

BENCHED BY BORDERS: HOW VISA RESTRICTIONS KEEP INTERNATIONAL STUDENT-ATHLETES OUT OF THE NIL GAME

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ABSTRACT

In recent years, the National Collegiate Athletic Association (NCAA) has accelerated toward a professionalized model with the implementation of name, image, and likeness (NIL) rights for student-athletes, and most recently through the House v. NCAA revenue-sharing framework. Although foreign athletes make up a substantial and constantly growing percentage of NCAA rosters in most sports, F-1 visa restrictions prohibit them from engaging in NIL and revenue-sharing opportunities. Some efforts have been made to address this inequity, highlighted by the introduction of H.R. 7982 in 2024. This proposal stalled in its first committee and failed to address the implications of revenue-sharing that would later be implemented in 2025.

This Comment argues that the barrier facing international student-athletes is no longer an issue that the NCAA can address. This is solely an immigration issue. This Comment proposes a modernized P-1 visa classification tailored specifically to student-athletes competing in NCAA competitions, which would enable lawful NIL and revenue-sharing participation. The proposal would restore parity in NCAA competition and properly align immigration law with the modern realities of college athletics.

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I. INTRODUCTION

Imagine this common scenario thousands of international student-athletes face every year. A seventeen-year-old boy from Madrid, Spain is being recruited by a National Collegiate Athletic Association (NCAA) Division I soccer program and is offered a scholarship to cover tuition, room, and board. Understanding that he not only has a chance to advance his soccer career but also obtain a degree, he and his family decide that moving to the United States is his best option. He leaves behind his family and friends in Spain to chase his dreams. His days are grueling. He has early-morning conditioning workouts, late-night soccer practices, and classes.

His American teammates live the same life, with one key difference: they are able to earn money for their name, image, and likeness (NIL) and can share in their college's athletic revenue that is generated by their sport.¹ He cannot, and doing so would violate the terms of his F-1 student visa, which would likely end with him being deported to Spain.²

Due to the talent that is available abroad, NCAA soccer teams are recruiting international athletes at an all-time high.³ In the 2024 NCAA Division I Soccer Championship between the University of Vermont and Marshall University, 73% of the starters among both teams were international student-athletes.⁴ Marshall University had three American student-athletes on its team among its roster of twenty-eight; 89% of Marshall's roster was composed of international student-athletes.⁵

This is a common theme amongst nearly every collegiate sport at all three NCAA levels: Division I, II, and III.⁶ Nearly 25,000 international student-athletes participate in NCAA athletic competitions in men's and women's sports.⁷ Tennis is the only NCAA sport which is made up of mostly international students at 64% men being international while 61% of the women are international.⁸ For all but three sports amongst men's and

1. See Michelle Brutlag Hostick, *NCAA Adopts Interim Name, Image and Likeness Policy*, NCAA (June 30, 2021, at 16:20 CT), <https://www.ncaa.org/news/2021/6/30/ncaa-adopts-interim-name-image-and-likeness-policy.aspx> [<https://perma.cc/N22M-DG6E>]; *Nat'l Collegiate Athletic Ass'n v. Alston*, 594 U.S. 69, 74 (2021).

2. See Hostick, *supra* note 1; *Alston*, 594 U.S. at 74; 8 U.S.C. § 1101(a)(15)(F)(i).

3. See NCAA RESEARCH, TRENDS IN THE PARTICIPATION OF INTERNATIONAL STUDENT-ATHLETES IN NCAA DIVISION I AND II (2023) [hereinafter 2023 TRENDS], https://ncaaorg.s3.amazonaws.com/research/demographics/2023RES_ISATrendsDivSprt.pdf [<https://perma.cc/CM37-PFH9>].

4. See *The Impact of International Players on U.S. College Soccer: How They're Changing the Game*, SELECT GENERATION (Jan. 1, 2025), <https://www.selectgeneration.com/blog-post/the-impact-of-international-players-on-u-s-college-soccer-how-theyre-changing-the-game> [<https://perma.cc/CXZ3-KXRP>].

5. See *id.*

6. See 2023 TRENDS, *supra* note 3.

7. See *id.*

8. See *id.*

women's competitions, there has been a growth in international student-athletes being recruited since 2017.⁹

Because of F-1 visa restrictions, and the absence of immigration reform, international student-athletes are not able to participate in name, image, and likeness (NIL) endorsements while their American peers can.¹⁰

This Comment will lay the foundation of collegiate athletics since its inception while explaining how the NCAA has reached its current state.¹¹ The lack of immigration reform will be discussed to illustrate the discrepancy between international and American student-athletes.¹² Ultimately, the proposed legislation will address all the pertinent issues international student-athletes face and will be beneficial to all parties involved.¹³ The proposed legislation will allow both international and American student-athletes to equally participate in NIL endorsements and revenue sharing.¹⁴ This Comment argues that the only way to eliminate the systemic inequality international student-athletes face in the NIL and revenue-sharing era is for Congress to amend federal immigration law by creating a visa classification that lawfully permits their full economic participation in collegiate athletics.¹⁵

II. CURRENT STATE OF COLLEGE ATHLETICS

A. *The Pre-NIL Era of College Athletics*

The first collegiate athletic competition was held in 1852 when Harvard and Yale competed in a boat race at Lake Winnepesaukee in New Hampshire.¹⁶ The boat race was sponsored by a railroad executive who offered athletes from both schools an all-expenses-paid trip to the lake along with multiple prizes—one prize being unlimited alcohol.¹⁷ The railroad executive held this event in order to garner more attention and promote train travel to the location of the competition, Lake Winnepesaukee.¹⁸ While this is heavily regarded as the first documented intercollegiate competition,

9. *See id.*

10. *See* Hostick, *supra* note 1; Nat'l Collegiate Athletic Ass'n v. Alston, 594 U.S. 69, 74 (2021); 8 U.S.C. § 1101(a)(15)(F)(i).

11. *See infra* Part II (providing a background in college athletics and the barriers faced by international student-athletes).

12. *See infra* Section II.D (discussing the restrictions imposed on international student-athletes by F-1 visas).

13. *See infra* Part III (proposing and explaining legislation to address F-1 visa restrictions for international student-athletes).

14. *See infra* Part III (explaining the benefits of the proposed legislation).

15. *See infra* Part III (explaining the importance and benefits of the proposed legislation).

16. Nat'l Collegiate Athletic Ass'n v. Alston, 594 U.S. 69, 74 (2021).

17. *Id.*

18. *Id.*

football caused college sports to take off.¹⁹ Towards the end of the nineteenth century, football games between Princeton and Yale attracted 40,000 spectators and generated over \$25,000 in gate revenues—a figure that today nears \$800,000.²⁰ Around this time, there was little to no regulation in intercollegiate athletic competitions.²¹ Universities “regularly had ‘graduate students and paid ringers’ on their teams.”²² In order to further better their teams, colleges found many different ways to compensate and convince athletes to join their college.²³ One college reportedly offered an athlete “free meals and tuition, a trip to Cuba, the exclusive right to sell scorecards from his games—and a job as a cigarette agent for the American Tobacco Company.”²⁴ With essentially no regulation at this time, and specifically no academic residency requirements, many athletes went from school to school participating in different athletic competitions simply looking to make money.²⁵ As football continued to grow in popularity, so did the injuries the athletes sustained during games.²⁶ Due to the little regulation of intercollegiate sports, “players’ light protective gear led to [seven] football fatalities in 1893, [twelve] deaths the next year, and [eighteen] [deaths] in 1905.”²⁷ President Theodore Roosevelt held a meeting with Harvard, Princeton, and Yale to review the rules of football, amongst other things.²⁸ This meeting led to the creation of the first governing body for collegiate athletics.²⁹

The NCAA was formed in 1905 to allow young men and women to participate in organized sports during their time at a college or university.³⁰ Since its inception, the NCAA has maintained its status as an amateur sports league that “adopted and promulgated playing rules” and “standards for academic eligibility, regulations concerning recruitment of athletes, and rules governing the size of athletic squads and coaching staffs.”³¹ One of the NCAA’s biggest reforms for collegiate sports was the requirement that participants be amateurs.³² At its founding, the NCAA expressly stated that “[n]o student shall represent a College or University in any intercollegiate

19. *Id.* at 75.

20. *Id.*

21. *Id.* at 75–76.

22. *Id.* at 75 (quoting ANDREW ZIMBALIST, UNPAID PROFESSIONALS: COMMERCIALISM AND CONFLICT IN BIG-TIME COLLEGE SPORTS 7 (Princeton Univ. Press 1999)).

23. *See id.*

24. *Id.*

25. *Id.*

26. *Id.* at 75–76.

27. *Id.* (citing ZIMBALIST, *supra* note 22, at 8).

28. *Id.* at 76.

29. *See id.*

30. Nat’l Collegiate Athletic Ass’n v. Bd. of Regents, 468 U.S. 85, 88–89 (1984).

31. *Id.*

32. *See O’Bannon v. Nat’l Collegiate Athletic Ass’n*, 802 F.3d 1049, 1054 (9th Cir. 2015).

game or contest who is paid or receives, directly or indirectly, any money, or financial concession.”³³

The founding of the NCAA did very little to prevent athletes from finding ways to profit from their talent.³⁴ Schools, similarly, did not help the NCAA maintain control over the athletes.³⁵ These institutions “leverage[ed] sports to bring in revenue, attract attention, boost enrollment, and raise money from alumni.”³⁶ College football was not seen as an amateur sport.³⁷ Rather, “it was an ‘organized commercial enterprise’ featuring athletes with ‘years of training,’ ‘professional coaches,’ and competitions that were ‘highly profitable.’”³⁸ In the late 1930s, it was estimated that teams spent over “\$200,000 a year on players”—nearly \$4 million in today’s currency.³⁹ Around that same time, “freshmen at the University of Pittsburgh went on strike because upperclassmen were reportedly earning more money.”⁴⁰ Similarly, a football player claimed he was the first player to ever take a pay cut to play professional football.⁴¹

With very little success in maintaining the amateur status of collegiate sports, the NCAA made a radical change: the “Sanity Code.”⁴² While the code reiterated the importance of athletes not earning money, it also implemented ways to ensure athletes did not get paid.⁴³ The code allowed colleges to pay the athletes’ tuition and actually incorporated a way to punish those who did not cooperate with the rules.⁴⁴ This was the first time the NCAA incorporated an enforcement mechanism for those who did not follow, or circumvented, the rules.⁴⁵ The implementation of the Sanity Code marked a moment in the NCAA’s history that polarized many; some thought the implementation of the code was a fitting way to prevent the “under-the-table schemes that had long proliferated[,]” while others thought “the code marked ‘the beginning of the NCAA behaving as an effective

33. Nat’l Collegiate Athletic Ass’n v. Alston, 594 U.S. 69, 76 (2021) (alteration in original).

34. HOWARD J. SAVAGE ET AL., AMERICAN COLLEGE ATHLETICS 101–02 (1929).

35. *See id.*

36. *Alston*, 594 U.S. at 76.

