

Office of General Counsel
401 Golden Shore
Long Beach, CA 90802-4210
www.calstate.edu

Darryl L. Hamm
University Counsel
Phone No. (562) 951-4500
Fax (562) 951-4956
E-mail dhamm@calstate.edu

December 10, 2020

By E-mail (abryant@baileyglasser.com)

Arthur H. Bryant, Esq.
Bailey Glasser LLP
1999 Harrison Street, Suite 660
Oakland, California 94612

Re: CSU Fresno–Title IX Athletics
OGC File No. 17-0653

Dear Mr. Bryant:

I have reviewed your December 3, 2020 letter, in connection with the elimination of the Women’s Lacrosse Team at California State University, Fresno (“Fresno State” and “the university”). I fully appreciate that any decision to reduce opportunities in sports is difficult for the student–athletes and staff. However, financial difficulties related to the national pandemic required Fresno State to take certain measures to reduce costs throughout the institution while maintaining compliance with all applicable laws, including Title IX.

As you noted in your letter, Fresno State has worked diligently to demonstrate its full compliance with Title IX and is one of the very few schools in the country that has been found to comply completely. Throughout that process, an athletics and senior administration untied to the history you note in your letter worked diligently with the U.S. Department of Education’s Office of Civil Rights (OCR) to understand and meet fully our compliance obligations under Title IX. We take this obligation seriously.

The law is clear: Both OCR and courts permit schools to manage their rosters reasonably to comply with Title IX’s Prong 1 Participation Test. Both OCR and courts also allow schools to limit the sizes of their existing teams in order to meet Title IX’s Prong 1 Test. In full compliance with the law and relevant OCR guidance, Fresno State has developed a roster management program that places reasonable limits on its existing Men’s Teams, and does not set squad size minimums or otherwise impose roster size targets that exceed coach ideals or other reasonable measures for its Women’s Teams.

The law under Title IX requires that the University maintain substantial proportionality, not strict proportionality, to comply with Title IX’s Prong I Participation Test. Currently, the University projects after the Men’s Wrestling, Men’s Tennis and Women’s Lacrosse programs are not

CSU CAMPUSES

Bakersfield
Channel Islands
Chico
Dominguez Hills
East Bay

Fresno
Fullerton
Humboldt
Long Beach
Los Angeles
Maritime

Monterey Bay
Northridge
Pomona
Sacramento
San Bernardino
San Diego

San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus

Arthur H. Bryant, Esq.

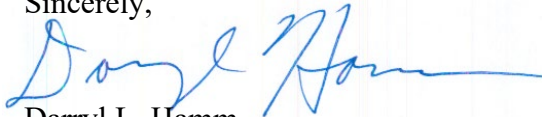
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included in the University's athletic rosters, the overall proportion of men-to-women in the University's athletic program is less than two percent higher than the overall ratio of men to women in the University's general student population. Under this compliance program, there is no 30 student-athlete gap.

Fresno State is confident that its roster management program fully complies with Title IX. The university would also look forward to demonstrating to a court or to OCR that it continues to carefully monitor its participation numbers in compliance with Title IX guidance, and as verified in its prior OCR reviews. In addition, the school would welcome the opportunity to prove that its decision to eliminate Men's and Women's programs was thoughtfully and lawfully designed to ensure that Fresno State will provide participation opportunities that align with its undergraduate population.

Sincerely,



Darryl L. Hamm
University Counsel

ec: Joseph Castro, President, California State University, Fresno