



# Lost in Translation: Why Sport-based and Grassroots Activism May Be the Path to Equity in NIL Opportunities for International College Athletes

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International students have been tracked in U.S. higher education since 1924 (Witt, 2008). Today, nearly one million international students are studying at U.S. higher education institutions (HEIs), including more than 25,000 international college athletes (ICAs) who compete at National Collegiate Athletic Association (NCAA) member institutions (NCAA, 2023b). On July 1, 2021, the NCAA officially suspended its amateurism principle, and states began passing legislation to allow college athletes to monetize their Name, Image, and Likeness (NIL), bringing some closure to a more than a century-long debate over college athlete compensation (NCAA, 2021b). However, more than 25,000 NCAA ICAs are often left behind, unable to capitalize on most NIL opportunities due to work restrictions placed on F-1 student visas imposed by the Department of Homeland Security (DHS), the visas nearly all ICAs are granted (Witt, 2008). Although HEI administrators, athletics departments, and industry professionals have previously advocated on behalf of international students during the COVID-19 pandemic (Jordan & Hartocollis, 2020), there has been little effort to push for changes to visa restrictions that would provide ICAs equitable access to NIL opportunities, and more broadly, expand work-force experiences for international students. Therefore, the authors note the need for self-activism through a combined grassroots and sport-based model (Cooper et al., 2019) to achieve equitable and fair access to the workforce and NIL opportunities.

**Keywords:** athlete activism, international college athletes, NIL, international students, immigration policy and visa laws,



International college athletes (ICAs) are unique individuals with distinct national, racial, ethnic, religious, cultural, and social identities at U.S. higher education institutions (HEIs). They are full-time students who compete in institutional varsity athletic programs (Hong, 2018). In 1999, there were 3,515 ICAs enrolled at NCAA Division I (DI) institutions. By 2016, the number grew to 19,500 (NCAA, 2023b). Today, the total number of ICAs at NCAA member institutions of all levels (i.e., DI, Division II [DII], and Division III [DIII]) is roughly 25,000 and makeup nearly 13% of college athletes at the DI level (NCAA, 2023b). ICAs are a subgroup of U.S. higher education's vast number of international students who pursue higher education degrees in the U.S. in large numbers (Figure 1). According to U.S. News and World Report, more than one million international students enrolled at U.S. HEIs during the 2023-24 academic year (Durrani, 2023). Except for the 2020-2021 academic year, primarily defined by the COVID-19 pandemic, the number of international students has remained above one million and tripled over the last three decades (Bound et al., 2021). From the 2022-23 academic year to the 2023-24 academic year, the international student population saw a 12% growth, nearing pre-pandemic numbers and demonstrating the most significant single-year increase in 40 years (Durrani, 2023).

Although the number of international students, including ICAs, is back on the rise, the support, advisory, and administrative systems on campus and within U.S. policy do not adequately cater to this population. Restrictive visa and immigration policies allow international students to study in the U.S. but restrict their ability to work (Sethi et al., 2022). Conditional employment options like the Curricular Practical Training (CPT) and Optional Practical Training (OPT) that do exist for this population are highly scrutinized before approval by Designated Student Officers (DSOs) within international student services offices at HEIs (Cole & Maldonado, 2021). Both CPT and OPT are granted upon completion of additional paperwork and can only be pursued if one chooses to work in their field of study. OPT costs between \$400-600 and requires ICAs to navigate additional employment challenges before gaining approval based on their country of origin and visa type. This process adds complexity, restrictions, and financial burden on ICAs, with no guarantee regarding their ability to work in the U.S. as paid interns during enrollment or post-graduation. The lack of professional opportunities and experiences throughout their academic careers can make it challenging for this population to gain employment upon graduation in an already highly competitive workforce (Sethi, 2024). This issue is further complicated for ICAs, who are often limited even with CPT opportunities due to a nearly year-round training and competition schedule (Sethi, 2024).

One way that many college athletes have earned income made professional industry connections, and gained professional experience in marketing and personal branding has been through opportunities provided by the NCAA's suspension of the Amateurism Principle on July 1, 2021. This move allowed individual states to pass Name, Image, and Likeness (NIL) legislation, which allows college athletes to earn income and further develop professional networks even with the time limitations placed on them by full-time school and athletics (Sethi, 2024). However, due to the U.S. visa and immigration policies mentioned previously, ICAs are largely left be-

hind, primarily due to the employment restrictions placed on this population by their student visa status (USCIS, 2020). These employment experience options must be related to international students' academic degrees, eliminating the option to pursue NIL deals under these exemptions as the law currently stands (Sethi et al., 2022; USCIS, 2020).

Student visa and immigration policies have existed since 1965 and have, for the most part, only become more restrictive in the years since (South American Digital Archive, 2015). Renewed scrutiny over the provision of and restrictions on student visas occurred in the wake of the 9/11 terrorist attacks (Johnson, 2018; Urias & Yeakey, 2009). After the attacks, international student visa issuance became a part of the antiterrorism and immigration reforms undertaken by the Bush administration (Johnson, 2018). As part of the Enhanced Border Security and Visa Entry Reform Act of 2001 (EBVERA), student visas faced tighter restrictions and regulations, including some that the Donald J. Trump Administration would eventually use to attempt to prevent international students from remaining in the U.S. during the outbreak of COVID-19, in 2020 (ACE, 2020).

It was during the uncertainty of the COVID-19 pandemic that HEIs, college athletics departments, and related organizations came together to quickly and efficiently advocate on behalf of international students and their ability to remain on campus. Although NIL, unlike tuition dollars from international student enrollment, provides no direct monetary gains for institutions, these same HEIs, professional organizations, and intercollegiate athletics stakeholders must assume an advocacy role to fight for broader access to NIL opportunities for ICAs. These organizations can and should utilize their available capital to put pressure on the DHS, ICE, and federal lawmakers to move for the reformation of student visa policies or exempt categories for ICAs that will pave the way for this often-overlooked population (Lever, 2021b).

However, in the three years since the NIL floodgates opened, little work has been done by these institutions on behalf of ICAs (Sethi, 2024; Sethi et al., 2022). A limited number of workarounds have been explored by legal experts, compliance officers, and athletic departments, some of which are highlighted in Table 1.

