



April 10, 2026
The Honorable Bill Cassidy
Chairman, Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

Re: Request for Information: Stabilizing College Sports and Preserving Opportunities for Athletes

The National Women’s Law Center (NWLC) submits this in response to the Request for Information (RFI) from the Senate Health, Education, Labor, and Pensions Committee to ensure the wellbeing of and opportunities for all student-athletes.¹ NWLC is a nonprofit organization dedicated to fighting sex discrimination and expanding opportunities for women and girls in all aspects of their lives, including education and school athletics. Founded the same year as Title IX of the Education Amendments of 1972 was enacted, NWLC has worked for the full enforcement of Title IX, including testifying before Congress multiple times on Title IX athletics issues and participating in shaping guidance and regulations, beginning with the first set of Title IX regulations in 1975. NWLC has also participated as counsel or amicus curiae in numerous cases before the Supreme Court, federal courts of appeal, district courts and the Department of Education’s Office for Civil Rights to secure equal treatment and opportunity for student-athletes based on sex under Title IX. NWLC responded to the below RFI questions to address specific gender equity related concerns.

1. Where is the balance between providing student-athletes with opportunities to earn compensation and preserve opportunities for student-athletes at all levels of competition?

Response: In enacting Title IX, Congress has already determined the appropriate balance between providing student-athletes with opportunities to earn compensation and preserving opportunities for student-athletes at all levels of competition. Title IX’s mandate that schools do not engage in sex discrimination is intended to prohibit unequal benefits to women and men based on revenue production, helping to ensure that all student-athletes continue to have opportunities to participate in sports, unhampered by discrimination based on sex.²

A school’s obligation to pay women athletes “arises from application of a civil rights law, which in the context of Title IX . . . reflects democratic consensus of the priority equality over the freedom of private entities to make unconstrained market choices in such fundamental contexts as education.”³ Yet, critics have still argued against Title IX’s application to revenue-sharing agreements, claiming it will have disastrous consequences for college athletics. Historically, the NCAA has argued that requiring schools to

¹ U.S. Senate Committee on Health, Education, Labor & Pensions, *Request for Information: Stabilizing College Sports and Preserving Opportunities for Athletes*, <https://www.help.senate.gov/request-for-information-stabilizing-college-sports-and-preserving-opportunities-for-athletes>.

² Erin E. Buzovius, *Athletic Compensation for Women Too? Title IX Implications of Northwestern and O'Bannon*, 41 J.C. & U.L. 297, 300 (2015).

³ *Id.*

pay women what they pay men would be cost prohibitive because men's sports generate far more money than women's sports.⁴ Others have argued that paying women what men are paid will require schools to cut sports teams that generate less revenue—including women's sports, which would ultimately result in a loss of opportunities for women to play.⁵

Current sex-based disparities in revenue generated by sports are due to underlying systemic discrimination and the decades-long over-investment in opportunities, media attention, and resources for men's sports as compared to women's. Name, Image, and Likeness (NIL) deals must be subject to Title IX protections to stop the widening inequality in college sports that benefits men over women,⁶ both in terms of pay and opportunities to play. First, compensating women and men athletes equally—as required by Title IX—instead of basing pay on the market value of their sport rightly prioritizes equality over private institutions' ability to profit from athletes' labor.⁷ Indeed, soon after Title IX was passed over 50 years ago, Congress repeatedly refused to exempt revenue-generating sports from Title IX's scope on this very basis,⁸ *see supra* Question 3 Response.

Second, in the long run, continuing to use a market value approach to determine how much student-athletes are paid will have the opposite effect of preserving opportunities to play—with women athletes being disproportionately harmed. The impact of the settlement reached in *House v. NCAA* (the *House Settlement*) demonstrates as much. The economic analysis done to calculate back damages awarded to student-athletes for misuse of their NIL wrongly relied on the market value of a students' sport and did not apply Title IX—resulting in men taking home *at least* 90% of the damages, *see supra* Question 3 Response. This has led to several women college athletes appealing the *House Settlement*, who are still awaiting a decision.⁹ In response to the *House Settlement*, several schools have begun shutting down women's sports teams in order to afford payments to their student-athletes. This includes the University of Texas-El Paso cutting its women's tennis team,¹⁰ California Polytechnical State University cutting its women's swimming and diving team,¹¹ University of Louisiana Monroe cutting its women's tennis team,¹² and San Francisco State University cutting its women's indoor track team.¹³

⁴ *Id.* at 298, n.4.

