

Balancing NIL and Title IX: A Guide for Schools



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The U.S. Department of Education's Office for Civil Rights (OCR) has released a comprehensive [fact sheet](#) titled "Ensuring Equal Opportunity Based on Sex in School Athletic Programs in the Context of Name, Image, and Likeness (NIL) Activities." This document provides crucial guidance on how schools can comply with Title IX requirements while navigating the evolving landscape of NIL activities. Title IX, a landmark civil rights law enacted in 1972, prohibits sex-based discrimination in any school receiving federal financial assistance, extending to all school programs, including athletics.

This latest guidance is particularly significant as NIL activities have become a key component of collegiate sports. This fact sheet highlights two main updates regarding Title IX compliance in the context of NIL:

- Athletic Financial Assistance
- Third-Party Compensation

Athletic Financial Assistance

OCR has clarified that any compensation from schools for using student-athletes' NIL is considered a form of athletic financial assistance under Title IX. Consequently, schools must ensure that athletic financial assistance made available by the school is substantially proportionate to the number of students of each sex participating.

This underscores the importance of equitable funding allocation across men's and women's sports programs. Disparities in financial assistance could lead to violations of Title IX, prompting potential investigations or sanctions. Schools must diligently assess how NIL opportunities are structured and ensure they align with the broader goals of gender equity in athletics.

Third-Party Compensation

While OCR does not consider compensation from third parties for NIL to be athletic financial assistance under Title IX, it still emphasizes the responsibility to treat all its student-athletes fairly and equitably.

Some NIL agreements—especially those negotiated through collectives or sponsorships—could inadvertently result in sex-based disparities. For example, if opportunities disproportionately favor athletes of one sex over another, schools may need to examine whether these disparities stem from institutional practices or policies that could trigger Title IX compliance issues.

However, due to the complexity and variability of third-party NIL agreements, the fact sheet does not provide specific guidance on their application to Title IX. Instead, it encourages schools to proactively monitor and address any potential disparities that may arise.

Implications for Schools

The OCR's fact sheet is a vital resource for educational institutions striving to uphold Title IX while supporting the expanding opportunities for student-athletes in the NIL era. Schools must carefully evaluate their NIL-related policies, practices, and partnerships to ensure compliance. This includes:

- Conducting regular assessments of athletic financial assistance allocation.
- Reviewing NIL agreements facilitated by the institution for potential equity issues.
- Educating coaches, staff, and student-athletes about Title IX obligations in the context of NIL.

By prioritizing transparency and fairness, schools can foster an environment where all student-athletes can thrive.

For additional details, refer to the full [OCR fact sheet](#) or contact the Office for Civil Rights.

For questions or further inquiries, please contact [Megan Crane](#).