37. *See id.*

38. *Id.*

39. *Id.* at 76–77 (quoting ZIMBALIST, *supra* note 22, at 9) (internal quotes omitted).

40. *Id.* (citing Kelly Charles Crabb, *The Amateurism Myth: A Case for a New Tradition*, 28 STAN. L. & POL’Y REV. 181, 190 (2017)).

41. *See id.* at 77.

42. *Id.*; *Colleges Adopt the ‘Sanity Code’ to Govern Sports: N.C.A.A. Bans Scholarships in Which Athletic Ability Is the Major Factor*, N.Y. TIMES (Jan. 11, 1948), <https://www.nytimes.com/1948/01/11/archives/colleges-adopt-the-sanity-code-to-govern-sports-ncaa-bans.html> [https://perma.cc/R3NP-WHF3].

43. Lee VanHorn, *When the Sanity Code Becomes the Insanity Code: Following O’Bannon’s Lead Is the Key to Solving Group Licensing for NCAA Student-Athletes*, 74 ARK. L. REV. 117, 125 (2021).

44. *Alston*, 594 U.S. at 77.

45. *See id.*

cartel,’ by enabling its member schools to set and enforce ‘rules that limit the price they have to pay for their inputs (mainly the “student-athletes”).’⁴⁶

The NCAA has continued to evolve by tweaking rules regarding student-athlete compensation.⁴⁷ In the mid-1950s, the NCAA expanded the scope of payments that colleges could make to student-athletes.⁴⁸ This expansion allowed the payments to “include room, board, books, fees, and ‘cash for incidental expenses such as laundry.’”⁴⁹ During the mid-1970s, the NCAA permitted paid professional athletes to compete in amateur competitions within the NCAA as long as the amateur sport they were competing in was not the same as the sport the professional athlete was getting paid for.⁵⁰ Decades later, in 2014, the NCAA evolved once more and began to allow conferences to authorize their schools to offer scholarships up to the full cost of attendance to their student-athletes.⁵¹ Within the last twenty years, changes have also been implemented to allow payments to help student-athletes.⁵² Some of these payments are “incidental to athletics participation,” which include awards for a certain achievement in athletics or participation on a team or event, while others are payments from outside entities that could be tied to the student-athletes’ participation in the Olympics.⁵³ The NCAA has also recently allowed colleges to fund travel for their athletes’ family when competing in certain athletic events.⁵⁴

B. The Implementation of NIL into College Sports

Over the years, the NCAA has given up much ground on the issue of student-athlete compensation.⁵⁵ Since being created to monitor the amateur status of collegiate sports, the NCAA has gradually become more lenient in its adherence to “amateurism.”⁵⁶ On July 1, 2021, after a monumental decision in *NCAA v. Alston*, student-athletes were able to profit off of their name, image, and likeness due to the new policy that the NCAA

46. See *id.* (quoting ZIMBALIST, *supra* note 22, at 10).

47. See generally *id.* at 76 (explaining that NCAA limits on education-related benefits for student-athletes violates Sherman Act); *O’Bannon v. Nat’l Collegiate Athletic Ass’n*, 802 F.3d 1049, 1055 (9th Cir. 2015) (explaining the historical evolution of the NCAA and its regulations pertaining to student-athletes receiving compensation).

48. *In re Nat’l Collegiate Athletic Ass’n Athletic Grant-in-Aid Cap Antitrust Litig.*, 375 F. Supp. 3d 1058, 1063 (N.D. Cal. 2019), *aff’d*, 958 F.3d 1239 (9th Cir. 2020), *aff’d sub nom.*, *Nat’l Collegiate Athletic Ass’n v. Alston*, 594 U.S. 69 (2021).

49. *Alston*, 594 U.S. at 77.

50. *Id.* at 78.

51. *O’Bannon*, 802 F.3d at 1055.

52. *Alston*, 594 U.S. at 78–79.

53. *Id.* at 78 (quoting *Grant-in-Aid Cap Antitrust Litig.*, 375 F. Supp. 3d at 1063).

54. See *id.* at 78–79.

55. See *supra* Section II.A (explaining the historical development of the NCAA and its stance on athletes receiving compensation for their performance).

56. See *Alston*, 594 U.S. at 76; *O’Bannon*, 803 F.3d at 1054; ZIMBALIST, *supra* note 22, at 10.

implemented.⁵⁷ The Supreme Court held unanimously in *Alston* that the NCAA violated antitrust laws for decades by restricting athletes from earning money from their athletic participation.⁵⁸ The *Alston* decision is effectively known as the decision that dismantled amateurism within collegiate athletics.⁵⁹

Since the *Alston* decision, student-athletes have been able to profit off of their NIL by signing endorsement deals, sponsorships, and creating their own personal brands⁶⁰—which was previously prohibited.⁶¹ These NIL opportunities vary widely in value and in scale.⁶² Some deals are national sponsorships by billion-dollar companies while others are locally owned restaurants or stores near their respective college campus.⁶³ For instance, former-University of Texas football player, Bijan Robinson launched his own condiment brand, illustrating how athletes can create their own personal ventures.⁶⁴ Similarly, Caleb Williams, a former University of Southern California athlete, has endorsements contracts with Dr. Pepper, Beats by Dre, and Nike—world-renowned brands.⁶⁵ On the other hand, athletes at smaller universities often sign deals with local car dealerships or apparel stores.⁶⁶ These examples showcase the wide range of NIL deals that are available to collegiate athletes.⁶⁷

Schools have begun to embrace the change by forming booster-funded “collectives” and university-affiliated NIL departments in order to better

57. See *Alston*, 594 U.S. at 105–07.

58. See *id.* at 87–91.

59. See generally *id.* (explaining how the NCAA has exploited its student-athletes by restricting them from being compensated for their athletic efforts, which violates antitrust law).

60. See, e.g., Steve Samra, *Texas Running Back Bijan Robinson Set to Launch Condiment Line*, ON3 (Aug. 18, 2022), <https://www.on3.com/college/texas-longhorns/news/texas-running-back-bijan-robinson-set-to-launch-condiment-line-longhorns-bijan-mustardson-mustard-nil-big-12/> [https://perma.cc/GH3F-PNCS] (giving an example of an athlete who has benefited from the *Alston* decision).

61. See Barrett Sallee, *UCF Kicker Ruled Ineligible After Refusing to Agree to Terms Over YouTube Channel*, CBS SPORTS (July 31, 2017 at 17:05 ET), <https://www.cbssports.com/college-football/news/ucf-kicker-ruled-ineligible-after-refusing-to-agree-to-terms-over-youtube-channel/> [https://perma.cc/J73D-WNPE].

62. See Samra, *supra* note 60.

63. Compare Pete Nakos, *Details of USC Quarterback Caleb Williams' NIL Deal with Dr Pepper*, ON3 (Aug. 23, 2023), <https://www.on3.com/nfl/news/caleb-williams-dr-pepper-fansville-usc-trojans-football-quarterback-nil-deal/> [https://perma.cc/26SR-RFEM] (describing Caleb Williams's NIL deals with big name brands like Dr. Pepper, Beats by Dre, and Nike), with Renee Grutzik, *Big Sponsorships Grab Headlines, but Even Small NIL Deals Empower Student-Athletes*, UVA TODAY (Oct. 25, 2023), <https://news.virginia.edu/content/big-sponsorships-grab-headlines-even-small-nil-deals-empower-student-athletes> [https://perma.cc/VLJ6-BYCB] (discussing smaller, local endorsements).

64. See Samra, *supra* note 60 (describing the launch of Robinson's “Bijan Mustardson” condiment brand as part of an NIL deal).

65. Nakos, *supra* note 63.

66. See, e.g., Grutzik, *supra* note 63 (discussing how smaller, local endorsements—like a volleyball player's apparel deal—are common for non-marquee athletes).

67. See, e.g., Grutzik, *supra* note 63 (local apparel deal); Samra, *supra* note 60 (athlete brand); Nakos, *supra* note 63 (national brand endorsement contracts).

assimilate into the new era of collegiate athletics.⁶⁸ These collectives or departments allow schools to organize, fund, and manage student-athletes' NIL deals while also being tasked with organizing the recruitment of high school athletes.⁶⁹

Collectives are organized and funded by alumni or “boosters” that organize, coordinate, and fund NIL opportunities for student-athletes.⁷⁰ Although they are independent of the university they represent, collectives work closely with athletic departments to help the college's athletes find NIL endorsements available to them.⁷¹ Nearly every NCAA Division I college in the country has now created or become a part of or formed their own NIL collective.⁷²

The highest earning athletes in the NIL-era of collegiate sports have been predominantly football players, with athletes such as Arch Manning earning nearly \$4.7 million per year from NIL deals and sponsorships.⁷³ This amount of money is \$1.5 million more than the average National Football League (NFL) contract—the highest level of professional football, and a league seen as superior to NCAA football—further showcasing the transition into a professional sports model.⁷⁴ While some athletes are earning millions from NIL participation, such as Arch Manning, most NIL deals, especially at the Division II or III level, are around \$300.⁷⁵

C. The Future of College Athletics: How the House v. NCAA Settlement Will Professionalize Amateur Athletics

The NCAA continues to face antitrust litigation which has led to the implementation of revenue sharing among many NCAA colleges.⁷⁶ In 2025, the *House v. NCAA* settlement was finalized which requires the NCAA to pay \$2.57 billion in damages to collegiate athletes who competed from 2016 to

68. See Arianna Garcia, Comment, *NIL Collectives and the Disadvantage Dilemma: Disparities and Challenges in Collegiate Athletics*, 19 FIU L. REV. 979, 988–90 (2025).