⁵ Neal Newman, *Let's Get Serious - The Clear Case for Compensating the Student Athlete - By the Numbers*, 51 N.M. L. REV. 37, 40 (2021).

⁶ Buzuvius, *supra* note 2 at 300.

⁷ Erin E. Buzuvius, *Title IX and Athlete Compensation in the Postamateurism Era*, 93 FORDHAM L. REV. 1579, 1601 (2025) (“Capitalism unrestricted by civil rights laws will inevitably result in a world where sports participation materially benefits men more than women”).

⁸ 120 Cong. Rec. 15,322–23 (1974); S. Rep. No. 93-1026, at 4271 (1974) (Conf. Rep.); H.R. 8394, 94th Cong., 121 Cong. Rec. 21,685 (1975); S. 2106, 94th Cong., 121 Cong. Rec. 22,778 (1975); S. 2146, 94th Cong., 121 Cong. Rec. 23,845 (1975).

⁹ *House v. NCAA*, 803 F.Supp.3d 959 (N.D. Cal. 2025), *appeal filed*, No. 20-03919 (9th Cir. June 6, 2025).

¹⁰ *UTEP Athletics to Discontinue Women's Tennis Program*, UTEP MINERS (Apr. 18, 2025, 1:22 PM), <https://utepminers.com/news/2025/4/18/womens-tennis-utep-athletics-to-discontinue-womens-tennis-program.aspx>.

¹¹ *Cal Poly Discontinues Swimming & Diving*, GOPOLY (Mar. 7, 2025, 8:30 AM), <https://gopoly.com/news/2025/3/7/swimming-and-diving-cal-poly-discontinues-swimming-diving-effective-immediately>.

¹² *ULM Athletics to Discontinue Women's Tennis Program*, UNIVERSITY OF LOUISIANA MONROE ATHLETICS (June 17, 2025), <https://ulmwarhawks.com/news/2025/6/17/ulm-athletics-to-discontinue-womens-tennis-program.aspx>; *see also* ECF Nos. 1049–50 (letters from objecting women athletes who had been recruited as swimmers to Cal Poly, and whose program has since been cut due to the *House Settlement*).

2. Is the current “Name, Image, and Likeness” system working for today’s student-athletes and schools?

Response: It is critical that student-athletes are compensated for use of their NIL, but there are significant equity issues inherent in the current system that have persisted since the NCAA began allowing college athletes to make money from their personal brands in 2021. First, it is difficult for students to navigate the NIL economy, which leads to inequity and access issues. There is very little reporting on NIL deals (the contracts made between athletes and businesses to use their NIL in exchange for compensation), and students often do not have the financial literacy and knowledge necessary to negotiate effectively and advocate for themselves. A 2025 poll of student-athletes showed that a majority of students wished they understood contract negotiation (58% of athletes), the actual time commitment required (51%), and how their income would be taxed (51% of athletes who reported making over \$5,000 in NIL income).¹⁴ And, NIL deals may not adequately compensate students: the same poll showed that 58% of athletes reported that at least one NIL deal did “not deliver what was promised,” including payment delays, and that 59% said they made less from their NIL deals than they expected.¹⁵

Second, there is a huge disparity in the value women athletes receive from NIL deals as compared to men. Title IX requires educational institutions to provide equitable athletic financial aid to its men and women athletes, and treat them equally with respect to benefits, services, and recruitment¹⁶—meaning NIL deals must be offered proportionally based on the percentage of women and men athletes at a school. However, this is not the reality. In 2024, the *Washington Post* made a public records request to public universities that are part of major athletic conferences for their NIL data, and the NIL data it received from 12 universities showed that men received \$92 million in compensation as compared to women, who received just \$19 million.¹⁷ Indeed, the data shows that NIL collectives (the organizations bankrolling much of the NIL economy by raising money from private donors to recruit and retain athletes by offering NIL deals to athletes) consistently favor men’s sports.¹⁸ And yet, some women’s sports are far more popular or successful than men’s, like women basketball players being more widely known and having more social media followers than the top men’s players.¹⁹

