

The following is the email correspondence between Interim President Berdahl and the Intercollegiate Athletic Committee from 5 January 2012 to 15 March 2012. It also includes several emails from the IAC Chair to the IAC membership.

FROM INTERIM PRESIDENT BERDAHL TO IAC MEMBERS

Sent: 5 Jan 2012

To the Members of the IAC:

I have received copies of proposed changes in the charge of the Intercollegiate Athletics Committee. These changes are substantial, proposing to alter the fundamental responsibility of the IAC from an advisory role to an oversight role. I think it best, therefore, for me to inform the committee, before discussions of these changes go any further, that I cannot and will not accept the changes proposed.

Nowhere in the original charge to the committee is an oversight role indicated. Oversight of the Department of Intercollegiate Athletics is the responsibility of the university president. The Director of the Department of Intercollegiate Athletics is the responsible administrator of the department and he reports directly to the president. His exercise of that responsibility cannot be overseen by both the president, to whom he reports, and a committee, to whom he does not report.

The current charge calls for the IAC to serve in an advisory capacity to the Department; it calls upon the Department to inform the IAC of any major changes in its plans or policies. I believe that the Director of Intercollegiate Athletics should meet with the IAC once per term to discuss with the IAC those issues that appropriately fall within its purview.

Moreover, my term as Interim President is relatively brief and we have several issues of major importance to the future of the university to address in the next months. It is my intention to focus on those issues rather than to engage in lengthy discussions about internal committee structures that are best left to my permanent successor.

Robert M. Berdahl
Interim President

FROM N. TUBLITZ, IAC Chair to IAC members
SENT: 7 Jan 2012

Dear IAC;

The Executive Committee has rewritten the proposed IAC charge in light of President Berdahl's comments. It is attached here.

Several changes for the previous version to note:

- 1) The change from advisory to oversight has been removed and this version now includes the original wording.
- 2) The student membership issues (how many, whether they are appointed or elected, and whether we should have one or two student-athletes) has not yet been resolved. This version of the document increases the number of student members to 6, specifies that one of the six be a student athlete elected by SAAC, and states that the rest be appointed.
- 3) The classified staff membership issue (whether to have 1 or 2 classified staff members) has also not yet been resolved. The current version proposes one classified staff member.

I ask that you review this document and send me and/or the committee your comments. We already have had a good discussion on issues 2 and 3 with various points of view expressed. When we meet as a group later this month, we can sort out these differences and hopefully come to a consensus.

Cheers,

Nathan

[N.B. The 7 Jan 2012 proposed revised IAC charge prepared by the IAC Executive Committee is appended below after these emails.]

FROM INTERIM PRESIDENT BERDAHL TO IAC CHAIR
Sent: 24 Jan 2012

Prof. Tublitz:

I have said repeatedly that I will not accept any change in the IAC charge. To discuss this further is a waste of everyone's time. Please drop it from the agenda.

Bob Berdahl

FROM N. TUBLITZ, IAC Chair TO INTERIM PRESIDENT BERDAHL
Sent: 25 Jan 2012

Dear President Berdahl:

Thanks very much for your note and comments on the proposed changes to the IAC charge. Please allow me to provide you with some general background on this issue.

As you undoubtedly know, University Committees are divided into three categories: University Standing Committees which are set up by and report to the University Senate; Administrative Advisory Groups that are established by individual administrators and report to them; and Externally Mandated Boards which are mandated by State or Federal regulations and report to individual administrators.

The [IAC](#) is a [University Standing Committee](#) and thus reports solely to the [Senate](#). The administration, including the President, has never approved nor rejected the charges of any University Standing committee in the history of the University Senate. The Senate warmly welcomes dialog and input from the Administration on the development of University Standing Committee charges. It would be wonderful if you gave us specific input on those parts of the charge on which you disagree.

Approval by the University Senate of University Standing Committees charges are considered to be legislative actions by the Senate. It is my understanding that the University President has the right to reject any legislative action by the University Senate based on the authority vested in the President through OUS IMD 3.105. The [University Constitution](#) signed by your predecessor last December states in detail the process that the President must follow in these instances. The specific process is stated in Section 7.2.1.2:

