

Name, Image and Likeness: International Student-Athletes
Frequently Asked Questions
(November 6, 2024)

This document is intended to address some commonly asked questions about name, image, and likeness (NIL) opportunities for international student-athletes on F-1 visas.¹

Important Note: The Department of Homeland Security (DHS) has *not* issued any concrete guidance on the impact of NIL activities on a student-athlete's F-1 visa status. The immigration landscape in this area is very nuanced, constantly evolving, and subject to change with little notice. DHS' interpretation may ultimately differ from what is presented in the FAQs below, so international student-athletes will have to consider their own risk tolerance. This FAQ document is not personalized legal advice, and we strongly recommend that international student-athletes analyze each potential NIL arrangement on a case-by-case basis in consultation with their own attorney/advisors, the Office of Athletics Compliance, and the Center for International Services. As always, international student-athletes must ensure that they are not engaging in any activity that would risk their F-1 status, as impermissible activities could lead to severe penalties (see FAQ #1 below).

1. Does engaging in NIL activities violate an international student-athlete's F-1 visa status?

Likely yes, and this depends on whether the NIL activity is considered "employment" under U.S. immigration law. Employment is not permitted for F-1 visa holders except in very limited circumstances.² It must also be authorized through a student's Designated School Official (DSO) and/or U.S. Immigration and Citizenship Services (USCIS).

Important Note: If the NIL activity is considered impermissible "employment," this type of violation can have serious consequences, including (i) termination of the international student-athlete's F-1 visa status requiring the student-athlete to leave the United States immediately, (ii) preventing eligibility for future U.S. immigration benefits, including travel to the U.S. for business and/or pleasure, and (iii) impeding future employment prospects in the U.S.

2. What constitutes "employment"?

Under U.S. immigration law, employment is generally defined as any (i) service or labor, (ii) performed within the U.S., (iii) for wages or other compensation.

3. What constitutes "service or labor" in the context of NIL?

If an international student-athlete is required to perform any action in the U.S., *no matter how small*, in order to receive compensation under a NIL arrangement, it would likely be considered impermissible employment. Examples of such actions include, *but are not limited to*: personal appearances, signing autographs, promoting or selling products/services (or discount codes), participating in camps/clinics, recording TV commercials or radio advertisements, participating in photoshoots, posting on social media, reposting or "liking" someone else's post, doing a podcast, providing private lessons, or entrepreneurial activities.

4. What does "compensation" mean in the context of NIL?

Compensation is broadly defined and includes cash, products, discounts, receipt of services (e.g. haircuts, flights, etc.), an ownership stake in a business, *or any other benefit*.

¹ F-1 is the most common visa status for international student-athletes for purposes of entering the United States to study.

² See FAQ #7.

5. May an international student-athlete engage in *passive* NIL activities and receive *passive* income?

“Passive” income refers to earnings an athlete receives without actively working in the traditional sense. For example, passive income can include brand licensing, royalties and commissions from marketing links. These “passive” income opportunities are typically not considered employment under U.S. immigration law and are therefore generally permissible. In the NIL context, examples of passive opportunities may include: opting in to NIL licensing arrangements for video games, jerseys, etc., and allowing a company to use an *already existing* image or video of an international student-athlete in a commercial or on a billboard.

Important Note: It is crucial to examine whether a NIL arrangement requires an international student-athlete to perform some (even a tiny) action (within the U.S.) in order to receive payment or another benefit. If yes, this would likely be considered “active” income (i.e., employment) and a violation of the student-athlete’s F-1 visa status. If, however, the NIL arrangement does not require the international student-athlete to take *any* action, resulting in “passive” income, then it is likely not a violation. To be clear, no action means no action – no social media post, no re-post of someone else’s social media post, no stopping by for a quick autograph signing, etc.

6. May an international student-athlete engage in NIL activities outside of the United States?

Yes, but carefully because there can be pitfalls. U.S. immigration restrictions are not applicable to international student-athletes when they are not physically present in the U.S. Thus, international student-athletes may engage in NIL activities outside the U.S. without jeopardizing their F-1 status so long as they comply with the laws of the country where the activity is performed.³

Important Note: For NIL activities to fall into this exception, the entire activity, from start to finish, would need to be completed outside of the U.S.

7. Are there any other ways for international student-athletes to earn income in the United States?

Yes, in very limited circumstances. The following are permitted under an F-1 visa:

- **On-campus employment:**⁴ Employment on the Syracuse University campus that is paid by Syracuse University (e.g. working at a dining hall, bookstore, etc.), up to a maximum of 20 hours per week.
- **Curricular Practical Training (CPT):** Employment authorization for “training” directly related to the student’s major area of study and is an integral part of the school’s established curriculum (e.g. Internship, Field Experience, Practicum, etc.).
- **Optional Practical Training (OPT):** Employment authorization for “training” before or after completion of the student’s degree in a position directly related to the student’s program of study.

Important Note: Generally, NIL activities will *not* fall within the categories above.

Disclaimer: *The information contained in this Frequently Asked Questions document is for the informational and educational use of members of the Syracuse University community only. The information included here is not intended as and cannot be construed as individual legal advice on any matter or for any purpose. Please also note that links contained herein may lead to servers maintained by persons, agencies, or organizations over which Fragomen has no authority or control and Fragomen makes no representations about the content of any material located on or through those servers. The links provided are intended for informational and educational purposes only.*

³ For example, if the activity takes place in Canada, the student-athlete would be subject to any applicable Canadian immigration and tax laws.

⁴ In rare instances, students may be eligible for less restrictive, off-campus employment specifically when experiencing an economic hardship or seeking special student relief due to emergent circumstances. In either instance, the off-campus employment must be verified by the DSO and entered into the Student and Exchange Visitor Information System (SEVIS). For further information, please visit <https://studyinthestates.dhs.gov/sevis-help-hub/student-records/fm-student-employment/f-1-off-campus-employment-and-international>.