Importantly, NIL deals are subject to Title IX, even if NIL collectives facilitate third-party arrangements and pay money directly to student-athletes. Title IX’s significant assistance provisions state that a recipient shall not, on the basis of sex “aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in

¹³ Office of the President, *Update on San Francisco State Athletics*, SFSTATEGATORS (Mar. 6, 2025, 10:15 AM), <https://sfstategators.com/news/2025/3/6/general-update-on-ncaa-athletics-programs-at-sf-state.aspx>.

¹⁴ Student-Athlete Insights, *2025 Year End NIL Report: What 1,000+ student-athletes told us* (Dec. 7, 2025), <https://studentathleteinsights.com/niledu/nil-report-2025>.

¹⁵ *Id.*

¹⁶ 20 U.S.C. § 1681.

¹⁷ Albert Samaha, *How NIL money is paid to college sports*, WASHINGTON POST (Oct. 21, 2024), <https://www.washingtonpost.com/sports/interactive/2024/nil-money-deals-college-sports-athlete-pay/>.

¹⁸ Albert Samaha & Emily Giambalvo, *How NIL money works in men’s and women’s college basketball*, WASHINGTON POST (Oct. 21, 2024), <https://www.washingtonpost.com/sports/2024/10/21/college-basketball-basketball-nil-men-women/>.

¹⁹ *Id.*

providing any aid, benefit or service to students or employees.”²⁰ Yet, schools are disregarding Title IX’s protections in promoting and supporting NIL deals for their students.

To reiterate, student-athletes must be paid for use of their image; however, the current NIL system is opaque and exacerbates gender inequities. As a result, efforts to proactively educate student-athletes on the tools they need to advocate for themselves before entering into NIL agreements, as well as increased oversight and enforcement of Title IX is critical.

3. How does revenue sharing under the *House* Settlement affect schools’ ability to comply with Title IX requirements?

Response: The *House* Settlement endorses the very type of inequality that Title IX forbids. Title IX provides that no person “on the basis of sex . . . be denied the benefits of” any education program receiving federal financial assistance.²¹ Compensation for school athletics is undoubtably a benefit under Title IX. However, instead of applying Title IX, the *House* Settlement used a market-value analysis based on how much money a student’s sport makes a school, allocating almost 90% of past damages to men.²²

Indeed, the legislative and regulatory history of Title IX shows that Congress clearly intended to reject market-based justifications for sex discrimination in benefits women and men athletes receive. During Congress’s review of the 1975 Title IX regulations, several bills and resolutions were introduced to exempt revenue-generating sports from Title IX, all of which were rejected.²³ Representative Patsy Mink then described these failed resolutions as an attempt to imply “that sex discrimination is acceptable when someone profits from it and that moneymaking propositions should be given congressional absolution from Title IX,” and voiced that Congress “cannot in good conscious continue to allow our educational institutions to deny women and girls the education opportunities that have been assumed the right of their brothers.”²⁴

Yet, the *House* Settlement damages calculation centers profit while overlooking the history of disproportionate investment in men’s sports over women’s, which is largely responsible for the disparity in revenue. Further, the economic analysis undertaken to justify the Settlement does not take into account the increase in popularity of women’s sports over the last few years. This includes record viewership²⁵ of this year’s Women’s Basketball Final Four, record attendance²⁶ at Cornhusker Stadium for a Nebraska

²⁰ 34 C.F.R. § 106.31(b)(6).

²¹ 20 U.S.C. § 1681.

²² Brief for Objector-Appellant at 1, *House v. NCAA*, No. 20-03919, (N.D. Cal. 2025).

²³ 120 Cong. Rec. 15,322–23 (1974); S. Rep. No. 93-1026, at 4271 (1974) (Conf. Rep.); H.R. 8394, 94th Cong., 121 Cong. Rec. 21,685 (1975); S. 2106, 94th Cong., 121 Cong. Rec. 22,778 (1975); S. 2146, 94th Cong., 121 Cong. Rec. 23,845 (1975).

