

Report and Resolution on Ethical and Academic Problems in the Rutgers Football Program New Brunswick Faculty Council September 25, 2015

Background

The Rutgers administration has now made public a somewhat redacted version of the final investigative report by William F. Maderer, Esq. of the law firm Saiber LLC entitled “Report of Factual Findings of Investigation into Alleged Improper Contact by the Rutgers Head Football Coach with a Faculty Member.” We commend President Robert Barchi for releasing the report, as was requested by many voices on and off campus, including the Executive Committee of the New Brunswick Faculty Council. We also commend Mr. Maderer and his colleagues for the thoroughness of their investigation. After reading both the report itself and President Barchi’s summary of its findings and the University’s response, however, members of the New Brunswick Faculty Council have very serious concerns about the limited scope of the investigation and about the University’s response to the report’s findings. We also have some very serious concerns about other apparent ethical and academic problems in the Rutgers football program.

Faculty Concerns

First, we believe that Coach Flood’s ethical lapses go well beyond a violation of the Rutgers policy prohibiting coach-initiated contact with a faculty member regarding a student athlete’s academic standing, hereafter referred to as the “no contact policy.”

1. Given that the faculty member in question is a part-time lecturer (PTL) with no job security, Coach Flood’s pressuring her to change the student’s grade was much more serious ethically than if he had tried to pressure a tenured faculty member to change a student’s grade. The power imbalance and the fact that Coach Flood repeatedly pressured the PTL via a series of e-mails and in person and that he did not stop the student from “badgering” her raise the transgression to the level of intimidation of a highly vulnerable member of the University community. The PTL told the investigators that she did feel intimidated. To quote the report directly: “The Professor [PTL] conveyed to the investigators that she felt unable to resist the implied pressure from someone like Coach Flood and thus felt uncomfortable not agreeing to an additional assignment to allow the Student to become eligible.” In the end, the PTL did decide not to change the student’s grade but only after she had been contacted by the Office of Enterprise Risk Management, Ethics, and Compliance and told that Coach Flood’s contacts with her had been reported to University authorities.
2. We find that Coach Flood’s claim that he did not realize that there was anything improper about his contacts with the PTL strains credulity. Even if one were to accept his statement that he did not initially know about the no contact policy, he must have known that he was doing something improper given the lengths to which he went to conceal his actions, including using his personal e-mail account to contact the PTL and meeting her off campus dressed so that he would not be recognized as the Rutgers Head Football Coach. Moreover, he continued with his plan to meet the PTL in person even after he was advised by a member of the Academic Support Services for Student Athletes (ASSSA) staff that any contact with a faculty member about a student’s grade is impermissible.

3. In addition to contacting the PTL in clear violation of University policy, the coach admits that he visited the same PTL's class in fall 2014 to introduce himself because a number of football players regularly registered for the class. There is also anecdotal evidence that he has visited other classes popular with football players to introduce himself and the players to the instructor of the course. This practice seems inappropriate, would surely be intimidating to some instructors, and may be a violation of the no contact policy.
4. In addition to finding that Coach Flood clearly violated the University's no contact policy, the investigators concluded that his contact with the faculty member potentially violated the University's Code of Ethics, which prohibits a faculty or staff member from using his or her position at the University to secure unwarranted privileges or advantages for himself or others.
5. We also find Coach Flood's editing of the student's "extra paper" disturbing, whether or not the coach's actions constitute academic misconduct.

Given the seriousness and extent of Coach Flood's unethical behavior, we believe that the penalties imposed; i.e. a three-game suspension and a \$50,000 fine, are incommensurate with the gravity of his violations of University policies and ethical standards. We are also disturbed by several other aspects of the Administration's response to the investigative report.

1. While we appreciate President Barchi's stated commitment to having policies in place "to protect academic integrity and to ensure that any faculty member, tenured or untenured, full-time or part-time, is free of intimidation and interference by outside parties," we are disturbed by his failure to acknowledge that Coach Flood's pressuring a PTL, a faculty member who has no job security, to change a student's grade was a much more serious ethical lapse than pressuring a tenured faculty member to change a student athlete's grade would have been.
2. We are disturbed by the response of senior administrators to Coach Flood's providing "grammatical and minor editorial suggestions" to improve the extra paper the student submitted to try to improve his grade. In particular we are both disturbed and perplexed by the following sentence taken verbatim from the last bulleted paragraph in President Barchi's brief summary of the investigative report's major findings:

The Office of Enterprise Risk Management, Ethics, and Compliance consulted with senior campus academic officials, including the Senior Vice President for Academic Affairs and the Chancellor, Rutgers-New Brunswick, who both agreed, after reviewing the paper before and after the edits, that the assistance provided by Coach Flood was in line with standard student support offered on campus by student learning centers and did not constitute academic misconduct.

We find this disclaimer disturbing because neither the Learning Resource Centers nor the Writing Program provide such editorial assistance to students, as is clear from their respective websites. Even if the LRCs were to provide this type of assistance, we believe it would be unethical for athletic coaches to do the same. Beyond the ethical issues, such help from a coach could be construed as an extra benefit to the athlete and therefore an NCAA violation.

3. We are disturbed that President Barchi's summary of the investigative report's major findings does not include the report's conclusion that Coach Flood's contacting the faculty member to seek special treatment for the student athlete potentially violated the University's Code of Ethics.
4. We are disturbed by the apparent failure to investigate other possibly improper contacts Coach Flood may have had with faculty members.

Last, but certainly not least, we are very disturbed that the standards of ethical behavior and academic performance in the Rutgers football program, which were formerly a source of University pride, seem to have deteriorated under Coach Flood to the point where

- five members of the team have been suspended for alleged involvement in some combination of robbery, house invasion, and assault;
- a team captain, who should be a role model for his teammates, has very recently been suspended for a curfew violation and for allegedly assaulting a female athletics department hostess;
- discipline in the program is clearly lax;
- for the first time in many years, a student has been declared ineligible because of poor academic performance.

The apparent decline in ethical and academic standards in the football program strikes at Rutgers' core value of integrity and is doing great harm to the reputation of the University.

Resolution

Whereas, members of the New Brunswick Faculty Council (NBFC) are shocked and disturbed by recent revelations of unacceptable behavior by Coach Kyle Flood and some members of the Rutgers football team; and

Whereas, we believe the penalties imposed on Coach Flood are incommensurate with the gravity of his violations of University policies and ethical standards; and

Whereas, we believe that the unacceptable behavior described in this report may be symptomatic of a serious decline in ethical and academic standards in the Rutgers football program; and

Whereas, we believe that the Rutgers administration needs to address serious problems in the football program beyond Coach Flood's violation of the no contact policy.

Therefore, be it resolved that the New Brunswick Faculty Council calls on the Rutgers administration to act forcefully and expeditiously to address and resolve all the concerns raised in this NBFC report in order to halt and reverse the decline in the ethical and academic standards in our football program and the continuing damage to the University's reputation.