69. See *id.*

70. See Pete Nakos, *What Are NIL Collectives and How Do They Operate*, ON3 (July 6, 2022), <https://www.on3.com/nil/news/what-are-nil-collectives-and-how-do-they-operate/> [https://perma.cc/QBH6-P8SZ]; Garcia, *supra* note 68.

71. See Garcia, *supra* note 68.

72. See *id.*

73. *College Football NIL Valuations*, ON3 (last updated Apr. 2, 2026, at 00:00 CT), <https://www.on3.com/nil/rankings/player/college/football/> [https://perma.cc/8JP8-7T3Y].

74. See Nick Genovese, *How Top College Athletes' NIL Earnings Compare to the Pros, According to Opendorse Report*, BUS. OF COLL. SPORTS (July 24, 2024), <https://businessofcollegesports.com/name-image-likeness/how-top-college-athletes-nil-earnings-compare-to-the-pros-according-to-latest-opendorse-report/> [https://perma.cc/2FR6-KR5V].

75. See *NIL Is for Everyone - How Small College Athletes Are Dipping into the NIL Game*, BOSCA (June 13, 2022), <https://www.smallcollegeathletics.com/nil-is-for-everyone-how-small-college-athletes-are-dipping-into-the-nil-game> [https://perma.cc/Q37P-5ND9].

76. See generally *House v. Nat'l Collegiate Athletic Ass'n*, 545 F. Supp. 3d 804 (N.D. Cal. 2021) (explaining the issues collegiate athletes faced even after NIL was implemented).

2024.⁷⁷ There, the plaintiffs, former NCAA athletes, alleged that the NCAA was violating antitrust laws by restricting student-athlete compensation.⁷⁸ The *House* settlement also forced the NCAA to provide a revenue-sharing framework which would allow schools to directly pay their student-athletes.⁷⁹

From 2025 onward, universities will be able to share up to 22% of their revenue directly with their athletes, which will be capped at \$20.5 million.⁸⁰ For instance, a major NCAA Division I program like the University of Texas, whose athletic department brought in over \$330 million in revenue during 2024, could distribute up to \$20.5 million to their athletes under this new settlement.⁸¹ Even smaller programs like the University of North Texas, generated over \$53 million in revenue during 2024.⁸² While this is a significantly smaller figure than the University of Texas, hundreds of thousands of dollars will be able to be shared among their athletes through revenue sharing.⁸³

This settlement marks the first time in NCAA history that a school can legally pay its athlete directly rather than solely providing scholarships or allowing them to seek NIL deals or endorsements from a third party or NIL collective.⁸⁴

The introduction of revenue sharing to the NCAA has transitioned collegiate athletics from self-proclaimed amateurism to a full-fledged professional model—if the implementation of NIL had not already done so.⁸⁵ Schools will no longer be third parties in paying athletes but will now transition into a role similar to that of a professional sports franchise.⁸⁶ They will be more analogous to an employer than solely an educator.⁸⁷

77. *In re Coll. Athlete NIL Litig.*, 803 F. Supp. 3d 959, 974 (N.D. Cal. 2025), *appeal dismissed*, No. 25-4185, 2025 WL 2831020 (9th Cir. July 29, 2025).

78. *See id.* at 969.

79. *See id.*

80. *See id.* at 975.

81. *See Joe Cook, Texas Athletics Totaled \$331.9 Million in Revenue in FY 2024 Thanks to the Most Profitable Football Program in the SEC*, INSIDE TEX. (May 6, 2025), <https://www.on3.com/teams/texas-longhorns/news/texas-athletics-totaled-331-9-million-in-revenue-in-fy-2024-thanks-to-the-most-profitable-football-program-in-the-sec/> [<https://perma.cc/N7YB-BM7B>].

82. *See* UNIV. OF N. TEX., FY24 NCAA REPORT 8 (2024), https://meangreensports.com/documents/2025/1/30/FY24_NCAA_Report.pdf [<https://perma.cc/LZ9Z-NP97>].

83. *See id.*; *House v. Nat'l Collegiate Athletic Ass'n*, 545 F. Supp. 3d 804, 817 (N.D. Cal. 2021).

84. Dan Murphy, *Judge OK's \$2.8B Settlement, Paving Way for Colleges to Pay Athletes*, ESPN (June 6, 2025, at 21:28 ET), https://www.espn.com/college-sports/story/_/id/45467505/judge-grants-final-approval-house-v-ncaa-settlement [<https://perma.cc/S573-TZ54>].

85. *See In re Coll. Athlete Nil Litig.*, 803 F. Supp. 3d at 969.

86. *See id.*

87. *See id.*

D. Visa Barriers Restrict International Student-Athletes

Nearly 13% and 7.4% of all athletes in NCAA Division I and II, respectively, are international student-athletes.⁸⁸ In certain sports, such as men's and women's tennis, 64% of all athletes participating at the NCAA Division I level are international student-athletes.⁸⁹ While *Alston* has changed the landscape of collegiate athletics, international student-athletes are not able to participate in NIL and revenue sharing due to visa restrictions.⁹⁰

The F-1 visa, or student visa, imposes restrictions on employment for students.⁹¹ Under immigration law, F-1 visa recipients may only work under certain conditions such as on-campus roles or in roles directly related to their major or field of study.⁹² Endorsements and NIL deals do not fall into either category but rather are considered self-employment or off-campus work—both of which are not viable work options for F-1 visa recipients.⁹³ As a result of the implementation of NIL in collegiate sports, international student-athletes must act with extreme caution to ensure no visa violation occurs.⁹⁴

Revenue sharing and the introduction of the *House v. NCAA* settlement to collegiate athletics has had great effect on everyone except international student-athletes.⁹⁵ Because the payment from the school to the athlete is considered employment and does not fit into the narrow exceptions the F-1 visa offers, international student-athletes will similarly not be able to participate in revenue sharing.⁹⁶

The Naismith Award best illustrates the limitations imposed on international student-athletes.⁹⁷ This award is the most prestigious in NCAA Division I basketball.⁹⁸ From 2022 to 2024, two international student-athletes

88. See 2023 TRENDS, *supra* note 3.

89. See *id.*

90. See Nat'l Collegiate Ass'n v. Alston, 594 U.S. 69, 105–07 (2021); 8 U.S.C. § 1101(a)(15)(F)(i).

91. See 8 U.S.C. § 1101(a)(15)(F)(i).

92. See Name, Image, and Likeness for International Athletes Act, H.R. 7982, 118th Cong. (2024).

93. See Jarrod F. Loadholt, *International College Athletes Remain in Limbo After House v. NCAA Decision: Considerations for International Athletes in Name, Image, and Likeness and Revenue Sharing Opportunities*, ICEMILLER (July 16, 2025), <https://www.icemiller.com/thought-leadership/international-college-athletes-remain-in-limbo-after-house-v-ncaa-decision-considerations-for-international-athletes-in-name-image-and-likeness-and-revenue-sharing-opportunities/> [<https://perma.cc/95SW-MKW9>]; *Alston*, 594 U.S. at 105–07; 8 U.S.C. § 1101(a)(15)(F)(i).

94. See Loadholt, *supra* note 93.

95. See *House v. Nat'l Collegiate Athletic Ass'n*, 545 F. Supp. 3d 804, 808 (N.D. Cal. 2021); 8 U.S.C. § 1101(a)(15)(F)(i).

96. See Loadholt, *supra* note 93; 8 U.S.C. § 1101(a)(15)(F)(i).

97. See Pete Nakos, *Oscar Tshiebwe Latest Example of International NIL Hurdles*, ON3 (Aug. 12, 2022) [hereinafter *Tshiebwe's NIL Hurdles*], <https://www.on3.com/nil/news/oscar-tshiebwe-kentucky-wildcats-basketball-nil-bahamas-trip-donatos-visa-extraordinary-ability/> [<https://perma.cc/CLX2-K6S8>] (explaining that current student visas “explicitly bar athletes from working while studying and playing in the [United States,]” which restricts NIL earnings).

98. See Naismith Men's College Basketball Player of the Year Winners, ESPN (Apr. 6, 2025, at 12:06 ET) [hereinafter *Naismith Winners*], https://www.espn.com/mens-college-basketball/story/_/id/

won the award: Oscar Tshiebwe and Zach Edey.⁹⁹ As this was during the beginning of the NIL era, this honor did not solely come with the Naismith Trophy, but one would assume it would come with a plethora of endorsements.¹⁰⁰ For these two athletes, this was far from the truth.¹⁰¹ On the other hand, the Naismith Award winner in 2025 was Cooper Flagg, an athlete who did not have to deal with F-1 visa restrictions.¹⁰² Analysts estimate that Flagg earned \$4.8 million during the 2024–2025 season, when he won the award.¹⁰³ The effects of these restrictions are not merely theoretical; they have already limited the earning potential of some of the most accomplished international student-athletes in collegiate sports.¹⁰⁴

With decisions such as *Alston* and the *House v. NCAA* settlement ushering in the new era of collegiate athletics, there has been no change in immigration law to adapt to the new times.¹⁰⁵ The ability, or lack thereof, for international student-athletes to earn NIL money or participate in revenue sharing is an immigration issue.¹⁰⁶ General counsels and athletic departments are not able to help international student-athletes with endorsements or NIL deals because of the immigration implications that may follow.¹⁰⁷

While the F-1 visa directly bars international student-athletes from working off-campus jobs with its statutory language, many athletes who are F-1 visa recipients have attempted to apply for P-1 or O-1 visas.¹⁰⁸ The P-1 visa applies to “professional athlete[s],” which is defined as an individual who is:

39770712/naismith-mens-college-basketball-player-year-winners [https://perma.cc/2LYQ-APGB].

