

YOUR INTERNATIONAL STUDENT-ATHLETES WANT NIL DEALS: HERE'S WHAT SCHOOLS AND SPONSORS NEED TO KNOW FIRST

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The rules surrounding name, image, and likeness (NIL) payments are markedly different for international student-athletes than they are for their domestic counterparts. So higher ed institutions and companies eyeing athletes for sponsorship deals need to understand the important nuances. In fact, federal immigration law creates serious obstacles related to NIL income that can jeopardize a student's visa status, trigger deportation proceedings, and create lasting barriers to future US visas. Here's what educational institutions and sponsors need to know about this hidden issue, and some steps you can take toward compliance.

US Immigration Framework Changes the Analysis

Most international student-athletes attend US colleges on F-1 student visas. That visa status comes with strict limitations on employment, and "employment" under immigration law is interpreted far more broadly than most people assume.

Under federal regulations, F-1 students are generally limited to on-campus employment: work that takes place physically at their institution, or at an educationally affiliated off-campus location connected to the school's curriculum or research programs. Off-campus work requires separate authorization that F-1 students typically don't have.

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More importantly, US Citizenship and Immigration Services (USCIS) defines “employment” expansively. The agency takes the position that employment authorization is needed if a foreign national performs services and believes compensation of any kind will follow. The definition sweeps in non-monetary benefits like housing, gifts, and other remuneration. In fact, in a 1982 Board of Immigration Appeals decision, the agency held that any position normally occupied by a paid worker counts as employment, even if the person doing it isn’t getting paid.

Why NIL Income Is a Problem in the US

NIL activities like filming a commercial, posting sponsored content, or making a personal appearance for a brand don’t fit neatly into the narrow categories of work an F-1 student is authorized to perform. These are active income-generating activities, not passive investments, and they’re typically performed off-campus. That puts them squarely outside what F-1 rules permit.

You might wonder what would happen if a school simply characterized an NIL payment as passive income. After all, the athlete merely licensed their name and likeness, and didn’t really “work.” But the NCAA’s current bylaws close that door.

NCAA rules prohibit compensation for work not performed. An arrangement structured to look like passive licensing while the athlete actually creates content or makes appearances wouldn’t survive scrutiny under either immigration law or NCAA rules.

In other words, attempting to facilitate NIL deals for international student-athletes while they’re in the United States, even with the best intentions, could put your athletes’ visa status at risk and expose your institution to compliance liability.

The Cross-Border Loophole

There is a small loophole to consider. Unauthorized employment, as defined under the Immigration and Nationality Act and its implementing regulations, only covers work performed within the United States. The rules don’t cross the US border.

That means international student-athletes who are physically outside the United States (traveling home during a break, visiting family, taking an international trip, etc.) are not subject to the F-1 employment rules. They could be able to film a commercial, record a social media post, or participate in a sponsorship event without worrying about US immigration law. They may, however, be subject to other foreign laws governing such activity in that country.

What Schools Should Be Doing

If your institution has international student-athletes who are interested in NIL opportunities, here's how to approach it responsibly:

- **Educate your compliance and athletics staff.** The intersection of NIL rules and immigration law isn't intuitive, and mistakes can have life-altering consequences for student-athletes. Your compliance team should understand the F-1 employment restrictions and be prepared to advise athletes accordingly.
- **Build a review process for NIL deals involving international students.** Before any deal is facilitated or encouraged, run it through your general counsel or outside immigration counsel to assess whether the activities could constitute unauthorized employment under F-1 rules.
- **Plan around travel windows.** Work performed outside the US during international trips may be viable, but it requires proactive planning to ensure the timing, location, and nature of the work are clearly documented.
- **Consult local law before signing anything.** Just because US immigration law doesn't bar an activity when the athlete is abroad doesn't mean the foreign country's laws are silent on the matter. You should be mindful of the immigration, labor, and tax laws of the country where any NIL work takes place.

What NIL Sponsors Should Know

If you're a company looking to bring an international college athlete on as a brand ambassador, the geographic component of this analysis matters to your deal structure. Arrangements that involve the athlete creating content, making appearances, or performing other promotional

activities while in the United States are likely off the table for F-1 visa holders.

That doesn't necessarily mean a deal is impossible, but it does mean the scope and execution of any NIL agreement need to account for when and where the athlete can legally perform their obligations. Sponsors who move forward without this analysis risk voiding a deal mid-campaign, or worse, contributing to an immigration violation that harms the athlete.

Conclusion

Fisher Phillips will continue to monitor developments in this area. Make sure you are subscribed to Fisher Phillips' [Insights](#) to get the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Education Practice Group](#), [Sports Industry Group](#), or on our [Immigration Team](#).