Some institutions have worked to find passive income solutions – a way in which any international student can earn money without jeopardizing their immigration status (Jara-Pazmino, 2024). The idea of finding an on-campus employment workaround was also suggested by Solomon et al. (2022), although it is unknown if universities have put this theory into practice. Additionally, as shown in Table 1, many top DI institutions with resources to do so have deliberately scheduled pre-season trips and non-conference tournament play for sports, including men's and women's basketball, outside of U.S. jurisdiction to allow star international players the opportunity to engage in NIL deals (Krest, 2023). All of these, however, have been limited in scope and scale, and are not a practical reality for all athletic departments and/or ICAs due to resource limitations. Senators Pete Ricketts and Richard Blumenthal introduced legislation in October 2023 to add a sub-category to the F1 visa that would specifically allow ICAs to gain compensation from NIL (Ricketts,

2023). Congresswoman Valerie Foushee and Congressman Mike Flood introduced the House’s companion bill in April 2024 (Foushee, 2024). As of May 2024, neither bill has made it to the floor.

**Table 1**  
*Select examples of NIL earnings by ICAs*

Athlete	University	Sport	Description of Activity
Oscar Tshiebwe	University of Kentucky	Men’s Basketball	Completed NIL deals while on a team trip to the Bahamas, as work performed outside of the U.S. does not jeopardize student visa status <sup>a</sup>
Various	All	Football	College athletes can opt into EA Sports NCAA Football video game for the use of their likenesses. Because athletes simply grant the company rights to their NIL, this is considered passive income, which is allowed under F-1 visa guidelines.
Hansel Emmanuel	Northwestern State University/ Austin Peay	Men’s Basketball	ICA worked with immigration attorneys to attend college on an O-1 temporary work visa, which allowed him to earn NIL money because he received a different visa type that permits employment.
Zach Edey	Purdue University	Men’s Basketball	The team scheduled a game in Toronto, Canada (Edey’s home country), to allow him a few days to complete NIL deals while there.
Various	Various	Men’s Basketball/ Women’s Basketball	As reported in the North State Journal, in the summer of 2023, 59 women’s and 96 men’s NCAA DI basketball teams traveled abroad, with teams that traveled abroad averaging 2.5 ICAs, while those that did not travel abroad averaged 1.6. The University of Louisville women’s coach explicitly stated this was an NIL trip.

*Note.* Examples are abbreviated from Axson (2023), Christovich (2023), Krest (2023), Myers (2023), and Williams (2022).

*\*Some attorneys have argued that this poses additional issues, as other countries have their own work restrictions that ICAs may violate if working on foreign soil (Myers, 2023).*

This paper, therefore, argues the importance of activism by college athletes themselves to bring more widespread awareness to these inequities and push for amendments to F1 student visa restrictions. First, it will explore the history of international students and ICAs and how nationalistic politics have contributed to increasingly restrictive policies surrounding their employment. Then, by examining previous activism efforts by immigrant, student, and athletics groups, this paper aims to understand how collective action through those with a significant public platform – like college athletes – can lead to substantive change. Finally, we will utilize aspects of the college athlete activist framework developed by Cooper et al. (2019) to encourage both ICAs and their domestic peers to use their platforms to promote change by forcing institutions and government agencies to listen through both the grassroots and sport-based activist models. Without a broader public awareness and understanding of the issue or a willingness by institutions themselves to advocate, substantive change appears unlikely. Widespread activism by the college athletes themselves can, and for now, may be the only way to push for change and equity for ICAs, and perhaps international students in the U.S. writ large.

## Literature Review

### International Students in U.S. Education

The number of international students attending U.S. HEIs has been increasing for more than a century, with more than a quarter of all students globally who leave their home country for foreign education arriving at U.S. HEIs (Altbach, 2010). Therefore, any shift in U.S. student visa policies has global implications (Pottie-Sherman, 2018). International students prior to the COVID-19 pandemic made up around 5% of total enrollment for most states' college populations, totaling more than 1 million students and roughly \$2.5 billion in tuition dollars annually (Startz, 2020). That percentage dropped slightly to 4.6% in the wake of the pandemic. Once most HEIs returned to in-person classes in Fall 2021, there was a 68% increase in the number of new international students who enrolled for the first time after the 46% decrease for Fall 2020 (Saul, 2022). By the 2022-23 academic year, that number once again climbed above 1 million students (Durrani, 2023).

A global pandemic, however, is not the only thing that has shaped the number of international students studying at U.S. HEIs, nor their experience. Historically, the U.S. government has responded to foreign attacks or perceived threats from abroad with acts of exclusionary immigration policies, from the 1882 Chinese Exclusionary Act (Johnson, 2018) to Trump-era visa restrictions. However, changes to student visas over the last three decades have directly created specific employment exclusions that prohibit ICAs from fully participating in NIL activities today. As outlined below, in a select number of examples, political and social forces have routinely caused changes to visa and immigration policies and, thus, policies related to international students studying in the U.S. Although the actions that caused them, including terrorism and a global pandemic, may be extraordinary, the reactions to these events caused long-term, broad-reaching repercussions.

### *International College Athletes*

As the number of international students has broadly increased, so has the number of ICAs competing in NCAA athletics (NCAA, 2023a). Between 2015 and 2020, the number of ICAs competing in NCAA DI member HEIs increased by nearly 32% (NCAA, 2021d). While ICAs are represented across NCAA DI-sponsored sports, some are approaching or crossing the 50% mark, including men's tennis (64%), women's tennis (61%), women's ice hockey (41%), and men's ice hockey (38%), while sports including men's soccer, men's and women's golf, women's field hockey, and men's and women's water polo all at or above the 20% of participants mark (NCAA, 2023b). These numbers demonstrate the competitive (and financial) value ICAs represent for U.S. HEIs, whose numbers have also rebounded from the 2020-21 COVID drop, and now exceed 25,000 as of 2023 (NCAA, 2023a).

A vital factor to consider when studying the ICA population is that, while they are often lumped together as one singular group, they are incredibly diverse in terms of their race, ethnicity, primary language, and country of origin (Sethi et al., 2022; Sethi, 2024). Between 2017 and 2022, ICAs represented 207 different countries. This diversity dramatically impacts their collegiate experience and brings varied cultural, financial, and political capital complications to their transition to and experience at U.S. HEIs.