99. *Id.*

100. *See, e.g., Tshiebwe’s NIL Hurdles*, *supra* note 97 (describing Oscar Tshiebwe’s NIL valuation and the workarounds he has implemented to profit off his NIL despite his visa status).

101. *See id.*

102. *See Naismith Winners*, *supra* note 98.

103. *See Cooper Flagg - NIL Profile*, ON3, <https://www.on3.com/rivals/cooper-flagg-152774/nil/> [https://perma.cc/X27V-C92N] (last visited Mar. 24, 2026) (listing Cooper Flagg’s estimated NIL earnings).

104. *See, e.g., Tshiebwe’s NIL Hurdles*, *supra* note 97 (giving examples of the extra steps international student-athletes must take to profit off their NIL while still complying with their visa status).

105. *See Alston*, 594 U.S. at 105–07; Loadholt, *supra* note 93.

106. *See Loadholt*, *supra* note 93.

107. *See Callan G. Stein & Christopher M. Brolley, Show Me the Money: Navigating the House Settlement for International Students*, TROUTMAN PEPPER LOCKE (Mar. 3, 2025), <https://www.nilrevolution.com/2025/03/show-me-the-money-navigating-the-house-settlement-for-international-students/> [https://perma.cc/PRW6-X2BV] (advising schools and athletic departments to consult with legal counsel before making any direct payments due to the likelihood of it being considered active income/employment).

108. *See* 8 U.S.C. § 1101(a)(15)(F)(i) (defining F-1 visa); 8 U.S.C. § 1184(c)(4)(A) (defining P-1 visa); CHARLES GORDON ET AL., IMMIG. L. & PROC. 9 FAM. § 41.55 (2025) (defining the O-1 visa as of 2014). For the current definition of the O-1 visa, see U.S. Dep’t of State, 9 Foreign Affs. Manual § 402.13 (2022).

[E]mployed as an athlete by—(A) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or (B) any minor league team that is affiliated with such an association.¹⁰⁹

This statutory definition does not eliminate the possibility of NCAA athletes applying for this visa.¹¹⁰

Similarly, the O-1 visa, or extraordinary ability visa, is for those individuals who possess “extraordinary ability in the sciences, arts, education, business, or athletics” or “demonstrated record of extraordinary achievement in the motion picture and/or television productions.”¹¹¹ For collegiate athletes, an O-1 visa is difficult to obtain due to the strict requirements and the narrow definition of “extraordinary ability.”¹¹² For example, a petitioner must prove their extraordinary ability by providing evidence of at least three of the following:

(1) Documentation of the alien’s receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor; (2) Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields; (3) Published material in professional or major trade publications or major media about the alien, relating to the alien’s work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation; (4) Evidence of the alien’s participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought; (5) Evidence of the alien’s original scientific, scholarly, or business-related contributions of major significance in the field; (6) Evidence of the alien’s authorship of scholarly articles in the field, in professional journals, or other major media; (7) Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation; (8) Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence[.]¹¹³

109. H.R. REP. NO. 116-328, at 131 (2019).

110. *See id.*

111. GORDON ET AL., *supra* note 108 (defining the O-1 visa as of 2014).

112. *See id.*

113. Woods v. ERA Med LLC, No. 08-02495, 2009 U.S. Dist. LEXIS 3965, at *7 n.5 (E.D. Pa. Jan. 21, 2009).

Most collegiate athletes have likely never received any of these awards, which would completely bar them from obtaining an O-1 visa.¹¹⁴ For a very select few, this is possible.¹¹⁵ Take Hansel Enmanuel, for example.¹¹⁶ Hansel and his attorneys applied for an O-1 visa as he prepared for the NCAA basketball season.¹¹⁷ After applying, the United States Citizenship and Immigration Services (USCIS) requested extensive additional evidence to prove Enmanuel's extraordinary ability.¹¹⁸ This request for evidence had a deadline of eighty-seven days.¹¹⁹ For Enmanuel, this was not an issue as he had extensive media coverage and NIL offers with a large salary.¹²⁰ In the end, Enmanuel was approved and given an O-1 visa.¹²¹

Unfortunately for most collegiate athletes, they do not have the extensive media coverage or large salary NIL offers like Enmanuel did.¹²² For most, the P-1 visa—or professional athlete visa—would be the better option.¹²³ Comparatively, the P-1 visa is much less stringent than the O-1 visa as it relies on “recognition” of the athlete rather than their extraordinary ability.¹²⁴ Collegiate athletes typically compete in age-limited amateur leagues, receive limited national television exposure outside of certain sports, and often lack the professional accolades or awards that USCIS traditionally looks for in O-1 petitions.¹²⁵ As a result, the O-1 framework simply does not fit the realities of college athletics.¹²⁶

The issue for international student-athletes attempting to apply for the P-1 visa lies in the definition of an “alien” in 8 U.S.C. § 1184(c)(4)(A)(i)(III)(bb): “[P]articipation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic

114. *See id.*

115. *See id.*

116. Andy Wittry, *Northwestern State's Hansel Emmanuel Receives Historic O-1 Visa*, ON3 (Oct. 20, 2022), <https://www.on3.com/nil/news/hansel-emmanuel-basketball-nil-deal-northwestern-state-visa-status/> [<https://perma.cc/PRW6-X2BV>].

117. *See id.*

118. *See id.*

119. *See id.*

120. *Id.*

121. *Id.*

122. *See id.*; GORDON ET AL., *supra* note 108 (defining the O-1 visa as of 2014).

123. *See* 8 U.S.C. § 1184 (defining the P-1 visa).

124. *Compare* 8 U.S.C. § 1184 (defining the P-1 visa), *with* GORDON ET AL., *supra* note 108 (defining the O-1 visa as of 2014).

125. *See What Is the Difference Between O or P Visas for Athletes Coming to the United States*, SHERROD SPORTS VISAS, <https://www.sherrodsportsvisas.com/o1-or-p1-visa> [<https://perma.cc/F9XV-WJVQ>] (last visited Mar. 24m 2026) (explaining that to prove O-1 eligibility, an athlete typically needs “one very important international award” such as an Olympic medal or world championship, which most college athletes lack).

126. *See id.*

Association.”¹²⁷ The P-1 visa was created in 1990.¹²⁸ At that time, the NCAA was still enforcing the Sanity Code while also continuing to describe itself as amateur athletics.¹²⁹ Since then though, *Alston* has completely dismantled this notion of amateurism which led to new antitrust developments within the NCAA.¹³⁰

The dominating issue in the P-1 visa discussion when looked at in the scope of collegiate athletics is the ability for P-4 visa recipients (the spouse and children of the P-1 visa recipient) to attend school while on their visa.¹³¹ While the P-4 visas explicitly state that the recipient can attend school, no authority states that P-1 visa recipients are barred from attending school while simultaneously being a professional athlete as defined by the P-1 visa.¹³² Courts have still not interpreted whether P-1 visa recipients are barred from attending school or university or are allowed to attend such institutions like their spouse and children in the United States on a P-4 visa.¹³³

Last-Tear Poa is a collegiate athlete who challenged her ability to earn NIL under the P-1 visa.¹³⁴ Poa is an F-1 visa, or student visa, recipient but filed a lawsuit after she was denied a P-1 visa.¹³⁵ The USCIS moved to dismiss her case, but the judge denied the motion.¹³⁶ Counsel for the USCIS argued that P-1 visas are only available to those who are solely in America for the purposes of playing their sport, and a collegiate athlete does not fall into that category.¹³⁷ The denial of the motion ensures that the case will be decided upon the merits.¹³⁸ Regardless of the holding in *Poa*, it is clear that the statutory definition and guidance the current P-1 visa statutes provide is not enough for most international student-athletes to obtain P-1 visas.¹³⁹

127. 8 U.S.C. § 1184(c)(4)(A)(i)(III)(bb).

128. Immigration Act of 1990, S.358, 101st Cong. (1990).

129. See *supra* notes 42–46 and accompanying text (discussing the NCAA’s Sanity Code).

130. See generally *Nat’l Collegiate Athletic Ass’n v. Alston*, 594 U.S. 69 (2021) (explaining the implementation of NIL due to the NCAA’s antitrust violations).

131. See 8 C.F.R. § 214.2(p)(8)(iii)(D) (2025).

132. See *id.*

133. See Marcela Bermudez, *Recent Court Ruling in NIL-Visa Lawsuit: A New Era for International College Athletes?*, SPORT L. LITIG. ALERT (Oct. 17, 2025), <https://sportslitigationalert.com/recent-court-ruling-in-nil-visa-lawsuit-a-new-era-for-international-college-athletes/> [https://perma.cc/7XPK-NMFY] (explaining that in Last-Tear Poa’s NIL-visa lawsuit, the court found the plaintiff’s argument that the P-1’s “solely for the purpose of performing” classification does not preclude the dual purpose of attending university as a valid interpretation, forcing the court to directly address the ambiguity previously left open).

134. See Dan Murphy, *Judge Rules Against U.S. Government in NIL Visa Lawsuit*, ESPN (Sep. 19, 2025, at 17:18 ET), https://www.espn.com/womens-college-basketball/story/_/id/46315688/judge-rules-us-government-nil-visa-lawsuit [https://perma.cc/YQZ4-WRBG].

