



April 22, 2021

Sent Via email: *lbullock@newkirklaw.com*

Lori Bullock, Esq.
Newkirk Zwagerman
521 E. Locust Street, Suite 300
Des Moines, IA 50309

RE: Resolution of Potential Title IX Litigation

Dear Lori,

**Office of
GENERAL COUNSEL**

Clemson University
207 Sikes Hall
Clemson, SC
29634-5003

P 864.656.3414
F 864.656.7739

I am writing on behalf of my client, Clemson University (“Clemson” or “the University”), to document the understanding reached with your clients, who are female student-athletes at Clemson.

On November 5, 2020, Clemson announced its decision to discontinue its men’s indoor track & field, outdoor track & field, and cross country teams, effective at the end of the 2020-21 academic year. Clemson intended to reinvest a significant portion of the cost savings from the discontinued teams into its women’s programs.

On March 12, 2021, Clemson received a letter from Arthur Bryant representing members of the men’s track & field and cross country teams, asserting that the teams’ elimination would deprive male student athletes and potential student athletes at Clemson of equal opportunities to participate in violation of Title IX. On March 15, 2021, Clemson received a letter from you representing members of the women’s rowing, track & field, and cross country teams, asserting that Clemson was depriving female athletes and potential athletes of equal athletic financial aid, treatment and benefits in violation of Title IX. Your letter also asserted that the women’s track & field and cross country programs would be negatively affected by the men’s program’s discontinuation. Furthermore, you noted that both the women’s and men’s program desired all-around Title IX compliance at Clemson.

Clemson is committed to gender equity, took these allegations seriously, and retained outside counsel to meet with you and try to resolve your clients’ claims. This letter contains the terms of the agreement we have reached with you to do so. A separate letter to Arthur contains some additional terms of the agreement we have with him to resolve his clients’ claims.

On April 22, 2021, Clemson will publicly announce, in coordination with you and Arthur, that it (a) will continue to sponsor men’s outdoor track & field; (b) will conduct a gender equity review of its intercollegiate athletics program to develop

and adopt a Gender Equity Plan (“the Plan”), to be completed no later than July 1, 2022, that will be designed to ensure that all aspects of Clemson’s intercollegiate athletics program are in compliance with Title IX during the 2023-24 academic year and future years, and (c) will be implementing the Plan so all aspects of Clemson’s intercollegiate athletic program comply with Title IX in the 2023-24 academic year and future years. The parties acknowledge that, separate and apart from this agreement, after reaching this agreement in principle, Clemson will be announcing at the same time that it will voluntarily continue to sponsor men’s indoor track & field and cross country and expand women’s sports opportunities on an equitable basis.

To develop the Plan, the University with the input of an individual to be agreed upon by both Clemson and female student-athletes (the “Monitor”) will conduct a gender equity review of its intercollegiate athletics program; as part of that process, the University and the Monitor will solicit input from student-athletes and coaches of each team and will expressly invite participation from your clients and their teams. The Plan shall not be finalized without input from and approval by the Monitor, who shall be consulted during development of the Plan. During the gender equity review and development of the Plan, the members of the women’s teams at Clemson will have direct access to the Monitor to allow female student-athletes to voice their concerns with perceived inequities in the women’s athletic program.

No additional men’s or women’s teams will be eliminated until the Plan is finalized and the elimination would not violate Title IX.

Consistent with Title IX, before the Plan is finalized, Clemson will take the following steps to address certain issues relating to benefits and treatment raised by your clients during exchanges between you and counsel for Clemson; some have already been addressed and others will be addressed in the 2021-22 academic year.