Additionally, while critics note that the vast majority of ICAs appear on rosters of non-revenue teams whose NIL value is significantly lower than that of revenue sports, both research (Kunkel et al., 2021) and anecdotal evidence (Sutherland, 2024) shows all college athletes have NIL earning potential, particularly with their social media platforms. According to reporting by Sutherland (2024), some of the top NCAA swimmers who work with Opendorse to obtain NIL deals charge upwards of \$1,000 for sponsored shoutouts or content on social media. Kunkel and co-authors (2021) analyzed the social media accounts of all athletes at four NCAA DI institutions (two categorized as Power 5, two mid-major). Their findings suggested that, on average, college athletes' value on social media was around \$5,000.

The ability to earn even a nominal income through NIL is not insignificant. Existing literature surrounding ICAs and their non-athlete international peers notes the perceived value of employment, networking, and financial support and resources while adjusting to life at U.S. HEIs. Pierce et al. (2011) found that ICAs from all countries, including those that are more culturally similar to the U.S. (e.g., Canada, the United Kingdom), had difficulty transitioning into colleges and universities when compared to the adjustment concerns experienced by their domestic peers. As a part of that adjustment struggle, Newell (2016) found, in response to a question about support services ICAs would like to see offered on campus, they were significantly more likely to indicate that additional merit-based scholarships would better assist their transition to college when compared to their domestic counterparts. While there may be a perception that DI college athletes receive full scholarships, that is only true for a limited number of sports and athletes, and many ICAs come to the U.S. to compete while paying at least part of their tuition (Coakley, 2017; Sethi, 2024).

That cannot be supplemented by additional scholarship monies from HEIs, as current visa restrictions prohibit ICA (and non-athlete) international students' access to merit-based scholarship dollars. Therefore, any access to additional money, even just a few hundred dollars from minimal NIL sponsorship deals, could assist with ICAs' financial ability to travel home or help parents travel to the U.S. (Sethi et al., 2022; Newell & Sethi, 2023; Sethi, 2024).

Another narrative consistent throughout ICA literature is that this population sees the purpose of their competing at NCAA institutions primarily as an academic one and that continuing to play the sport they love is a bonus (Jolly et al., 2023; Popp et al., 2011). Thus, some may argue that F1 visa employment restrictions – even the restrictions they create that bar ICAs from most NIL opportunities – are irrelevant, as ICAs have no interest in obtaining jobs while competing (Newell & Sethi, 2023). However, a critical understanding that arose from studies like Popp et al. (2011) is that while sport was a bonus to the educational opportunities U.S. intercollegiate athletics provides, the college experience was also a steppingstone into professional opportunities outside of sport, some of which can be stymied by the visa restrictions discussed previously. Additionally, a lack of access to these opportunities can be seen as harming their academic experiences and career preparedness. As NIL can provide athletes with valuable business connections and personal branding experience, ICAs are robbed of this opportunity, even as many indicate their desire to live and work in the U.S. post-graduation (Sethi, 2024).

Finally, ICAs have spoken out in the popular press about their dissatisfaction with being unable to monetize in the U.S. under NIL and the frustration of sitting idly by while teammates become some of the highest-paid athletes in sports (Sports Business Journal, 2021). Therefore, HEIs and athletics departments must provide more significant advocacy efforts to this exclusion, perhaps only spurred through greater ICA activism to give voice to this issue.

## **ICA Activism and Advocacy**

Aside from ICAs advocating for changes in visa laws that would permit them to engage broadly in NIL deals and activities, universities and local communities have economic incentives to keep international students overall in the U.S. to contribute to workforce development, particularly in underserved STEM fields (Peri & Basso, 2016). The lack of broad advocacy on behalf of ICAs, and thus international students, to amend F1 visa laws to allow more comprehensive access to professional development and work opportunities while enrolled at U.S. HEIs has been in contrast to the advocacy from higher education leaders in the wake of the Trump administration's policies directed at this student sub-population in 2020 (Sethi, 2024). Presently, the need to advocate for ICA NIL access is limited, particularly when it comes to HEI administrators and the NCAA. While NCAA President Charlie Baker has advocated for national-level laws and NCAA guidelines for NIL and has noted the need to make the current system more equitable for women's athletics (Lederman, 2023), he has not made any public statements about the need to enact change to include and fairly treat ICAs.



In a study on college athletics administrators' perceptions of the legal limitations of NIL and ICAs, Newell and Sethi (2023) found that most respondents were, for the most part, unconcerned with its impact on their athletic departments and teams. While one administrator quoted in their study noted that it was embarrassing that the industry was so focused on enabling NIL to come to fruition, there were no conversations with government stakeholders for guidance as to how this would impact the ICA population (Newell & Sethi, 2023). Though a few participants in the study noted that advocating for ICAs in the NIL space was necessary, the majority felt the earning potential of this population was too limited to be of any significant concern:

“International student-athletes are looking for the opportunity to leave their homelands and change their lives through a free education and a higher level of play that can prepare them to compete at the highest level as professionals when they return home. NIL would be icing on the cake, but most students are bettering their lifestyles by accepting a scholarship and living in the United States for 4-5 years” (Newell & Sethi, 2023, p. 352)

Given the lack of substantive advocacy efforts on behalf of the ICA population, it may, therefore, be critical and the only way to push for changes to the F1 visa program that allows the majority of ICAs to compete at U.S. HEIs today.

## **History of Student Visas in the U.S.**

The F-1 student visa was first established in the Immigration and Nationality Act of 1952. Still, in the nearly 75 years since, the visa has been through numerous revisions, and varying levels of scrutiny by the U.S. government have been seen (Ruiz, 2014). Although work restrictions on F-1 visa holders have existed since its conception, the oversight of this has changed substantially due to geopolitical changes, particularly since the 1990s (Ruiz, 2014). The 1993 World Trade Center bombing by a terrorist who was in the U.S. on an F-1 visa led to changes that would increase the tracking of international students (Allen & Bista, 2022). Then-President Bill Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 into law as a reaction to terrorism concerns, which mandated new documentation, tracking, and reporting of international students (Allen & Bista, 2022). This included the Student and Exchange Visitor Information System (SEVIS) for tracking international students in the U.S., though it was not utilized widely at the time. However, a more organized and government-level way of monitoring all activities of international students began at the turn of the 21st Century.