135. *Id.*

136. *Id.*

137. See *id.*

138. See *id.*

139. See *id.*

E. Congressional Efforts for Reform: The Shortcomings of House Bill 7982

Understanding the grievances of international student-athletes in the post-NIL era, Representatives Mike Flood and Valerie P. Foushee proposed a solution: House Bill 7982, the “Name, Image, and Likeness for International Collegiate Athletes Act.”¹⁴⁰ Mike Flood, representing Nebraska, proposed a change to the Immigration and Nationality Act—specifically the F visas.¹⁴¹ The proposal would allow international student-athletes to sign and profit from NIL or endorsement contracts.¹⁴² House Bill 7982 attempted to reform the F visas by adding subsection “(iv) an alien who is or will become a student athlete upon enrollment at an institution of higher education . . . and who intends to enter into an endorsement contract for the purpose of earning compensation for the commercial use of the alien’s name, image, or likeness” to the definitions section of the F visas.¹⁴³ It also proposed a section which would help international student-athletes confer employment authorization for F visa holders.¹⁴⁴ While this proposal benefitted international student-athletes and addressed many of their concerns, it is not enough considering the current climate of collegiate sports.¹⁴⁵ The proposal does not include any language that clarifies how an international student-athlete could benefit from revenue sharing.¹⁴⁶ The representatives drafted and introduced the proposal on April 15, 2024, over a year before the NCAA introduced revenue sharing.¹⁴⁷ With the professionalization of the NCAA, this proposal continues to treat college athletics as an amateur competition, which is inconsistent with how the Supreme Court described the NCAA in its *Alston* opinion.¹⁴⁸

Despite its good intentions, House Bill 7982 stalled in Congress and has not been enacted.¹⁴⁹ Its proposal and introduction on the House floor showcases the huge barriers and inequalities that many international student-athletes face with the current NCAA protocols.¹⁵⁰ While Congress did not enact the proposal, and it did not get past the first committee, it served

140. See H.R. 7982, 118th Cong. (2024).

141. See *id.*

142. *Id.*

143. *Id.*

144. See *id.*

145. See *id.*

146. See *id.*

147. See *id.*; see generally *In re Coll. Athlete NIL Litig.*, 803 F. Supp. 3d 959 (N.D. Cal. 2025), *appeal dismissed*, No. 25-4185, 2025 WL 2831020 (9th Cir. July 29, 2025) (explaining the new implications of revenue sharing in collegiate athletics).

148. See *supra* Section II.B (discussing the Supreme Court’s treatment of collegiate athletics in *Alston*).

149. See H.R. 7982.

150. H.R. 7982; see *supra* Part I (noting that international student-athletes cannot participate in NIL revenue sharing).

as a reminder that international collegiate athletes face an immigration crisis, not an NCAA regulations crisis.¹⁵¹

III. A NEW VISA FOR STUDENT-ATHLETES: LEGALIZING NIL AND REVENUE SHARING FOR ALL

To place international student-athletes on a level playing field with their American counterparts, Congress must make changes to allow them to obtain a P-1 visa.¹⁵² Congress should pass model legislation that discards the dated language barring NCAA athletes and modernizes immigration law.¹⁵³ This proposal will address the issues that international student-athletes face when dealing with NIL and revenue sharing and place them on the same level as their American counterparts.¹⁵⁴ By drawing inspiration from the P-1 visa and amending current law to include athletes who attend higher learning institutions, Congress can mitigate the issues that current international student-athletes face by raising this marginalized group onto the same platform as their counterparts who are American citizens.¹⁵⁵

This legislation is similar to the current P-1 visa but amends it for the modern sports world—where college athletes can earn money for their contributions on the field.¹⁵⁶ While legislators have proposed changes to progress the collegiate sports world into a new era, this proposal does not affect immigration law beyond collegiate sports.¹⁵⁷ In other words, the P-1 visas will maintain their purpose: affording athletes of exceptional ability the opportunity to perform and profit off their talent in the United States.¹⁵⁸

While the NCAA is seemingly moving toward a professional model, immigration law has not treated all athletes equally.¹⁵⁹ The current

151. See *supra* Section II.B (discussing how the current visa system prohibits international students from entering NIL deals).

152. See *supra* Section II.D (comparing P-1 visas for professional athletes with the F-1 visas currently available to student athletes).

153. See *infra* Section III.A (describing the proposed changes to the current visa requirements for student-athletes).

154. See *infra* Section III.B.1 (discussing how the proposed legislation will allow international student-athletes to participate in NIL deals and revenue sharing).

155. See *infra* Section III.B.1 (analyzing how the proposed legislation levels the playing field for international student-athletes); 8 U.S.C. § 1184(c)(4)(A).

156. See *infra* Section III.A (describing the language of the proposed legislation); 8 U.S.C. § 1184(c)(4)(A).

157. See *generally* Nat'l Collegiate Athletic Ass'n v. Alston, 594 U.S. 69, 76 (2021) (establishing that student-athletes can receive compensation for the use of their name, image, and likeness); O'Bannon v. Nat'l Collegiate Athletic Ass'n, 802 F.3d 1049, 1054 (9th Cir. 2015) (holding that the NCAA's restrictions on NIL deals violated antitrust laws); ZIMBALIST, *supra* note 22 (describing the progress that collegiate sports have made before and after the formation of the NCAA).

158. See *supra* Section II.D (describing the underlying purpose of P-1 visas); 8 U.S.C. § 1184(c)(4)(A).

159. See *supra* Sections II.C–D (discussing how recent cases have professionalized college sports and how immigration law has failed to adapt).

P-1 visa statute provides that the athlete's participation in a league renders them ineligible to earn a scholarship in that sport at any institution that competes in NCAA competitions.¹⁶⁰ The proposed legislation will strike down this provision, which Congress codified decades before the revelation of NIL and revenue sharing took over the NCAA.¹⁶¹

A. Proposed Legislation

The Name, Image, and Likeness for International Athletes Act

Section 1: Title

This Act shall be known as the Name, Image, and Likeness for International Athletes Act.¹⁶²

Section 2: Purpose

This Act is an amendment to the current P-1 visa statute. This Act will clarify institutional and individual responsibilities for visa sponsorship and compliance. The establishment of a new visa classification within the P-1 visa will allow international student-athletes to be treated equal to their American peers.¹⁶³ This Act is an amendment to the current P-1 visa statute.

Section 3: Definitions

"Name, Image, and Likeness (NIL) activity:" any lawful promotional, endorsement, or compensation arrangement permitted under NCAA or institutional policy.¹⁶⁴

"Revenue Sharing:" any direct payment from an NCAA-participating institution to a student-athlete for their participation in a sport that generates revenue for the institution permitted under NCAA or institutional policy.¹⁶⁵

"Student-athlete:" a full-time student enrolled at an accredited higher learning institution who competes in intercollegiate athletics governed by the NCAA.¹⁶⁶

160. See 8 U.S.C. § 1184(c)(4)(A)(i)(III)(bb).

161. See *infra* Section III.A (eliminating this provision expressly in the proposed legislation); 8 U.S.C. § 1184(c)(4)(A)(i)(III)(bb).

162. See H.R. 7982, 118th Cong. (2024) (drawing inspiration from the previously proposed amendment to the F-1 visa).

163. See *supra* Section II.D (addressing the inequities that international student-athletes experience under the current immigration laws).

164. See Hostick, *supra* note 1.

165. See generally *In re Coll. Athlete NIL Litig.*, 803 F. Supp. 3d 959 (N.D. Cal. 2025), *appeal dismissed*, No. 25-4185, 2025 WL 2831020 (9th Cir. July 29, 2025) (explaining how revenue sharing will affect collegiate athletics).

166. See NAT'L COLLEGIATE ASS'N, NCAA DIVISION I 2024-25 MANUAL § 12.02.14 (2024) (defining a "student-athlete" as a student who athletics staff solicited for and who participates in intercollegiate athletics).

Section 4: Duration

This period of authorized stay shall extend through the later of (1) the academic year; or (2) the athlete's athletic season.

Section 5: Establishment of P-1 Visa for Student-Athletes

8 U.S.C. § 1184(c)(4)(A)(i) is amended by inserting after "professional athlete" the following:

(V) a student-athlete who performs as a member of a team or individual in intercollegiate athletics under the governance of the National Collegiate Athletic Association (NCAA), and who seeks to engage in authorized Name, Image, and Likeness or revenue-sharing activities consistent with NCAA and institutional policy.

(b) Employment Authorization

Holders of this visa may engage in Name, Image, and Likeness or revenue-sharing activity that is authorized by NCAA regulations.

(c) Maintenance of Status

A holder of this visa shall (1) maintain full-time enrollment, (2) remain in good academic standing, and (3) maintain active membership with the sponsoring athletic program.

Section 6: Striking of P-1 Visa Provision

This Act effectively strikes the following language from 8 U.S.C. § 1184 (c)(4)(A)(i)(III)(bb)–(cc):

(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and (cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league.¹⁶⁷

Section 7: Renewal Process

This visa may be renewed annually upon certification from the sponsoring institution that the student-athlete remains in compliance with Section 4(c). If the athlete transfers to a new institution, the new institution shall assume sponsorship duties by filing an amended petition within ninety (90) days.¹⁶⁸

Each designated institutional sponsor shall submit annual compliance reports to the Department of Homeland Security detailing student-athlete participation, NIL activities, and status maintenance.¹⁶⁹

167. See 8 U.S.C. § 1184(c)(4)(A)(i)(III)(bb)–(cc).

168. See *supra* Section II.B (explaining the new era of NCAA competition with NIL and transfers among universities).

169. See JAMES A. RAPP, EDUC. L. § 8.04 (2025).

Section 8: Effective Date

This Act shall take effect immediately upon its passage.¹⁷⁰

Section 9: Severability

If any provision or clause of this statute is deemed to be unconstitutional, the remaining provisions and clauses shall continue in full force and effect.¹⁷¹

B. The Proposed Legislation Benefits All Parties Involved

The proposed legislation (the Act) operates by amending the existing P-1 visa framework to create a specific visa classification for international student-athletes that are competing within the NCAA.¹⁷² Under the Act, these athletes would be legally authorized to participate in NIL activities and revenue-sharing arrangements through their college.¹⁷³ The application for the visa will be filed through the student-athlete's university, in a similar way that current F-1 visas are currently managed.¹⁷⁴ The Act ensures that the visa remains valid either through the student-athlete's season or through the end of the school year.¹⁷⁵ By inserting a specific definition of duration into the Act, a student-athlete will not risk breaching their visa conditions due to the lack of clarification on the allotted time for the visa.¹⁷⁶ To comply with visa conditions, student-athletes must remain enrolled full-time and stay in good academic standing at their college.¹⁷⁷ Additionally, the athletes must also retain active membership on their team.¹⁷⁸ The intention of this Act is to provide a pathway to NIL and revenue sharing for international student-athletes.¹⁷⁹ By patrolling the student-athlete's academic and athletic background, visa violations under this Act will remain uncommon for those attempting to take advantage of this amendment.¹⁸⁰ Universities would be required to submit annual compliance reports to the Department of Homeland Security detailing NIL and revenue-sharing participation along with visa

170. See *Effective Date*, CORNELL L. SCH.: LEGAL INFO. INST. (last reviewed July 2021), https://www.law.cornell.edu/wex/effective_date [<https://perma.cc/774E-RM2E>].