²⁴ *Sex Discrimination Regulations: Hearings Before the House Subcommittee on Post-Secondary Education of the Comm. on Education & Labor*, 94 Cong. 166 (1975) [Hereinafter, “Sex Discrimination Regulations”].

²⁵ Amanda Brooks, *2024 NCAA Women’s Championship and Final Four on ESPN Platforms is Most Watched on Record*, ESPN (Apr. 9, 2024), <https://espnpressroom.com/us/press-releases/2024/04/2024-ncaa-womens-championship-and-final-four-on-espn-platforms-is-most-watched-on-record/>.

²⁶ M.A. Voepel, *Nebraska volleyball sets world record for women’s sports attendance*, ESPN (Aug. 30, 2023), https://www.espn.com/college-sports/story/_/id/38294591/nebraska-volleyball-sets-world-record-attendance-women-sporting-event.

Women's Volleyball game last year, and the 2022 Women's College World Series surpassing²⁷ viewership of the men's final. This summer, 694 former and current NCAA women athletes took to the global stage in Paris. Women on Team USA won 67 out of the 126 total American medals. Women athletes were responsible for many of the highest-viewed events at the Olympics and strongly contributed to the record 82% increase in viewership that Paris 2024 had over Tokyo 2020.²⁸

The *House* Settlement does not just violate Title IX's purpose to ensure equal benefits to women and men, but also the law's purpose to expand athletic opportunities previously denied to women. There is a strong correlation between students' athletic interest and the funds a school devotes to scholarships, publicity, and recruiting efforts.²⁹ However, the Settlement, and pay arrangements like it, will deter women from pursuing sports, as women will be more likely to have their teams cut and earn smaller payouts than men. In the long-term, this means less women will play, which will upend their ability to reap the crucial social, emotional, and health benefits of sports.³⁰ This cannot be squared with Title IX's purpose to make available educational opportunities for women that were historically only available to men.³¹

In short, the *House* Settlement's past-damages formula is fundamentally at odds with a school's obligations under Title IX and will continue to widen the inequitable disparities between women's and men's sports.

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Thank you for your consideration of our recommendations. If you have any questions, please reach out to Shiwali Patel (spatel@nwlc.org) or Hunter Iannucci (hiannucci@nwlc.org).

²⁷ Emma Hruby, *Oklahoma's WCWS title win beats out CWS as most-watched NCAA game of 2022*, JUST WOMEN'S SPORTS (June 29, 2022), <https://justwomenssports.com/reads/ncaa-softball-baseball-oklahoma-college-world-series-win-viewership/>.

²⁸ Samantha Gabay, *Ratings Roundup: 2024 Paris Olympics Sweep Ratings Across All Platforms, Up 82% From Tokyo*, Sports Video (Aug. 13, 2024), <https://www.sportsvideo.org/2024/08/13/ratings-roundup-2024-paris-olympics-sweep-ratings-across-all-platforms-up-82-from-tokyo/>.

²⁹ See *Haffer v. Temple Univ.*, 678 F. Supp. 517, 527 (E.D. Pa. 1987); see also Anne Bloom, *Financial Disparity as Evidence of Discrimination under Title IX*, 2 JEFFREY S. MOORAD SPORTS L.J. 5, 13 (1995) (arguing that in "future Title IX litigation, plaintiffs should use similar testimony to demonstrate that their low participation rates are caused by the university's failure to invest enough money in the program to stimulate interest and participation").

³⁰ Nat'l Coal. for Women & Girls in Educ., *Title IX at 45: Advancing Opportunity through Equality in Education*, 41, 42 (2017) (girls and women who play sports report higher grades and standardized test scores, increased levels of self-confidence, and that the teamwork and leadership values they gained from sports participation later contributed to their success in the workforce).

³¹ See, e.g., *Sex Discrimination Regulations* at 66, 123, 283 (statements from U.S. Nat'l Student Ass'n; Ass'n for Intercollegiate Athletics for Women).