### ***Student Visas and 9/11***

Student visa issuance came under increased scrutiny once again in 2001 in the wake of the 9/11 terrorist attacks, and it was revealed that one of the 19 hijackers involved in the attacks entered the U.S. on a student visa (Johnson, 2018). In passing the Patriot Act, then-President George W. Bush called for an end to the “abuse of student visas” (U.S. Office of the President, 2001, para. 12). The events of 9/11 led to a complete overhaul of immigration policy in the U.S., including policy related to international students (Witt, 2008). However, some argue that the restrictions



placed on student visas in the months and years following the attacks have prevented legitimate students and scholars from entering and remaining in the U.S. (Urias & Yeakey, 2009).

Although Congress authorized SEVIS in 1996, it was only broadly implemented and utilized in the years following the 9/11 attacks (Mittelstadt et al., 2011; Witt, 2008). The system, which tracks international students studying in the U.S., had the participation of 10,293 schools and contained more than 8.1 million records as of 2010. This system tracks every student application and every student that enrolls (Witt, 2008). The system monitors international students' entry and exit from the country, course enrollment, address changes, and personal financial information. This rapid implementation led to delays in students' arrival in the U.S. and even the denial of visas to students who had previously been admitted to HEIs in the U.S. (Witt, 2008).

The most notable post-9/11 change to the student visa process was the transfer of student visa oversight from the Department of State (DOS) to the newly created DHS, signaling that the issuance of such visas was a matter of national security, not a matter of diplomatic relations (Urias & Yeakey, 2009). In doing so, the new multi-layered approach to security screenings, paperwork, and record-keeping means that international students are some of the most scrutinized and monitored nonimmigrants in the U.S. today.

### ***International Students in the Trump Era***

When the Trump administration took office in January 2017, roughly one million international students were studying in the U.S., contributing an estimated \$35 billion to the U.S. economy (Bhattacharyya, 2017). From the onset, there were concerns about the impact of the administration on international student enrollment, which had declined slightly between 2010 and 2015. When White House Press Secretary Sean Spicer announced the administration was considering an overhaul of the H-1B visa program, which allows employers to sponsor international employees and which many international students seek at the expiration of their OPT visa (Bhattacharyya, 2017). As such, many feel the increasing difficulty of obtaining approval for OPT and H-1B visas post-graduation has and will continue to impact international student enrollment at U.S. HEIs.

Researchers have noted that the 3% drop in enrollment in the first year after Trump could be based on several unrelated factors, including the increasing price of education in the U.S. (international students enrolled at U.S. HEIs often pay up to three times the amount in tuition as domestic students), increased global competition from institutions in other countries, and a decrease in scholarship dollars offered to this population (Laws & Ammigan, 2020). Although some noted there was a lack of progress made by the administration in its goals of overhauling immigrant visas, despite early setbacks, many of the changes proposed which impacted immigration were successful and may have impacted international student enrollment and the international experience on campus in a significant way (Pierce, 2019; Pottie-Sherman, 2018). Regardless of the actual policy implications, Laws and Ammigan (2020)

argued that the narrative developed and delivered internationally through the news media was enough to have an impact on international student enrollment, and feelings of whether or not attending a U.S. HEI would be a safe decision.

Although not explicitly tied to Trump administration immigration policies, in the wake of the COVID-19 pandemic and policies dictating whether international students could remain on U.S. campuses as education shifted online, the country saw a 45.6% decrease in new enrollments (Moody, 2021). Whether that enrollment shift was primarily due to COVID-19 or, more specifically, to concerns over whether or not students would be able to enter and exit the U.S. without getting stuck on one side of the border or the other, cannot be determined. However, like concerns from international students who got stuck in their home country after 9/11-era visa modifications by the Bush administration (Witt, 2008), students may have been alarmed by the Trump administration's initial reaction to ban international students from campus as education moved online.

On July 6, 2020, the Trump administration issued federal guidance that stated that international students attending U.S. HEIs would have to return to or remain in their home country if their university, as many did, decided to operate entirely online in the Fall 2020 semester (Treisman, 2020). The news came via ICE's Student and Exchange Visitor Program, which, as mentioned previously, tracks an extensive amount of international student data via the SEVIS system. The release by the department indicated that HEIs would have ten days after deciding on fall delivery modalities to update their information in SEVIS. By July 14, 2020, that decision had been reversed due to swift and concerted advocacy from HEIs on behalf of the international student population (Jordan & Hartocollis, 2020).

As reported in *The New York Times* (2020), just two days after the policy was announced by the administration, both Harvard and Massachusetts Institute of Technology filed lawsuits that sought to block the policy, which would strip visas from students who did not show up for in-person classes on campus. Those suits were joined by attorneys general from 20 states, along with countless other universities who put support behind the litigation to block the measure (Jordan & Hartocollis, 2020). Pressure on the administration came to a head when technology companies, including Google, Facebook, and Twitter, as well as 15 Republican members of Congress, came out with statements backing international students' right to stay in the U.S. amid the pandemic (Jordan & Hartocollis, 2020). This swift advocacy on behalf of international students by HEIs, lawmakers, and industry was successful in changing policy in less than ten days.

Although the Trump administration's changes to visa policies and subsequent response were more pressing in that they meant the potential deportation of thousands of international students from the U.S., it exemplifies the power of collective activism on behalf of this group. Indeed, international students themselves were concerned with the initial decision from ICE; however, as noted by Witt (2008), the ability of this vastly diverse group to collectively act in any quick manner is both complex and unlikely, making advocacy efforts from more politically influential groups like higher education administrators all the more critical.

## International Student Employment

The increasing number of international students, including ICAs, yet to promote change or reform in outdated immigration policies present in the U.S. Even today, F-1 student visa holders are only allowed to work 20 hours per week on campus during the academic year in positions that are not funded by Federal Work Study dollars (USCIS, 2020). During the summer, international students can work full-time but are still limited almost exclusively to those same on-campus opportunities (McFadden & Seedorff, 2017).