171. See *Severability Clause*, CORNELL L. SCH.: LEGAL INFO. INST. (last reviewed June 2024), https://www.law.cornell.edu/wex/severability_clause [<https://perma.cc/3PUL-J82W>].

172. See *supra* Section III.A (showing the amendment's content); see also 8 U.S.C. § 1184(c)(4)(A) (detailing the current statutory framework).

173. See *supra* Section III.A (illustrating the Act's effects); see also Nat'l Collegiate Athletic Ass'n v. Alston, 594 U.S. 69, 107 (2021) (explaining it is not the Judiciary's role to resolve this issue).

174. See *supra* Section III.A (detailing the mechanisms by which the new visas will be obtained); 8 U.S.C. § 1101(a)(15)(F)(i).

175. See *supra* Section III.A (detailing the duration of visas under the proposed legislation).

176. See *supra* Section III.A (ensuring visa terms are not ambiguous).

177. See *supra* Section III.A (clarifying the visa requirements).

178. See *supra* Section III.A (expanding on further requirements of the proposed legislation).

179. See *supra* Section III.A (explaining the proposed legislation's purpose).

180. See *supra* Section III.A (showing how the proposed legislation enables better compliance).

status maintenance.¹⁸¹ This section of the Act will ensure transparency and accountability among the student-athletes and colleges.¹⁸² This Act, and all of its provisions combined, create a structured system that aligns immigration law with the current, modern state of college athletics.¹⁸³ By allowing international student-athletes to do everything they can do with an F-1 visa but also opening the door to them for NIL and revenue-sharing participation, Congress is ensuring international student-athletes are treated equal to their American peers with this Act.¹⁸⁴

By enacting this proposed legislation, international student-athletes would be able to not only profit from NIL but also participate in revenue sharing.¹⁸⁵ Furthermore, the proposed legislation will clarify issues that are currently in litigation and ensure that there are no future misinterpretations of the statute.¹⁸⁶

The uncertainty due to the P-1 visa and its lack of clarification on education has led to uncertainty about the status of collegiate athletes petitioning for a P-1 visa.¹⁸⁷ This proposal is independent of the holding that will ultimately be decided in the Last-Tear Poa case.¹⁸⁸ This proposal should be enacted to clarify where the law stands and ensure the consistent interpretation of the statute.¹⁸⁹

By redefining the renewal process of the P-1 visa, international student-athletes would be treated in the same manner as their peers who are United States citizens.¹⁹⁰ As a result, international students would not risk losing their legal status when transferring universities and could actively participate in the transfer portal.¹⁹¹

The enactment of this proposed legislation will benefit all parties involved—the athletes affected, the universities, the NCAA, and the United States Government.¹⁹²

181. See *supra* Section III.A (detailing how universities must comply with the proposed legislation).

182. See *supra* Section III.A (covering the legislation's compliance requirements).

183. See *supra* Section III.A (covering the legislation's mechanisms of operation).

184. See *supra* Section III.A (detailing the goal of the legislation); 8 U.S.C. § 1101(a)(15)(F)(i).

185. See *supra* Section III.A (explaining the practical issues the legislation solves); Nat'l Collegiate Athletic Ass'n v. Alston, 594 U.S. 69, 75 (2021); *In re Coll. Athlete NIL Litig.*, 803 F. Supp. 3d 959, 975 (N.D. Cal. 2025), *appeal dismissed*, No. 25-4185, 2025 WL 2831020 (9th Cir. July 29, 2025).

186. See *supra* Section III.A (explaining practical issues the legislation solves).

187. See *supra* Part II (detailing how the history of collegiate athletic compensation has caused uncertainty).

188. See Murphy, *supra* note 134 (discussing the Last-Tear Poa case).

189. See *supra* Section III.A (clarifying the end objective of the legislation).

190. See *supra* Part II (covering the differences in treatment between international students and citizens).

191. See 8 U.S.C. § 1101(a)(15)(F)(i) (distinguishing the F-1 visa from the proposed Act).

192. See *infra* Sections III.B.1–4 (discussing the benefits the proposed legislation will provide).

1. The Proposed Legislation Will Treat International Student-Athletes Equally

The Act restores equality for international student-athletes by eliminating the immigration barriers that currently prevent them from earning compensation for their athletic efforts.¹⁹³ Beyond mere financial benefits, this Act encompasses access to fair recruitment, educational stability, and professional development.¹⁹⁴

Since the inception of NIL endorsements for collegiate athletes through the holding in *Alston*, a disparity has existed among international and American student-athletes, which has continually grown.¹⁹⁵ This Act will lead to equality among international and American student-athletes.¹⁹⁶

The exclusion of international student-athletes from participating in NIL distorts market competition.¹⁹⁷ With the inclusion of revenue sharing, it is estimated that athletes will receive over \$2.2 billion from NIL endorsements and revenue sharing.¹⁹⁸ With nearly 13% of all NCAA Division I athletes being international student-athletes, their exclusion from the NIL market has a multimillion-dollar exclusionary effect.¹⁹⁹ By enacting the proposed legislation, Congress will not allow immigration law to reinstate anticompetitive effects that the Supreme Court has already invalidated in its decision in *Alston*.²⁰⁰

For instance, the comparison between the previous Naismith Award winners drew a stark contrast between international and American student-athletes.²⁰¹ Under this proposal, Zach Edey and Oscar Tshiebwe would have been able to sign NIL endorsements just as Cooper Flagg did when he won the Naismith Award in 2025.²⁰²

Importantly, this Act will vitally help student-athletes in sports that garner little media coverage.²⁰³ For these student-athletes, national endorsements are unlikely.²⁰⁴ The enactment of this proposal though, will

193. See *supra* Section III.A (laying out the proposed legislation).

194. See *infra* notes 210–17 and accompanying text (explaining how the legislation will benefit recruitment, professional development, and educational stability).

195. See Nat'l Collegiate Athletic Ass'n v. *Alston*, 594 U.S. 69, 74 (2021).

196. See *supra* Section III.A (outlining the proposed legislation that will allow international students to earn NIL like their American counterparts).

197. See *Alston*, 594 U.S. at 74.

198. See Patrick O'Rourke, *Estimated NIL & NCAA Revenue Sharing 2025–26*, NIL-NCAA, <https://nil-ncaa.com/> [<https://perma.cc/T4NF-AH7F>] (last visited Mar. 24, 2026).

199. See *id.*; 2023 TRENDS, *supra* note 3.

200. See *supra* Part III (noting the role of immigration law).

201. See *supra* notes 97–104 and accompanying text (discussing the difference between an international student and a domestic student receiving the Naismith Award).

202. See *supra* Section III.A (laying out the Act's requirements); *supra* notes 102–03 and accompanying text (explaining that Cooper Flagg won the Naismith Award in 2025 and benefitted monetarily).

203. See *supra* Section III.A (explaining how the Act will strike the P-1 visa provision).

204. See O'Rourke, *supra* note 198.

allow these student-athletes to sign smaller endorsements with local businesses near their college.²⁰⁵ For instance, an international men's rower may not have NIL endorsement offers from large corporations like Nike or Adidas, but they will no longer be barred from signing smaller endorsements deals at their college's local apparel store.²⁰⁶ Most NIL deals are from smaller businesses who want to benefit their local college's student-athletes.²⁰⁷

The proposed legislation will promote equality within athlete recruitment, specifically by encouraging and allowing international student-athletes to be recruited more easily.²⁰⁸ Under the current F-1 visa system, wealthier international athletes, or those who can afford to turn down NIL or revenue-sharing money, are heavily recruited.²⁰⁹ With the proposed legislation, opportunities will now be skewed towards athletes from all backgrounds.²¹⁰ By increasing the marketability of international student-athletes by removing the F-1 visa barriers, schools will now be able to show the athletes in social media posts and stadium or arena visuals—something that colleges tried to avoid previously out of fear of violating F-1 visa restrictions.²¹¹

Educational stability will be addressed by this Act, as many international student-athletes face uncertainty while in the United States on an F-1 visa.²¹² Understanding that any minor error can lead to the revocation of their F-1 visa, these athletes must walk on eggshells to ensure visa compliance.²¹³ The Act allows these international student-athletes to solely focus on their academics and athletic careers without worrying about possible deportation for minor visa violations.²¹⁴ By establishing clearer and more

205. *See id.*

206. *See supra* Section III.A (explaining the purpose behind the Act).

207. *See* Olivia Chen, *What Small-Business Owners Need to Know About NIL Sponsorships*, CHRON. (Mar. 7, 2024), <https://www.chron.com/business/personalfinance/article/what-small-business-owners-need-to-know-about-nil-18710534.php> [<https://perma.cc/PG3S-DABG>] (noting that the average NIL deal ranges from \$228 to \$10,000 and that many deals are “small-dollar deals” often involving local businesses like restaurants and apparel stores).

208. *See supra* Section III.A (stating the function of the Act).