7.2.1.2 If the University President concludes that it is not in the best interest of the University to implement legislation adopted by the University Senate, s/he shall state so in writing to the Senate President and come to the University Senate, within 60 days of the University Senate action, to suggest withdrawal or amendment of the legislation. If the end of the 60 day period falls outside the academic year, the President shall come to the first Senate meeting in the fall. If the University Senate does not accept the President's suggestion, and if the President and the University Senate fail to create mutually satisfactory legislation within 60 days after the President's appearance in the University Senate, the University Senate President and University President shall then jointly call an Assembly to allow the Statutory Faculty to fulfill its oversight obligation according to the procedures outlined in SECTION 9. The decision of the Faculty Assembly, which supersedes that of the University Senate, shall be either vetoed (SECTION 2.7) or implemented by the President according to SECTION 9.4. Should action by the Faculty Assembly fail under the terms of SECTION 9.3, the President shall either implement or veto (SECTION 2.7) the University Senate legislation within 30 days after termination of the voting procedure.

It is my hope that we can avoid entering into this formal process through informal discussions. In the spirit of collaborative discourse, I propose a meeting between you and the IAC Exec Committee in order to discuss those points in the revised IAC charge that you find inappropriate. I look forward to discussing your concerns.

Sincerely,

Nathan Tublitz

FROM INTERIM PRESIDENT BERDAHL TO IAC CHAIR
Sent: 23 Feb 2012

Dear Prof. Tublitz,

I write to make explicit my expectations and understanding regarding the Intercollegiate Athletics Committee.

- 1) I have told the Athletic Director that he should expect to meet with the IAC no more than once per academic quarter.
- 2) Any information that the IAC wishes to request from the Athletic Department preparatory to its meetings should be requested through my office, rather than directly with Director Mullens. My office will determine whether the materials requested to be germane to the charge of the committee. If you were to disagree with such an assessment, you may make your argument with my office rather than with the Athletic Department.
- 3) The appropriate role of the IAC is to advise the Athletic Department on matters related to the institution's academic mission, but it has no oversight authority or responsibility.
- 4) Information shared with the IAC with an explicit understanding of confidentiality must remain confidential if there is ever to be trust between the administration and committees it relies on for counsel. I was concerned to learn that the IAC was provided, on a confidential basis, six-year projections of the department's budget, but that there is now discussion of insisting that the projections be treated as a public record. Again, the administration must have confidence that it can share confidential planning information in seeking advice from a committee without the demand that it be released publicly.
5. I note from the agenda that you are requesting a change in the membership of the committee. I remind you of my previous notification that I will not entertain changes in the committee charge.

Sincerely,

Robert Berdahl
Interim President

FROM N. TUBLITZ, IAC CHAIR TO INTERIM PRESIDENT BERDAHL

Sent: 02 Mar 2012

Dear President Berdahl:

On behalf of the Intercollegiate Athletic Committee, I submit the attached letter asking you to initiate a performance review of the Faculty Athletics Representative, Jim O'Fallon. The letter details the reasons for our request.

We look forward to hearing back from you.

Sincerely,

Nathan Tublitz

[N. B. The letter referred to in this email is appended after these emails]

FROM N. TUBLITZ, IAC CHAIR TO IAC MEMBERS

Sent: 02 Mar 2012

Dear IAC members:

As promised, here is a report on my meeting yesterday with Interim President Berdahl. The in person participants were the interim president, Rob Kyr (Senate President), Dave Hubin (Sr Asst to the President) and Jim O'Fallon (FAR). Rob Mullens participated via phone.

The meeting began with my asking the Interim President for clarification on the IAC charge. He replied that:

- a) the changes in the IAC charge that the IAC discussed in December and January went far beyond consultation into oversight and were unacceptable;
- b) the existing IAC charge also inappropriately steps across the consultation/oversight boundary.

He gave several examples where this year's IAC had improperly strayed into oversight:

- a) Requesting information about NCAA violations;
- b) Asking for financial information such as donations that had nothing to do with academic issues;
- c) Making too many requests to the Athletic Director.

I pointed out that these items are in our current charge to which the Interim President replied that he would not have approved the current charge if he was president at the time the current charge was adopted.

The Interim President also stated that other items in the current charge such as being involved in appointments of head coaches were also well outside the proper consultative role of the IAC.

We discussed the fact that the current charge and several issues discussed in the IAC this year came directly from the [2004 Athletic Task Force \(ATF\) report](#). I noted that the report had been submitted to the Senate by the entire ATF committee, including Mr O'Fallon as FAR, then Athletic Director Bill Moos and then VP for Administration Dan Williams speaking on behalf of then President Frohnmayer and the central administration. Jim O'Fallon strenuously objected to the commonly held notion that he, AD Bill Moos and the administration had approved the Task Force report even though their names were on the final report and the Senate adopted it. The Interim President said that he had consulted with former President Frohnmayer who said he did not "sign off" or approve the 2004 Task Force report.