Additionally, international students who wish to complete paid internships or co-ops related to their program must get their CPT approved by the international student services office on campus (Sethi et al., 2022; Sethi, 2024; USCIS, 2020). This approval can only be used for employment purposes when the activity/internship being performed is aligned with or required for their academic degree/program, and standards for qualified experiences can be strict (USCIS, 2020). Otherwise, international students are denied the ability to gain any additional experience in the U.S. workforce, something that hinders their networking and social capital-building abilities (Sethi, 2024).

After graduation, international students still have severely limited opportunities due to visa restrictions and availability (Sethi, 2024). One of the most common employment options—OPT, allows international students, including ICAs, to find a job upon graduation in their area of study and work for up to three years in the U.S. while continuing to navigate a highly competitive workforce (Sethi et al., 2022). It should be noted that while students graduating from STEM-qualified programs can receive three-year OPT clearance, those in non-STEM fields are limited to single-year OPTs. The limited opportunities for career development throughout their education can put international students at a disadvantage in their search for OPT-qualified employment, as they may not have as well-developed networks as their domestic peers (Sethi, 2024).

This approach to international students is, in fact, rare. Other countries that receive international students are more likely to have two-step approaches to retaining these students in the workforce post-graduation, while pathways for international students to remain in the U.S. post-graduation are “akin to a labyrinth” (Pottie-Sherman, 2018, p. 34). As outlined in Table 2, Peri and Basso (2016) compiled the challenges international students face when attempting to work in the U.S. after graduation, which often requires the assistance of immigration lawyers – at their own expense – to navigate the process.

## *International College Athletes and NIL*

As of July 1st, 2021, the NCAA announced that all student-athletes will be able to monetize their NIL (NCAA, 2021a). However, based on the above discussion of international student visas and ICAs, only some college athletes can engage in NIL activities if their actions are in line with state, institutional, and/or conference laws and guidelines, as well as the NCAA’s pay-for-play regulations. Currently, these do

**Table 2***Labyrinthine visa options for F-1 visa holders*

Visa name	For whom	Description	Limitations	Time
F-1	Trainees	Optional Professional Training (OPT) in a career field	Wage disparities	12-36 months (depending on field)
H1-B	Specialty occupation	Employer-sponsored application	Subject to caps and lottery	3 years
E-1	Treaty trader	Broker trade between the U.S. and home country	Must be from a treaty nation	2 years
E-2	Treaty investor	Invest capital in U.S. business	Requires “substantial” cash; must be from treaty nation	2 years
L-1	Intracompany transfer	Temporary work assignments	Need a job at a multinational company	1 year
“Green Card”	Legal permanent resident	Family relationship, exceptional professional ability, or lottery	Wait time of up to 24 years based on nationality	Permanent

*Note.* International student visa options as adapted by Peri & Basso (2016). Data from *The Washington Post*.

not allow college athletes to engage in any form of extra benefits—gaining anything of monetary value without acting above and beyond regular athletic commitments, although, in practice, the enforcement of these restrictions is unclear (NCAA, 2021b).

College athletes can monetize their image through large-scale endorsements and professional contracts or, for most, opportunities to receive minor NIL deals through autograph signing, Instagram promotions, and TikTok videos, for example (Sethi et al., 2022). However, the NCAA and its member institutions did not consider the unique situation of ICAs. Almost 13% of the college athlete population, or over 21,000, cannot monetize on any NIL opportunities on U.S. land—where they spend at least ten months training and competing in their sport and pursuing their degree on an annual basis, bringing tuition dollars and athletic success to their home institutions.

According to U.S. federal tax and immigration laws, since ICAs can only earn income through official employment statuses like the OPT and CPT, on-campus em-

ployment, and passive sources of income while residing in the U.S. (USCIS, 2020), they are nearly excluded from NIL opportunities. Passive sources of income can include investing in the stock market, buying a house, or investing in a startup—all of which do not require any substantial actions other than the first capital investment (Sethi et al., 2022). While some universities have found ways to utilize the passive income status, the NCAA and federal lawmakers remain quiet in terms of the legality of such deals (Sports Business Journal, 2023). Popular NIL deals like sponsored social media posts, restaurant promotions, T-shirt deals, sports camps, or party appearances, amongst others, are prohibited for this population. Unfortunately, they only get to watch their domestic teammates and friends monetize on such financial opportunities and build professional and social networks with potential future employers.

Today, the only guidance provided by a federal agency to all international students and ICAs since the passing of NIL in July 2021 is as follows:

“[The Student and Exchange Visitor Program (SEVP)] continues to coordinate with its government partners, including U.S. Citizenship and Immigration Services, to assess the number of impacted students and whether regulatory guidance is required to address this and related issues. SEVP will continue to monitor current and pending state and federal legislation on this issue and will provide additional updates through Broadcast Messages, Study in the States, social media, and SEVP field representatives,” (SEVIS SysAdmin, personal communication, July 19, 2021).

Several federal agencies like the ICE, SEVIS, and the DHS continue to ignore this situation and provide no clear guidance and communication regarding this issue. At an institutional and departmental level, compliance officers and athletic administrators continue to refer ICAs to external immigration attorneys for advice or ask them to refrain from NIL to be safe due to the high level of uncertainty this situation holds (Compliance Officer, personal communication, October 26, 2021). Often, athletic departments do not work with ICAs to find a way. Thus, it clearly shows how U.S. HEIs need to prepare and/or are ignorant towards ICA integration but instead prefer assimilation (Sethi & Hextrum, 2024; Pericak et al., 2023). Expecting ICAs to pay for pursuing legal guidance while providing free guidance to their domestic peers further perpetuates discrimination towards this population (Sethi et al., 2022).

Furthermore, it hurts ICAs' finances even more since they are often unable to monetize on NIL deals but have to “navigate complex and conflicting state and federal bureaucracies” on their own. (Sethi et al., 2022, p.8). For example, ICAs must pay for their consultations with immigration attorneys to navigate the U.S. employment options, which can cost anywhere from 200-400 dollars per hour. They also must pay out of pocket for their OPT application closer to graduation to even attempt to find work, which costs between 500-600 dollars. Thus, ICAs experience additional challenges and have decisions to make—either follow the NCAA's NIL policy that allows “all” college athletes to monetize NIL and risk visa revocation from the U.S. or abide by immigration and tax laws and continue to stay to pursue academic and professional careers (Lever, 2021a; Sethi et al., 2022). These young individuals are often expected to navigate such complex and challenging times with little to no help.

