staff is informed by a student-athlete or tutor/mentor about academic impropriety.

Such a protocol should be communicated as an expectation for the entire Athletics Department, and it should be included in Athletics Department manuals. The protocol should ensure that: (i) the FAR and the Compliance Office receive such information; (ii) the information is forwarded to the Office of Student Conduct, if warranted, by the FAR or Compliance Office; and (iii) a written record of the potential misconduct, including the outcome, is maintained. Upon development of the policy, the Compliance Office should educate the Academic Support staff, FAR, and other applicable personnel on the policy.

When academic dishonesty charges are filed against a student-athlete by a faculty member, the FAR and the AADAS should both be informed. This is important for several reasons. The AADAS wants to be certain that the student is aware of the charges and of where, how, and when to answer them. Academic Support Staff can aid in making sure student-athletes follow through on all requirements and understand all of their rights. In some cases they may also serve as advocates. The AADAS may also need to let a coach know about a developing issue that may affect his or her team. The FAR should pay particular attention to any groupings of athletes in a class where charges have been made. No one wants to encounter a team-wide cheating scandal, but that is a risk.²⁰

²⁰ See JAMES BLACKWELL, *ON BRAVE OLD ARMY TEAM: THE CHEATING SCANDAL THAT ROCKED THE NATION: WEST POINT, 1951* (Presidio Press, 1996).

Related to this, after each semester, the AADAS should prepare a report to the FAR regarding any grade changes for student-athletes. This would include the changing of an incomplete to another letter grade. The information should be forwarded by the Academic Support staff, and it should identify whether the grade change was needed by the student-athlete to retain eligibility. The FAR should follow-up with any faculty members who changed grades (with, for instance, a simple email) but pay special attention (such as a phone call) to any professors who changed grades that affected eligibility.

IV. CONCLUSION

Obviously, this paper cannot cover all aspects of the jobs of an AADAS or a FAR.²¹ It is, however, important to understand the areas of overlap of responsibility between the positions as well as the ways in which they can work together. Collegiate athletics has evolved into a complex, multi-faceted entity which focuses on competitive success, financial stability, and—at its core—student-athlete development and education. The AADAS and the FAR have great responsibilities relating to those latter two points. Working together, they can help not only the Athletics Department and the university; they can play a vital role in helping student-athletes succeed along their chosen path of life.

²¹ With the 2018 case *Murphy v. National Collegiate Athletic Association*, __ U.S. __ (2018), federal law no longer prohibits betting on college sports, and many states are legalizing it. This will open up many new issues that are hard to foresee at this time. For background on the federal law that was ruled unconstitutional in *Murphy*, see Ronald J. Rychlak, *A Bad Bet: Criminalizing Nevada's College Sports Books*, 4 NEV. L. REV. 320 (2003-04).