The Interim President was adamant that the IAC should:

- a) Not change its [charge](#);
- b) Not change its [membership](#) (refer to footnote 1 below);
- c) Send all requests to his office; and,
- d) Adhere to a more consultative approach.

He also said that he did not trust the committee to follow its charge, that he had full authority to regulate the charge and membership of the committee, and implied that he had considered dissolving the committee.

When asked what are the appropriate roles for the IAC, the interim president said the IAC should stick to "academic issues" as stated in the [University Constitution](#) ("Section 1.3 Sole faculty governance authority at the University of Oregon resides in the Statutory Faculty. This authority extends to all academic matters as commonly understood in higher education").

Because the Interim President and I disagreed on what constituted "academic matters as commonly understood in higher education", we agreed that the Interim President would prepare a memo interpreting the current IAC charge and providing direction about which current sections of the IAC charge are within and outside our purview. I thanked the Interim President for providing direction to the IAC and the meeting was adjourned on that positive note.

The result of the meeting with the Interim President is that the IAC will not meet until the Interim President has issued his memo. I will get back to you as soon as I hear back from the Interim President. The IAC will continue to pursue the change in membership (i.e. adding a student member). That item, which was approved by the IAC at our last meeting, will come before the University Senate on April 11th.

Sincerely,

Nathan

Footnote 1: The Interim President said the current IAC membership was too large and there was no need for an additional student. He even suggested reducing the number of committee members including students.

PROPOSED CHANGES IN IAC CHARGE

7 Jan 2012

UO Intercollegiate Athletics Committee

(<http://committees.uoregon.edu/node/41>)

BRIEF DESCRIPTION:

The Intercollegiate Athletics Committee ~~shall~~will: represent the academic standards of the university as embodied in the University of Oregon Mission Statement in all decisions; advise the administration, the ~~University S~~University Senate, and the athletics director on any athletics department policy or program, including the athletics department budget; promote and safeguard opportunities for student athletes to excel in academics and protect and ensure the academic integrity of student athletes; and, promote greater understanding, for the university community, of intercollegiate athletics and the relationship between academics and athletics.

CHARGE AND RESPONSIBILITIES:

The Intercollegiate Athletic Committee ~~shall~~will:

1. Represent the academic standards of the university as embodied in the University of Oregon Mission Statement in all decisions;
2. Advise the administration, the ~~University S~~University Senate, and the athletics director on any athletics department policy or program, including the athletics department budget;
3. Promote and safeguard opportunities for student athletes to excel in academics and protect and ensure the academic integrity of student athletes; and,
4. Promote greater understanding, for the university community, of intercollegiate athletics and the relationship between academics and athletics.

Consultative Process

~~As part of its function and in order to carry out its governance function, the IAC shall be consulted by:~~

1. ~~the Athletics Department will cooperate with the IAC's governance function by consulting with the IAC on:~~The athletics department on:

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A4. any proposed changes in departmental recruiting policies, academic advising, expectations regarding student schedules, or any other practice that could affect the academic or financial standing of students who are athletes. The IAC need not to be informed of all changes mandated by the NCAA for student athletes, which fall under the purview of the Faculty Athletics Representative, although the IAC should be notified of any major changes mandated by the NCAA for student athletes.

B2. any decisions, large donations, or commercial offers that potentially change the current or future financial landscape of athletics or might influence university finances outside the athletics department;

C3. any decisions that potentially affect the campus environment, including construction, removal, or remodeling of facilities, changes in the timing of facilities use, or changes in permitted uses of facilities;

D4. scheduling of athletic events, including scheduling changes made to accommodate other universities or the media except for Saturday football start times;

E5. the addition or termination of sport teams, or changes in the status of sport teams;

F6. the appointment of head coaches for all intercollegiate athletics teams. In all head coach searches, cases where an open search process is conducted for head coaching positions, an Intercollegiate Athletics Committee (IAC) faculty member chosen by the IAC Executive Committee shall ~~will~~ be included on the search committee. When a temporary head coach is appointed, the search is abbreviated, the athletics director ~~shall~~ will consult with the chair of the IAC.

G. any senior level athletic department appointment including assistant and associate athletic directors and financial specialists. Searches for these positions will always include an Intercollegiate Athletics Committee (IAC) faculty member. When a temporary appointment is made, the athletics director will consult with the IAC Chair.