Thus, it is time that athletic departments begin to examine and then invest in support services and professional development for ICAs instead of only recruiting them in high numbers for institutional athletic gain, winning championships, and generating additional revenue (Holman, 2007). However, it may be necessary for ICAs and allies to self-advocate in order to bring the issue to the forefront of an already crowded collegiate athletics landscape. Presently, based on the minimal media coverage this issue has received, and the perceived ambivalence of administrators through initial studies (Newell & Sethi, 2023), this activism could be the key to moving issues related to NIL disparities for ICAs forward.

### ***College Athletes as Employees***

Another factor that could impact ICA visas in the future is the growing movement to get college athletes classified as university employees so that they can gain labor compensation (Dickson, 2024). Specifically, in March 2024, the Dartmouth College men's basketball team – a roster featuring four ICAs – voted to unionize (Maynard Nexsen, 2024). This team, compared to other DI institutions, is in a unique position, as its conference, The Ivy League does not grant athletic scholarships, however, the implications could be far-reaching. While the Regional Labor Relations Board approved the vote to unionize, Dartmouth filed an appeal to the National Labor Relations Board (NLRB) to overturn this decision, citing precedent from a similar case when Northwestern University football players attempted to unionize in 2015 (Becker, 2024). Among the arguments the university brought forth is that ICAs reclassified as employees could lose their F-1 student visa status, particularly with the strict limitations provided for on-campus employment.

Similarly, in May 2023, the NLRB office out of Los Angeles filed a complaint against the University of Southern California (USC), the Pacific-12 (PAC-12) Conference, and the NCAA, claiming they violated labor laws by not classifying football and men's and women's basketball college athletes as employees (McCollough, 2023). The University of California – Los Angeles (UCLA) was also originally a part of the complaint but was dropped due to its status as a public HEIs.

Presently, attempts by students, non-profit organizations, and labor unions to advocate on behalf of college athletes' rights as employees have been limited to private institutions like USC, Northwestern, and Dartmouth, which are the only organizations with which the NLRB has purview (Becker, 2024). Previously, during the Northwestern case in 2015, the NLRB voted against the unionization attempt due to the athletics department's competition with public universities, over which they do not have purview, and the same case could be made for USC, which competes against mostly public HEIs. The Dartmouth case, however, is unique in that the entirety of the conference is comprised of private HEIs. With the NLRB ruling still forthcoming, the move by Dartmouth Men's Basketball is indicative of a growing call for college athletes to be classified and paid as employees of their respective institutions, which much of the discourse is led not by the institutions who are tasked with their well-being, but by the media and athletes themselves.

## **Immigration, Education, and Right to Work Activism**

Immigration is an integral part of the history of the U.S. from the Colonial period, when European immigrants colonized the native-inhabited North American lands, to today's intense political clashes over border security. Conflicting immigration narratives have been ever-present in the history of the country. Most recently, the crisis at the southern U.S. border, along with increasingly restrictive policies on immigration from some Middle Eastern and African countries, have dominated the news cycle, as have activist efforts to reform policy and ease the visa obtainment process, particularly for those seeking asylum (Reznick, 2022). In short, activism surrounding immigration is nothing new. To better understand the historical context of these efforts and to provide background and guidance on how ICAs can model future activist movements in alignment with Cooper et al.'s model of athlete activism, this section will look at specific activist movements that have involved diverse populations, collaborative efforts, and higher education to fight for immigration and/or labor reform.

### ***United Farm Workers***

Nearly 80,000 people of Mexican descent became U.S. citizens after the U.S.-Mexico War of 1846-1848, when much of the present-day American Southwest was annexed into the country from Mexico (Espinosa, 2007). Ever since, the population has led activist movements surrounding several issues, including immigration and workers' rights. Especially as the Latinx population in the U.S. continues to diversify – much like the ICA population – their education and grassroots-based activist efforts can be seen as a successful model for the ICA population in their quest for equal access to NIL opportunities.

In 1965, César Chávez and Dolores Huerta led and organized the United Farm Workers (UFW), a labor union whose activist activities included fighting for the rights of migrant workers from across the globe who found themselves in poor working conditions and severely underpaid across California (Rose, 1990). The activist strategies utilized by the UFW included utilizing the higher education experience held by leaders like Huerta to develop a robust political organizing group, which used resources to lobby for political change, something that will be necessary for ICAs in a push for changes in visa restrictions.

**Collaborative Efforts.** Within the UFW movement, collaboration with the Black Panther Party (BPP) in the city of Oakland was critical to activist efforts between 1968 and 1973 (Araiza, 2009). Although seemingly opposed in their strategies—the UFW being defined by its rural, Catholic, Mexican American membership focused on non-violent efforts, and the BPP comprised of urban, socialist, Black Americans utilizing more militant tactics—the organizations came together through their mutual oppression and class standing (Araiza, 2009). Although both of these organizations saw the path forward very differently and may have had more micro-level goals that differed significantly, their commonalities allowed them to come together as activists to fight for the underlying common need.



This collaborative model of activism is once again something ICAs can utilize in efforts to make their voices heard. ICAs represent the intersection of two much larger college populations: college athletes and international students. While the former holds more social capital in terms of exposure, working with both of these groups to increase the number of voices advocating for change could be crucial. Changes to the visa system, which dictates ICA's ability to capitalize on NIL, are the same that limit international students from many work opportunities during their time on campus. Additionally, domestic college athletes are some of the closest confidants of the ICA population. They are their teammates and see the competitive advantage these athletes bring to their sport. Utilizing these connections in a collaborative model like the UFW and Black Panther Party, along with harnessing the power of their personal platforms through sport-based activism (Cooper et al., 2019), could be beneficial in moving the conversation forward at a national level.