209. *See generally* Tom Harvey, *Tax Guidance for Foreign Student-Athletes in U.S. College Sports*, GROSSMENDELSON, <https://www.gma-cpa.com/blog/tax-guidance-for-foreign-student-athletes-in-u.s.-college-sports> [<https://perma.cc/7HJV-N6ED>] (last visited Mar. 24, 2026) (highlighting the unique challenges international student-athletes face).

210. *See supra* Section III.A (noting how international student-athletes will receive equal treatment).

211. *See supra* Section III.A (stating how the Act will remove barriers); *supra* Part II (discussing the current state of visa restrictions).

212. *Compare supra* Section III.A (noting the benefits of the Act), *with* Harvey, *supra* note 209 (discussing the risks and challenges for international students in American collegiate sports).

213. *See* Logan Steele, *NCAA NIL for International Athletes: Key Challenges, Opportunities, and Legal Barriers*, *International NIL Rules*, 2ADAYS (Mar. 4, 2025), <https://www.2adays.com/blog/ncaa-nil-for-international-athletes-key-challenges-opportunities-and-legal-barriers/> [<https://perma.cc/8LAU-EF9B>].

214. *Compare supra* Section III.A (discussing how the Act aids international student-athletes), *with* Steele, *supra* note 213 (noting how receiving NIL payments may violate F-1 visas).

practical compliance procedures, the proposal would reduce early departures caused by avoidable immigration issues or visa violations.²¹⁵

By aligning immigration law with the NCAA's modern compensation framework, the Act ensures that international student-athletes will be recruited, compete, and earn on equal terms with their American peers.²¹⁶ The proposed legislation promotes fair competition, expands NIL opportunities across all sports, and increases educational stability that allows every student-athlete to succeed academically and athletically.²¹⁷

2. *The Proposed Legislation Will Allow Colleges to Grow Their Brands Domestically and Internationally*

The proposed legislation will likely require a reorganization of staff within athletic departments of NCAA institutions due to the requirements of the amended P-1 visa.²¹⁸ Colleges will likely have to add an immigration law expert into their staff to ensure that all international student-athletes are complying with visa restrictions.²¹⁹ While the colleges may have some complaints due to the increased burden on their athletic departments, the Act is largely a beneficial proposal for these institutions.²²⁰ Firstly, the athletic departments of each respective university will likely note the benefit it serves them in regard to recruiting these international athletes.²²¹ In every recruiting cycle, there are international, and domestic, athletes who opt to play their respective sport abroad.²²² Whether it be in Europe, Asia, or Australia, these athletes primarily select these locations because of the opportunity to earn money for their talent—an option currently not available for them at American universities because of the current state of the F-1 visa and the pending litigation regarding the P-1 visa.²²³ If universities are able to successfully recruit more international student-athletes, these athletes can better their respective sports teams which will, in turn, increase revenue.²²⁴ In *Alston*, the Supreme Court emphasized that universities benefit from

215. See *supra* Section III.A (listing out clear requirements).

216. See *supra* Section III.A (proposing legislation); see also *supra* Part II (discussing the modern NCAA compensation framework).

217. See *supra* Section III.A (outlining legislation that will expand NIL opportunities for international students).

218. See *supra* Section III.A (proposing legislation that would change P-1 visa requirements).

219. See *supra* Section III.A (outlining the proposed visa requirements).

220. See *supra* Section III.A (proposing legislation that will require more of the colleges).

221. See Nat'l Collegiate Athletic Ass'n v. *Alston*, 594 U.S. 69, 75 (2021).

222. See generally Jonathan Givony, *LaMelo Ball Commits to Play in Australian NBL*, ESPN (June 17, 2019, at 13:10 ET), https://www.espn.com/nba/story/_/id/26994195/lamelo-ball-commits-play-australian-nbl [https://perma.cc/9MXM-QJBM] (showing the ability of young athletes to go abroad instead of competing in NCAA competition).

223. See *id.*; *supra* Section II.E (discussing the issues with House Bill 7982).

224. See Doug J. Chung, *How Much Is a Win Worth? An Application to Intercollegiate Athletics*, 63 MGMT. SCI. 548, 561 & n. 19 (concluding that a football win can cause increases in revenue for a school).

international athletes because they “leverage sports to bring in revenue, attract attention, boost enrollment, and raise money from alumni.”²²⁵ This was made apparent when looking at the number of applications the University of Texas at Austin, who was experiencing success on the football field, received in 2025.²²⁶ By encouraging increased recruitment of international student-athletes and implementing a legal framework to help justify such recruitment, universities will benefit in ways Justice Gorsuch described in *Alston*.²²⁷ Therefore, this amended legislation will allow universities to benefit in various ways by providing a better team and better athletes, which can lead to more revenue, better competition, and more donations from alumni.²²⁸

3. The NCAA Can Further Foster Equality with the Proposed Legislation

Prior to the *Alston* decision, the NCAA was faced with issues directly stemming from the lack of regulation specifically pertaining to paying athletes.²²⁹ Some universities were caught paying players—either directly or indirectly—in order for them to attend their institution and participate in their athletic programs.²³⁰ This was a widely accepted phenomenon among athletic departments within the NCAA.²³¹ While there has been no public reprimand against any particular institution or player, general counsels of universities suspect that those past methods of paying athletes are still occurring during the recruitment of international student-athletes.²³² The proposed Act will stop hidden, under-the-table methods which the NCAA has tried to eradicate since its inception.²³³

225. *Alston*, 594 U.S. at 75.

226. *Demand Soars as UT Shatters Record for Freshman Applications*, UNIV. OF TEX. AT AUSTIN: UT News (Dec. 6, 2024), <https://news.utexas.edu/2024/12/06/demand-soars-as-ut-shatters-record-for-freshman-applications/> [https://perma.cc/5TE5-X8ZE].

227. *See Alston*, 594 U.S. at 75–81.

228. *See id.*

229. *See supra* Part II (discussing the current state of college athletics).

230. Dave Wilson, ‘Oh S---, Here Come All the Billionaires’: How SMU Came Back from the Dead, ESPN (Dec. 17, 2024, at 07:25 ET), https://www.espn.com/college-football/story/_/id/41136586/smu-football-acc-death-penalty-return-2024 [https://perma.cc/TX4A-77DF]; Paolo Uggetti, *Reggie Bush Sues USC, Pac-12, NCAA for NIL Compensation*, ESPN (Sep. 23, 2024, at 15:18 ET), https://www.espn.com/college-football/story/_/id/41402577/reggie-bush-sues-usc-pac-12-ncaa-nil-compensation [https://perma.cc/4AFS-YJ77].

231. *See Wilson, supra* note 230; Uggetti, *supra* note 230.

232. *See International Student-Athletes: Navigating the Conflict Between NIL Rules and U.S. Visa Restrictions*, LOWNDES (July 30, 2025), <https://www.lowndes-law.com/newsroom/insights/international-student-athletes-navigating-the-conflict-between-nil-rules-and-u-s-visa-restrictions/> [https://perma.cc/JF42-EDF3] (explaining that because the DHS provided “no such direction,” universities and collectives must navigate the murky waters of immigration law on their own, creating “substantial compliance challenges”).

233. *See supra* Section III.A (proposing legislation).

By passing the Act, the NCAA will essentially lose no influence or power in regards to their competitions or athletes.²³⁴ The proposed legislation will allow the NCAA to maintain control by still regulating NIL activities and increasing the level of competition in all sports, specifically those that have the most international student-athletes, such as men's and women's tennis or ice hockey.²³⁵

Like the colleges, the NCAA will benefit from having better athletes and better teams.²³⁶ The implementation of this proposed legislation will allow the NCAA to further grow its reputation from a domestically renowned entity to one widely respected throughout the world.²³⁷

4. *Expanding NIL Participation Strengthens Local and Regional Economies*

The proposed legislation will have a positive effect on local economies, specifically those surrounding small and mid-sized college towns which heavily rely on their local college to serve as the primary economic catalyst.²³⁸ College athletics already generate substantial regional revenue through athletics-based tourism, ticket sales, and alumni engagement.²³⁹ Most NIL endorsements stem from local sponsorships rather than national endorsements.²⁴⁰ Small, local businesses, such as restaurants, car dealerships, and university apparel stores, frequently contract with student-athletes to promote their business through a variety of events or social media posts.²⁴¹ With international student-athletes being able to participate in NIL through the proposed legislation, more local NIL deals will take place, which will boost local economies that already rely on their local college for economic stability.²⁴² For example, a star golfer from Lubbock, Texas—a college

234. See *supra* Section III.A (proposing legislation that will benefit the NCAA as well as the international students).

235. See *supra* Section III.A (outlining legislation that would benefit both the NCAA and international student-athletes); 2023 TRENDS, *supra* note 3.

236. See *supra* Section III.B.2 (discussing the impact of proposed legislation on colleges).

237. See *supra* Section III.A (proposing legislation).

238. See Christian Collins, *Local Budgets Are Desperate for College Football, but COVID-19 Is Blocking the Goal Line*, URB. INST. (Sep. 9, 2020), <https://www.urban.org/urban-wire/local-budgets-are-desperate-college-football-covid-19-blocking-goal-line> [<https://perma.cc/YL7N-JLMT>] (explaining that “[c]ollege towns rely heavily on college football” and that tourism creates economic activity in local stores, restaurants, and hotels); see also Kristina Butler, TECH UNIV. SYS. *Texas Tech University System Generates \$19.2 Billion Economic Impact in Texas*, TEX. (Mar. 26, 2025), <https://www.texastech.edu/stories/25-03-ttu-system-economic-impact.php> [<https://perma.cc/CL4N-P3QA>] (demonstrating the \$19.2 billion system-wide impact, confirming universities are major economic catalysts).

