

**Memorandum**

To: Arthur Bryant  
 From: Dan Cohen  
 Date: March 29, 2021  
 Re: Clemson FRE 408 communication

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Arthur,

Per your request, in furtherance of the parties’ confidential attempts to explore a potential settlement, this document provides Clemson’s per-team and total student-athlete Title IX participant counts for 2019-2020, for 2020-2021 (in-process, mid-year counts), and Clemson’s 2021-2022 projections.

**2019-2020:**

Men	
Baseball	35
Basketball	17
Cross Country	11
Football	123
Golf	8
Soccer	33
Tennis	11
Track-Indoor	34
Track-Outdoor	36
308	

Women	
Basketball	15
Cross Country	21
Golf	7
Rowing	111
Soccer	25
Softball	19
Tennis	8
Track-Indoor	46
Track-Outdoor	46
Volleyball	17
315	

Clemson’s full-time undergraduate enrollment in 2019-2020 was 50.0% male and 50.0% female. Clemson’s student-athlete participation ratio was substantially proportionate to its full-time undergraduate enrollment ratio, meeting compliance with Prong One of Title IX’s Three-Prong Test. You previously acknowledged in your March 12 letter that Clemson complied with Prong One last year.

**Confidential communication**  
**Subject to FRE 408 and state law analogs**

**2020-2021:**

The chart below reflects Clemson’s in-process (non-final) Title IX participant counts as of today, March 29, 2021, for the ongoing academic year. Clemson informed you, and you acknowledged on last week’s FRE 408 call, that rosters are fluid during the academic year; they may be updated or changed by both student-athletes and the school, and they cannot be finalized until the close of the academic year.

As discussed in our prior, inadmissible discussion subject to FRE 408 and state law analogs, COVID-related anomalies and student-athlete decisions in 2020-2021 caused some significant changes to certain teams’ roster sizes in 2020-2021. The primary change was that COVID prevented Clemson from engaging in its typical novice rowing recruiting, which resulted in a significantly smaller rowing roster this year. That result proved to be very beneficial for the team and its funding, and inspired Clemson to keep a comparable roster size in future years. Beyond impacting recruiting, COVID also caused the NCAA to waive certain eligibility rules, causing a class of “super seniors” to whom the NCAA granted a fifth year of eligibility.

Men	
Baseball	45
Basketball	15
Cross Country	16
Football	126
Golf	10
Soccer	31
Tennis	12
Track-Indoor	39
Track-Outdoor	41

335

Women	
Basketball	14
Cross Country	18
Golf	8
Rowing	72
Soccer	25
Softball	25
Tennis	10
Track-Indoor	42
Track-Outdoor	44
Volleyball	21

279

The one-year variations in Clemson’s (still in-process) student-athlete participation counts are justifiably caused by the unique nature of the impact that the worldwide pandemic has had on Clemson’s teams and the NCAA as well as student-athletes’ individual choices.

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**2021-2022:**

The chart below reflects Clemson's in-process projections for its teams' 2021-2022 Title IX participant counts. All numbers below are based on coach and sport supervisor input and their realistic expectations for their 2021-2022 roster sizes as of March 2021. Again, though, Clemson informed you, and you acknowledged on last week's FRE 408 call, that rosters are fluid; they may be updated or changed by both student-athletes and the school, and they cannot be finalized until the close of the 2021-2022 academic year.

Men	
Baseball	40
Basketball	15
Football	135
Golf	11
Soccer	31
Tennis	12

244

Women	
Basketball	15
Cross Country	15
Golf	10
Rowing	62
Soccer	27
Softball	30
Tennis	9
Track-Indoor	30
Track-Outdoor	30
Volleyball	16

244

Although Clemson's full-time undergraduate enrollment is expected to skew female in future years, it was 50.0% male and 50.0% female in both 2019-2020 and 2020-2021, and this roster projection would lead to exact proportionality in compliance with Prong One in 2021-2022.

We share this information in good faith pursuant to FRE 408 and state law analogs, and hope you receive it in the same spirit. We feel confident that you do not have a viable legal claim against Clemson, but the brinkmanship of litigation is not in either side's best interests. Please let us know when you are ready to schedule a call to discuss exploring possible next steps.