### ***DREAMers***

More recently, the so-called DREAMers, undocumented young people brought to the U.S. illegally by parents when they were too young to know they were breaking the law, have come out of the shadows and into the spotlight as they fight for a path to citizenship and access to higher education (Negrón-Gonzales, 2015). DREAMers are named for the Development, Relief, and Education for Alien Minors (DREAM) Act, a bipartisan bill introduced in 2001 by U.S. Senators Dick Durbin and Orrin Hatch (National Immigration Law Center, 2010; Ojeda & Takash, 2010). Although introduced in several subsequent iterations, the legislation has yet to pass. In 2012, then-President Barack Obama utilized the framework put forth by the DREAM Act and announced the Deferred Action for Childhood Arrivals (DACA) program by executive order, which has registered more than 700,000 undocumented youth (Rascón-Canales, 2024).

One of the main goals of activists involved with DREAM and DACA is to offer greater access to higher education and the workforce for these undocumented youth, who are, due to their legal status, barred from access to federal financial aid and sometimes in-state tuition benefits (Getrich, 2021). Although seeking access for different reasons, the cost of education and the need to supplement what is not covered by athletic scholarships is a reason ICAs have previously indicated additional income sources could be incredibly beneficial to their transition into U.S. sport and higher education (Newell, 2016).

What makes activist movements started by undocumented youth in the U.S. unique is the incredible diversity of backgrounds represented in this group, including not just those from Latin American and Caribbean countries but those from the African and Asian continents as well (Schwartz, 2015). Some estimates have shown that this group, made up of children and now young adults brought to the U.S. as children – sometimes called Generation 1.5 – includes around 2 million people (Burciaga & Martinez, 2017). Due to their similarities in age, diversity, and non-citizen identities, understanding the successful activist efforts of this group could be critical to ICAs

and international students starting a movement to advocate for equity in educational experiences.

Scholars have noted that DREAMers' methods of activism have varied over the years, particularly as the political environment shifted (Burciaga & Martinez, 2017). Although the Obama administration was able to provide DACA benefits via executive order to more than 800,000 young people from the population, the Trump administration attempted to dismantle the program in 2017 (Getrich, 2021). From 2017 to 2020, the status of DACA recipients remained in limbo, and activist efforts by this population themselves and their allies helped force a government shutdown and contested the legality of Trump's cancellation of the order to the Supreme Court, which eventually decided that DACA as it currently stood could not be dismantled (Department of Homeland Security et al. v. Regents of the University of California et al., 2020). Although the decision upheld DACA, many feel progress was diminished due to the political environment that changed immigration enforcement policies during the Trump administration (Coutin et al., 2017).

During this heightened period of activism between 2017 and 2019, DREAMers saw progress from their traditional activist movements, with 19 states passing tuition equity laws designed to provide in-state tuition to children illegally brought to the state (American Immigration Council, 2019). However, while the more traditional, public forms of activism were covered heavily in the press, this was not the only way DREAMers could push forth legislative change. Getrich (2021) explored how activists employed forms of both traditional (e.g., community-based, public, and collective) activism and more private everyday activism to help move the dialogue forward. These public-facing and everyday activism efforts explored by Getrich (2021) echo this paper's call for using both grassroots and sport-based activism (Cooper et al., 2019) to help bring attention to NIL disparities created by federal visa policies. However, as noted by Stokowski et al. (2023), public-facing activism, no matter the form, puts college athletes at risk for public criticism, and possibly a lack of public support by making their calls for increased compensation public. In exploring the benefits of both types of activism, ICAs, with potential support from their domestic college athlete and non-athlete international peers, could utilize both strategies, embracing the unique platform given to them as elite college athletes and using personal stories at a more grassroots level to explore their experiences as international students and athletes in the way DREAMers were able to do.

Getrich (2021) noted that while activism is traditionally linked to "public, explicit, explosive, and sometimes even glamorous elements of political life," everyday activism is much quieter and individualistic while still promoting the same political agenda (p. 29). Mansbridge (2013) identified everyday activism as "actions in everyday life that are not necessarily coordinated with the actions of others, but are nonetheless caused, inspired, or encouraged by a social movement and consciously intended to change others' ideas or behavior in directions advocated by the movement." (p. 1) Strategies linked to everyday activism, as they appeal to a segment of the DREAMer movement, could also benefit ICA activism, mainly based on their non-resident status and perhaps fear of retribution by speaking out or engaging in

protest in more public ways. Utilizing platforms on college campuses or in other community safe spaces, ICAs, as DREAMers have, can share their personal experiences as testimony to help put a human face to the issue and show how the inequities impact the individual.

What helped make the DREAMer movement successful was its ability to emerge in a politically unfriendly environment for immigrants as a unified group with a distinctive voice and common agenda (Nicholls, 2013; Patler, 2018). For more than a decade, DREAMers kept the issue of their rights as undocumented people who had not explicitly chosen to come to the U.S. on their own in the foreground, even as the bipartisan legislation created to protect them continuously failed (Abrego, 2018). Through this “mixed methodology” of activism, employing both traditional and everyday activist strategies, the DREAMer movement has remained in the public eye as needed. Though the group has yet to achieve the ultimate goal of codifying DACA into U.S. law, substantial progress has been made even in a politically hostile environment to enact significant change. By adapting similar strategies, ICAs and their allies could increase public understanding of the inequities regarding their right to work and NIL and the potential for substantive legal changes. For this, however, ICAs, more specifically, will have to show courage and move beyond their fears related to potential immigration consequences. Fighting for one’s rights and fairness has seldom led to immediate deportation without cause of immigrants in this nation—it just remains an authoritative image portrayed by USCIS due to the power this office holds in the lives of immigrants.

### ***Grassroots and sport-based activism as a model***

As previously mentioned, the authors contend that a way forward for ICAs could include a combination of grassroots and sport-based activism (Cooper et al., 2019) through ICAs can help raise awareness not only of their exclusion from NIL opportunities but also of broader visa issues concerning all international students. Grassroots activism refers to “counter-hegemonic actions performed at the meso- and micro-level by activists, including individual relationships, community engagement, and statewide and association-wide efforts both within and beyond sport (Cooper et al., 2019, p. 170). Specifically, the idea of grassroots activism is applied to Colin Kaepernick’s protests focused on the injustices facing oppressed Black Americans and his subsequent Know Your Rights Camp, which has specific goals related to empowering would-be activists directly connected to the systems being challenged. Because NIL’s exclusionary nature is not tied to rules created by the sport organizations themselves but to the DHS and federal government visa policy, actions that specifically lobby for these governmental organizations for change are necessary.