239. See Collins, *supra* note 238; Butler, *supra* note 238.

240. See Grutzik, *supra* note 63.

241. See *id.*

242. See Creighton Abrams, *College Football: A Touchdown for Local Economies*, THIS IS CAPITALISM <https://www.thisiscapitalism.org/blog/college-football-a-touchdown-for-local-economies> [<https://perma.cc/2U79-QL8J>] (last visited Mar. 24, 2026) (explaining “the multiplier effect” in economics, where new spending, like NIL money injected into a local economy, creates a cascade of spending that boosts local economies and revenue).

town—would attract community attention and could easily generate local advertising demand that would not be available under current F-1 visa restrictions but would be available under the proposed legislation.²⁴³

This proposal offers Congress an opportunity to modernize immigration law, something that has not been done in nearly four decades.²⁴⁴ By creating a pathway for international student-athletes to participate fully in NIL and revenue sharing, the United States would not only expand the amount of taxed income available to them and benefit the national economy, but also benefit local economies that largely rely on their local colleges.²⁴⁵ Congress has the ability to continue to reaffirm the United States’ status as the global leader in higher education and athletics by implementing equality into NIL and revenue sharing.²⁴⁶

C. The Implementation of the Proposed Legislation

Athletic departments and general counsels of NCAA schools will play a vital role in ensuring visa compliance by their student-athletes, which is not being done under the current state of affairs.²⁴⁷ Because the broadening of the P-1 visa requires schools to act as sponsoring institutions, much as a professional team would, it is essential that colleges add an immigration expert into their existing compliance teams.²⁴⁸ Fortunately, for many colleges, this infrastructure already exists.²⁴⁹

Under the F-1 visa, “designated school officials” (DSOs) act as oversight to ensure international students are complying with their visas, which will not change with the implementation of the proposed legislation.²⁵⁰ This current model would provide a strong foundation for the transition into the proposed legislation.²⁵¹ By international student-athletes obtaining P-1 visas, or professional athlete visas, rather than F-1 visas, also referred to as student visas, Congress would not be creating an additional compliance burden since most international student-athletes on P-1 visas would have previously had an F-1 visa before the implementation of the proposed legislation.²⁵² The additional immigration official would act as a liaison between the college’s DSOs and athletic department.²⁵³ General counsels and

243. See Collins, *supra* note 238.

244. See Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (1990).

245. See *supra* Section III.A (detailing the proposed legislation).

246. See *supra* Section III.A (introducing revenue sharing into the proposed legislation).

247. See *supra* Section III.A (implementing different visa provisions in the proposed legislation).

248. See *supra* Section III.A (broadening various visa requirements).

249. See 8 C.F.R. § 214.3 (2025).

250. See RAPP, *supra* note 169.

251. See *id.*

252. Compare *supra* Section III.A (proposing legislation), with RAPP, *supra* note 169 (noting the requirements already in place).

253. See *supra* Section III.A (detailing the proposed legislation).

athletic departments will work in tandem with DSOs to prepare visa applications for new and current international student-athletes, review NIL contracts, and ensure that all endorsements comply with regulations.²⁵⁴

By aligning oversight of the proposed visa with the existing DSOs structure, colleges would ensure that implementation is efficient.²⁵⁵ In their current states, colleges already possess the capability, both administratively and legally, to monitor immigration compliance.²⁵⁶ This reform simply expands the scope of general counsel and athletic department oversight to reflect the movement towards a professionalized collegiate environment.²⁵⁷

A potential concern under the proposed legislation would involve the intersection of NCAA competitions and participation in other professional or semi-professional events.²⁵⁸ For example, consider a collegiate golfer who is invited to play in a PGA Tour tournament—the highest level of golf in the world.²⁵⁹ While this opportunity demonstrates the athlete's success in their sport, questions may arise as to whether participation in the PGA Tour event constitutes employment outside the authorized scope of the proposed visa.²⁶⁰

The proposed legislation clarifies that participation in outside competitions, like the PGA Tour tournament in this case, does not violate the P-1 visa requirements so long as the athlete: (1) remains enrolled as a full time student; (2) maintains active membership on their NCAA team; and (3) receives compensation only within the restrictions placed by NIL or revenue sharing recognized by the NCAA.²⁶¹ This clarification allows the student-athlete to legally participate in outside professional events while complying with their P-1 visa requirements.²⁶²

IV. CONCLUSION

Without any reform to current immigration law, international student-athletes will remain in their current place—on a tier lower than their American peers.²⁶³ Justice Kavanaugh explained in *Alston*, “[t]he bottom line is that the NCAA and its member colleges are suppressing the pay of student athletes who collectively generate billions of dollars in revenues for colleges

254. See *supra* Section III.A (outlining the changes to the current legislation).

255. See RAPP, *supra* note 169.

256. See *id.*

257. See *id.*

258. See *supra* Section III.A (detailing the proposed legislation).

259. See, e.g., *How It Works: PGA Tour Status and Eligibility*, PGA TOUR, <https://www.pgatour.com/eligibility> [<https://perma.cc/3PMR-QZBQ>] (last visited Mar. 24, 2026) (describing the PGA Tour as the “premier meritocracy in professional sports” and the “highest level” of competition).

260. See *supra* Section III.A (discussing the proposed legislation).

261. See *supra* Section III.A (detailing the proposed legislation).

262. See *supra* Section III.A (setting out the proposed legislation which authorizes student-athletes to engage in certain activities).

263. See *supra* Part II (detailing the disadvantages that international student-athletes face).

every year.”²⁶⁴ For a group of athletes, nothing has changed except the legal vehicle that is suppressing them: immigration law.²⁶⁵

With the recent Supreme Court ruling, which essentially dismantled the idea of amateurism within the NCAA, it is imperative that the unjust treatment of international student-athletes is recognized.²⁶⁶ Over time, the NCAA has slowly swung from a completely amateur model to one congruent to professional sports.²⁶⁷ From President Roosevelt creating the NCAA out of the necessity of a governing body, to the implementation of NIL, the NCAA has accepted and welcomed the transition into a new era in its history.²⁶⁸ For international student-athletes, this has held very little significance due to the immigration barriers they must face.²⁶⁹ Now, the NCAA has done its own part, but immigration law must catch up to help these international student-athletes.²⁷⁰

The amendment to the P-1 visa will allow international student-athletes to participate in NIL and revenue-sharing activities in the same way that American student-athletes are able to.²⁷¹ The proposal clarifies the responsibilities on all parties involved, including the athletes, colleges, and the government, while also accounting for the use of the transfer portal becoming an important tool in collegiate athletics.²⁷²

Colleges will benefit from the proposed legislation as they will be more enticing to international athletes from a recruitment standpoint.²⁷³ As Justice Kavanaugh noted in *Alston*, these schools leverage athletics as a way to generate more revenue, popularity, and alumni engagement.²⁷⁴ The recruitment of more international athletes is not only likely to make their sports team more competitive, but it is also likely to expand that college’s brand to another country.²⁷⁵

264. Nat’l Collegiate Athletic Ass’n v. *Alston*, 594 U.S. 69, 110 (2021).

265. See *supra* Part II (highlighting the source of international student-athletes’ struggles).

266. See *Alston*, 594 U.S. at 69 (explaining how amateurism is not a viable model in modern collegiate athletics).

267. See *supra* Part II (noting the transition from the NCAA’s requirement that players be amateur to the system that mirrors professional sports).

268. *Alston*, 594 U.S. at 75–76.

269. See *supra* Section II.E (detailing congressional efforts to help international student-athletes benefit from revenue sharing).

270. See *supra* Section II.E (noting that there have been efforts to change the laws for student visas to help international student-athletes).

271. See *supra* Section III.A (setting out the terms of the proposed legislation).

272. See *supra* Section III.A (setting out the responsibilities of the athlete, the school, and the government).

273. See *supra* Section III.B.2 (providing a means for international student-athletes to be paid within the confines of their visa conditions).

274. Nat’l Collegiate Ass’n v. *Alston*, 594 U.S. 69, 76 (2021).

275. See *supra* Section III.B.2 (discussing the benefits that colleges might receive from the proposed legislation).

The NCAA will benefit from the proposed legislation due to the overall growth of the league as a whole.²⁷⁶ With the introduction of NIL, the hope of all parties under the NCAA was that every college would be on a level playing field, with no school breaking the rules to gain a competitive advantage.²⁷⁷ If immigration law remains the same and no change occurs to F-1 or P-1 visas, the idea of equality for all colleges within the NCAA will not be realistic if colleges can simply recruit international athletes with the intention of paying them under the table.²⁷⁸

Similarly, the economic impact of NIL endorsements on a national and local level will allow the federal government to gain large amounts of taxable income from the ability of international student-athletes to participate in NIL and revenue sharing.²⁷⁹ Local restaurants and stores that largely rely on colleges to boost the local economy will benefit from the expansion of NIL.²⁸⁰ Reform to the P-1 visa is necessary now.²⁸¹ Due to the novelty of NIL and revenue sharing, Congress must address this disparity before the issue grows.²⁸²

This Comment urges Congress to amend the existing P-1 visa into something that is more representative of the current state of collegiate sports. An amendment of the P-1 visa will return equality to the playing field.²⁸³ By modernizing immigration law to match the modernization in collegiate sports, fairness and equality for international student-athletes will follow.²⁸⁴

276. See *supra* Section III.B.3 (exploring how the NCAA will be able to further advance equality through the proposed legislation).

277. See *supra* Section III.B.3 (discussing how the proposed legislation will disincentivize under-the-table recruitment methods).

278. See *supra* Part II (mentioning the proliferation of under-the-table schemes used to pay athletes indirectly).

279. See *supra* Section III.B.4 (explaining that NIL participation of international student-athletes will provide economic benefits).

280. See *supra* Section III.B.4 (noting that the local economy will benefit from the proposed legislation because most NIL endorsements come from local sponsorships).

281. See *supra* Section II.E (detailing congressional efforts to address the issue which demonstrates a need for change).

282. Nat'l Collegiate Athletic Ass'n v. Alston, 594 U.S. 69, 74–81 (2021).

283. See *supra* Section III.B.1 (explaining how the proposed amendment would put international collegiate athletes on the same level as their American peers).

284. See *supra* Part III (discussing the proposed legislation and its benefits).