- The women’s rowing team members will be permitted to keep their warmups and gear this year and moving forward;
- Clemson will ensure equitable provision of nutrition and dining options, including offering the women’s rowing team meal options both semesters and providing dinner and breakfast options on all days to a comparable number of women and men. Meal options will be expanded in 2021-22 in consultation with nutritionists, strength & conditioning staff, coaches, and student-athletes;
- Clemson will ensure equitable provision of equipment and supplies, including but not limited to warm up gear, team attire, base layer apparel and performance undergarments, and training and competition shoes. Clemson will allocate these resources in equitable amounts to the women’s

and men's teams. Additional orders will be placed as needed in 2021-22. Clemson will also assess its equipment ordering process with Nike;

-Movie nights will be scheduled at the Starlight Cinema for women's track & field and cross country, for women's rowing and other female student athletes;

-Clemson will ensure equitable provision of medical and athletic training services and equipment in conjunction with its Sports Medicine staff. NormaTec rehabilitation boots will be provided equitably to male and female student-athletes and additional orders will be placed in 2021-22;

-In conjunction with its Sports Medicine staff, Clemson will provide access to the pool in the football facility for rehab and training as needed for all female student-athletes;

-Clemson will provide flights to away games equitably for men's and women's teams;

-Clemson will provide high-quality travel uniforms and/or fitted suits equitably (matching team sizes and student-athletes as closely as possible while maintaining the same benefits for all members of a single team) for men's and women's teams;

-Clemson will offer lodging in hotels before home games equitably (matching team sizes and student-athletes as closely as possible while maintaining the same benefits for all members of a single team) for men's and women's teams;

-Clemson will provide name plates for all student-athletes' lockers, including incoming first-year students; and

-Clemson will provide individual lockers for all student-athletes.

Starting in the 2021-22 academic year, Clemson will make available on its website an annual report of its undergraduate enrollment rates and numbers for males and females; its Title IX intercollegiate athletic participation numbers, total and by team, for males and females; and its Title IX athletic financial aid numbers for males and females. Clemson will continue to provide this information each year by August 1, through at least 2025, to demonstrate its commitment to Title IX compliance. Clemson will also provide to you an annual report through 2025 or one year after Clemson has fully implemented the gender equity plan, whichever is later, describing material differences in regard to treatment or benefits provided to its men's and women's athletic programs, except for differences stemming from sport-specific needs that are met equivalently in its men's and women's programs, and Clemson may add at its discretion explanations and/or plans to address them.

The Plan, as adopted, will set forth terms for how Clemson's intercollegiate athletic program will comply with Title IX during the 2023-24 academic year and future years. The University will continue to monitor and manage the Plan on an on-going basis (including prior to its official adoption) to maintain and improve Clemson's Title IX compliance. The University will implement the Plan in accordance with its terms and comply with Title IX during the 2023-24 academic year and future years, while retaining discretion to adjust the details or terms of the Plan as future circumstances may dictate. The University will retain discretion as to how to achieve gender equity and Title IX compliance, and discretion in the sports programs it sponsors as long as it develops and implements the Plan, subject to the preceding sentence.

The Plan will be made available on Clemson's athletic department's website no later than July 1, 2022. Status reports on implementation of the Plan will be made publicly available on Clemson's athletic department's website no later than August 31, 2023; August 31, 2024; and August 31, 2025.

Your clients will have all rights afforded to them by law, should the University violate this agreement, including the right to seek specific performance, and will have the same right to recover costs and attorneys' fees they would have under Title IX.

In order to avoid the expense of litigation, and without admitting liability, the university agrees to pay \$36,637.00 to Newkirk Zwagerman, PLC. Such payment shall be sent to Newkirk Zwagerman, PLC, within thirty (30) days of the date of this agreement, barring any unforeseen circumstances outside the control of the University and pursuant to necessary approvals. Clemson is presently pursuing these necessary approvals in good faith.

In consideration for the above, if the necessary approvals are obtained and this agreement takes effect, your clients will execute a release of claims in the format enclosed. Please indicate below that your clients have authorized consent to these terms.

Sincerely,



W. C. Hood, Jr.
General Counsel

Agreed: Lori A. Bullock
by Lori Bullock on behalf of
individual female athletes at Clemson University.