2. The athletics director, or designee, will consult with ~~via~~ the chair of the IAC to determine if any proposed changes in athletics department procedures, policies, or activities reach a threshold deserving of attention by the full committee. Public statements made by Athletic Department spokespersons will be provided to the IAC chair on a monthly basis.

3. The Faculty Athletics Representative (FAR) to the NCAA will consult with the IAC about all ongoing investigations and major violations. Any information that the NCAA shares with the AD or the FAR will also be shared with the IAC Executive Committee unless NCAA bylaws or UO-NCAA agreements specifically prohibit this sharing. UO will not make any agreements to restrict information sharing between the NCAA and the

IAC Executive Committee beyond what NCAA bylaws call for without first consulting with the IAC.

4. The University President will consult with the full IAC during the any review of the Faculty Athletics Representative's performance, including the usual 5 year performance review.

IAC Chair

The chair of the IAC will be elected at the final regularly scheduled spring meeting and be chosen from among the returning members of the IAC who are teaching faculty.

IAC Executive Committee

The Intercollegiate Athletics Committee ~~shall~~will have one subcommittee, an ~~E~~Executive ~~C~~Committee, consisting of the committee chair, one faculty member, one student and an additional member from the current IAC membership. ~~The F~~Faculty ~~A~~Athletics ~~R~~Representative will be an ex-officio non-voting member of the IAC Executive Committee. ~~The chair of the IAC shall~~will be responsible for forming the ~~E~~Executive ~~C~~Committee. The ~~E~~Executive ~~C~~Committee ~~shall~~will be charged with maintaining close and timely communications with the athletics department, through the athletics director or designee. The ~~E~~Executive ~~C~~Committee ~~shall~~will set the agenda and venue for IAC meetings and ~~The executive committee shall~~will be empowered to call extraordinary meetings of the IAC. ~~The chair of the IAC shall~~will be elected at the final regularly scheduled spring meeting and must be a returning member. The chair of the IAC shall~~will~~ be responsible for forming the ~~E~~Executive ~~C~~Committee. It is expected that the ~~E~~Executive ~~C~~Committee ~~shall~~will have regular contact with the athletics department during the summer. Senate appointments to the IAC are eligible to serve on the IAC Executive Committee.

IAC Retreat

To better educate its committee members to the complexities of university athletics and to update the committee on future athletic department plans, the IAC ~~should~~will hold a once yearly retreat, if possible prior to the academic year. The retreat ~~shall~~will provide a forum for new members to learn about the role of the IAC in supporting the Mission Statement of the University of Oregon, to learn about administration of campus athletics, and to be informed on issues potentially requiring IAC attention in the year ahead.

MEMBERSHIP:

Membership of the Intercollegiate Athletics Committee is fixed and consists of eighteen (18) voting members, ~~ten~~eleven (104) teaching faculty, ~~one~~two (12) classified staff, one (1) officer of administration, and ~~five~~six (65) students. Eight (8) teaching faculty

members -- four (4) from the College of Arts and Sciences and four (4) from other areas -- ~~and two (2) classified staff shall will~~ be elected to the committee by the teaching faculty, The classified staff member and the officer of administration will be elected by the and classified staff and officers of administration, respectively. All terms for elected members are for two years. Faculty, ~~OA and classified and~~ staff committee members may serve up to three consecutive two-year terms. After three terms, faculty and staff members must be off the committee for two years before being eligible for re-election or re-appointment.

The University Senate ~~shall will~~ appoint two (2) faculty members to the IAC for two-year terms.

The ~~F~~faculty ~~A~~athletics ~~R~~epresentative ~~shall will~~ be an ex-officio non-voting member of the committee ~~with full membership privileges~~.

~~Five of the The six five~~ students ~~shall will~~ be appointed through the ASUO and the president's office. One of the six students will be the ASUO President or designee. At least one of the six student members shall will be a varsity student athlete elected through the Student Athletic Advisory Committee (SAAC). All sStudent IAC members shall will serve one-year terms and may serve up to three consecutive terms.

The athletics director and up to 5 of his/her designees ~~on the IAC shall will~~ be ex-officio non-voting members of the IAC and shall attend all IAC meetings.-

No member of the IAC may receive benefits from the Department of Athletics beyond what she or he would otherwise be entitled to if she or he were not a member of the IAC.