Despite the actual exclusionary policy being in the hands of the federal government, not the NCAA or HEIs, sport-based activism, in tandem with grassroots activism, is likely necessary to gain broader advocacy on behalf of ICAs. According to Cooper and co-authors (2019), sport-based activism “refers to specific actions taken by athletes to alter and mitigate the hegemonic nature of structural arrangements, rules/policies/bylaws, and practices through sport organizations that serve

to reinforce subordination, marginalization, and exploitation of certain groups,” (p. 172). As noted previously, widespread advocacy on behalf of both ICAs and international students more broadly was exercised in 2020 when the Trump administration attempted to bar international students from remaining in the U.S. while a great majority of HEIs took education at least partially online (Moody, 2021). This brisk, concerted action led to quick changes that allowed this population to remain in the country throughout the pandemic without compromising their F1 visa status. As such, sport-based activism utilized to mobilize the intercollegiate athletic and higher education administrative community will be helpful and likely necessary to achieve meaningful change, especially in the lives of ICAs.

Based on the criteria presented by Cooper et al. (2019), activism should include (1) a clear opposition, (2) concrete disruption and challenging, (3) specific goals and objectives to assess progress, (4) a connection to broader social justice movements (p. 155). Connecting this to the issue at hand, ICAs’ near-exclusion from NIL opportunities, as well as the broader exclusion of international students in many career development and employment opportunities, have clear opposition in the federal government agencies that develop and maintain visa policies. They require concrete disruption of the existing structures in place, with the specific goals and objectives of changing the F1 visa policy to allow ICAs to freely participate in NIL activities and opportunities, especially on U.S. land.

Finally, all of these issues connect concretely to broader immigration and right-to-work concerns, especially considering that DREAMers and DACA students are considered by all counts in higher education to be part of the international population. Although the international student non-athlete population is undoubtedly greater than the ICA population, the unique platform ICAs are granted through their participation in sport – some on elite teams that earn media attention via championships and other high-profile performances – could be critical to spotlighting broader student visa concerns. As Witt (2008) noted, international students, while a growing population, are still a relatively small minority compared to the overall student population, and they come from various cultural backgrounds with countless languages spoken. The author noted these factors, coupled with the fact that visa issues are often dealt with for no more than a few years, make it unlikely that this cohort will unite and protest the policy changes. Instead, Witt (2008) noted the importance of institutions themselves advocating on behalf of this group. Therefore, we conclude that coupling grassroots activism by ICAs and sport-based activism, can gain adequate support from institutions. It is the best path forward to lobby for substantive immigration policy and visa changes.

## **Conclusion and Recommendations**

International students and ICAs are vital parts of U.S. HEIs. and the workforce. Estimates range widely depending on the year, but all show that international students contribute anywhere from \$22-41 billion annually to the American economy (Bhattacharyya, 2017; Hegarty, 2014). Graduates, particularly in the STEM fields,

provide much-needed expertise in areas of the workforce where the U.S. does not have and needs a sufficient number of qualified, skilled workers (Schuck & Tyler, 2010). In addition to their contributions to the economy at large, the income institutions generate via international tuition dollars is significant (Hegarty, 2014), especially as American HEIs broadly struggle with dwindling enrollment and financial concerns (Saul, 2022). In athletics, sports like tennis, in which more than 60% of the participants are ICAs (NCAA, 2023b), rely on the flow of foreign recruits to sustain programs and maintain success.

On a multitude of levels, preserving and growing international student (and ICA) enrollment, persistence, and cultivating workforce opportunities post-graduation for these groups is vital. Continuing restrictive visa practices will not sustain that growth and retention. Although NIL is still relatively new to the collegiate athletics landscape, and it remains to be seen how the NCAA will codify its existence in the long term, the time for advocacy on behalf of ICAs and activism by ICAs is now. While individual administrators may take issue with this exclusion or are in small numbers advocating on behalf of ICAs, there is no widespread, concerted effort to do so. As noted by the administrator in the study, so much was done on behalf of the NCAA to prevent NIL from becoming a reality, and little to no thought was given to the implications on subpopulations like ICAs. This lack of advocacy on their behalf necessitates future activist action by ICAs themselves to bring attention to their exclusion.

Although specific types of activism have been advantageous for the UFW and the DREAMers, similar benefits could extend to ICAs, provided they and their supporters actively participate in advocacy and activism initiatives. Recognizing the absence of significant activism and lobbying from major sports bodies such as the NCAA, conference offices, and individual member institutions, ICAs, akin to the DREAMers, must engage in daily activism by expressing their viewpoints and experiences regarding the unjust and unequal treatment they face. By narrating their personal stories as evidence, they can effectively demonstrate the personal and professional effects of these disparities. Increasing awareness within the community and among those interacting with this demographic and concerned about their development can highlight their exclusion from NIL rights and encourage HEIs and their stakeholders to support equitable policies.

As seen with the DREAMers, immigrants, including ICAs, who organize collectively with a coherent message and shared goals, may exert more significant influence and increase awareness among decision-makers (Nicholls, 2013; Patler, 2018). This collective action can prompt HEI staff and stakeholders to pressure the NCAA to engage in lobbying efforts to push for policy change of the F-1 visa overall or demand an ICA-specific waiver from the USCIS that allows them to monetize their NIL on U.S. land. Furthermore, institutions already advocating for ICAs through without the push from the NCAA, the governing body of collegiate sports, can leverage their relationships with Congress and policymakers to seek immigration reforms specifically benefiting international students, aiming to improve fairness and equality in ICA treatment in the U.S. as it relates to immigrant student employment policies.

Following the models of the UFW and the Black Panther Party, sports organizations like the NCAA, including its members and ICAs, can adopt a cooperative approach to activism that serves mutual interests in the long run.

### Authors' Note

This manuscript was originally written in the Fall of 2022 in a much different political environment for international college athletes and immigration policy and enforcement. Given the current administration's record of revoking student visas for students' political beliefs and/or participation in activism, the authors would not recommend front-facing activism like that of DREAMers as discussed in this piece. We are hopeful that moving forward, this type of activism will be possible for ICAs again.

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