

# Trump NIL twist carries small legal impact. But to some 'it's putting women's sports back 25 years'

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WASHINGTON — The Trump administration's latest directive on Title IX offered athletic departments more certainty about paying players, while suggesting the federal government wouldn't hold schools to rigid requirements to distribute the proceeds equitably between men and women.

Though experts say Wednesday's largely expected decision to rescind [guidance issued](#) by the Biden administration will have more symbolic than real-world impact on the [class-action lawsuit settlement](#) and other issues reshaping college sports, some see that as exactly the reason it's unwelcome news.

"Here we are experiencing this immense growth across all women's sports and this sort of says we really don't really believe that's valuable," UCLA women's basketball coach Cori Close said. "It really feels like it's putting women's sports back 25 years, honestly."

Had the Biden guidance stayed in effect, colleges would have had to

grapple with how to equally distribute up to \$20.5 million in NIL payments between men and women. Now that it has been scrapped, schools can go back to their original plan for the House settlement, which in many cases involved funneling most of the money to football and basketball players.

“This change is an impact, but it’s a ‘what-we-expected’ impact because schools are going to follow the formula for NIL that they’d been planning all along,” said Rocky Harris, the chief of sport performance for the U.S. Olympic and Paralympic Committee, which has been watching the House settlement closely because around 75% of their athletes come from the college system.

## **Federal government not a nuts-and-bolts player in Title IX litigation**

Since the federal government isn’t a party in the House case, it has little to do with the legal strategies being used in the \$2.8 billion lawsuit, which has implications for women’s sports at almost every level — future payments to athletes, damages to athletes who played before NIL was allowed and [roster limits](#) that will redistribute numbers across athletic departments.

In fact, almost all litigation involving the 1972 law — a statute that requires schools to award financial assistance in proportion to the number of students of each gender who play sports on campus — comes not from the government but from individuals. And most of the litigation is ultimately decided in courtrooms, not in the Oval Office or the hallways of the DoE’s Office of Civil Rights.

“We don’t generally rely on the Department of Education to have a

major impact on how those cases are handled," said John Clune, an attorney who filed a Title IX-based objection over the House case.

Clune is among those who believe Judge Claudia Wilken should consider Title IX when she decides whether to [approve the House settlement](#) at a hearing set for April 7. Plaintiff attorneys portray the litigation as an antitrust lawsuit with some Title IX components that aren't related to its ultimate purpose.

"This settlement cannot resolve the Title IX issue," plaintiff attorney Jeffrey Kessler said.

Arthur Bryant, an attorney involved in both the House settlement and a Title IX lawsuit [involving Oregon women's athletes](#), said "the Trump administration was wrong" about Wednesday's ruling, but it doesn't change the big picture.

"The law is still the law. Title IX requires schools that receive federal funds to treat women and men in their intercollegiate athletic programs equally," Bryant said.

## **Trump stamps his agenda on Title IX interpretations**

This marks at least the third time since his inauguration that the Trump administration has attempted to shape Title IX to express the new president's agenda.

Last month, the Education Department told universities the government would go back to enforcing provisions in the law it enacted during Trump's first term that included [more protections for students accused of sexual misconduct](#).

Last week, Trump signed an executive order aimed at [banning transgender athletes](#) from competing in girls' and women's sports.

The department also announced it was [investigating San Jose State and Penn](#), two schools at the heart of the debate about transgender sports, over possible Title IX violations. On Wednesday, it said it was placing high school athletic associations in Minnesota and California under similar investigation.

These are examples of what have been rare instances of the government initiating Title IX action. Clune, the attorney on one of the House objections, said history has shown those sort of moves drag out.

"In the Obama terms, there was a lot higher expectation of schools to toe the line" on Title IX, he said. "But any real consequences were not that effective and the length of time it took for OCR to resolve complaints took so long that it almost became an ineffective result."

## **There are fears the latest Title IX move could blunt momentum for women's sports**

Trump's moves come in what has been an era of unprecedented growth for women's sports.

With Caitlin Clark leading Iowa to the national final last year, the women's title game drew better ratings than the men for the first time in history. Last month, the NCAA approved [payouts for women's teams](#) who make March Madness, bringing it in line with a practice that existed in the men's game for decades.

This comes after the NCAA and ESPN announced an eight-year, \$920 million TV rights package with the women's tournament as the

centerpiece, an increase of more than 300% from the previous deal.

The Biden guidance appeared to be another step forward for women's sports, but it has been taken off the books.

"It may not be just this new Title IX decision, it's NIL in general," said Close, the UCLA coach. "It feels like we're back to, 'Well, we've got to take care of football and men's basketball and everything else is an afterthought. I'm not talking about it as my own (situation at UCLA), I'm talking about it as a global view. I just don't want us to go back on all the growth we've had in women's sports."