REPORTING:

The Intercollegiate Athletics Committee ~~shall will~~ report to the University Senate. At a minimum this report ~~shall will~~ be in the form of an annual written report submitted by the committee chair to the Senate Executive Coordinator no later than the final University Senate meeting in May. The committee ~~shall will~~ also make additional written or oral reports to the senate as necessary. The IAC ~~E~~xecutive ~~C~~ommittee ~~shall will~~ maintain communication with the senate through the IAC's senate appointees ~~(who are eligible to serve on the executive committee)~~. The ~~E~~xecutive ~~C~~ommittee ~~shall will~~ meet with the ~~S~~enate ~~P~~resident and the vice president for academic affairs at the beginning of the academic year.



UNIVERSITY OF OREGON
College of Arts and Sciences

2 March 2012

Interim President Robert Berdahl
Johnson Hall
University of Oregon
Eugene OR 97403

RE: Review of the Faculty Athletics Representative

Dear Interim President Berdahl:

I write on behalf of the Intercollegiate Athletic Committee to respectfully request that you follow Recommendation #2 of the 2004 UO Athletics Task Force Report which asks for a formal review of the Faculty Athletics Representative, Jim O'Fallon.

To provide context for this request, the UO Athletic Task Force was jointly formed in December 2001 by then President Frohnmayer and myself in the role of University Senate President. The Task Force met regularly for 3 years to discuss the role of athletics on our campus with the goal of identifying strategies to better integrate athletics into our academic environment. The twelve specific recommendations proposed by the Task Force in their 2004 report were approved by the University Senate and signed off by then President Frohnmayer and the Athletic Director at the time, Bill Moos (The full Task Force Report can be found at <http://committees.uoregon.edu/sites/committees.uoregon.edu/files/IACTaskForcefinalreportATF04.pdf>).

The second recommendation of the Task Force Report concerns the review of the FAR. That recommendation states (Task Force Report p. 12):

“To insure that faculty governance of Athletics is maintained at a consistently high level, we propose reforms in how the position of Faculty Athletics Representative is reviewed. Specifically, to ensure that the FAR is meeting performance expectations, he or she should undergo an administrative review once every five years.

The five-year review shall:

- A. be overseen by the President of the University, and*
- B. be conducted by a three person committee, which shall include a designee of the President of the University Senate, an administrator designated by the President of the University, and an at-large tenured faculty member from the University.*

DEPARTMENT OF BIOLOGY

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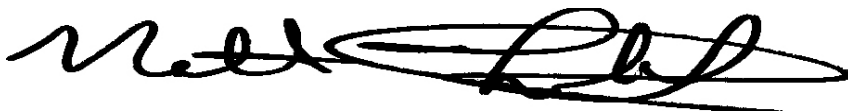
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The five-year review in no way infringes on the authority of the President of the University to evaluate the FAR and set FAR performance expectations at his or her discretion.

The Faculty Athletics Representative (FAR) is the faculty member who insures that athletics are in compliance with NCAA regulations and other external mandates. The FAR, in conjunction with the Intercollegiate Athletics Committee (IAC), alerts the faculty to issues and events of importance, explains the circumstances, and makes recommendations for action when appropriate. One of the criticisms to emerge from the public forum, the Senate Forum, and the Senate small groups was that the FAR stayed in the position too long, and so lacked accountability to the faculty. This was not a charge specifically criticizing the performance of the FAR at the University of Oregon, but rather a fear that those working with Athletics become too isolated from the concerns of the faculty at large. The Coalition on Intercollegiate Athletics (COIA) also recommends a revision of the FAR position. However, it is not a good idea to promote a constant turnover of the FAR, because that person must know NCAA regulations in minute detail to enforce the rules properly and guard against violations. This knowledge base takes time and effort to acquire. Therefore the desire that the FAR be more accountable can best be addressed through a review process.”

Our request for a formal evaluation of the FAR does not emerge from performance concerns. Rather, the IAC is interested in ensuring that the recommendations of the Athletic Task Force are followed. This specific recommendation has not been fulfilled in the 8 years since the Task Force issued its report despite its approval by then President Frohnmayer and Athletic Director Moos. It is also our understanding that the FAR has not been formally evaluated during his 23 year tenure in this position. The IAC discussed Task Force Recommendation #2 several times this year and approved this request at our January 21, 2012 meeting. For these reasons, the IAC respectfully asks that you initiate a review of the FAR at your earliest convenience. We look forward to your positive response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathan Tublitz', with a large, stylized flourish extending to the right.

Nathan Tublitz
Professor of Biology
2011-12 Chair, Intercollegiate Athletic Committee