

Memorandum

TO: Richard T. Cassidy, Chair, Scope and Program Committee

FROM: Dale G. Higer, Chair, Study Committee on Amending the Uniform Athlete Agents Act

DATE: December 4, 2012

SUBJECT: Report of Study Committee

During the Mid-Year Meeting of the Scope and Program Committee, consideration was given to whether to study the need for and feasibility of amending the Uniform Athlete Agents Act. A copy of the proposal to Scope is attached. After a very thorough discussion, there was a consensus on the Scope and Program Committee that the evolving nature of the athlete agent problem, coupled with a decade of experience with the UAAA, indicated that a formal review of the Act's provisions was merited and Scope recommended that a study committee be formed. The resolution approved by the Executive Committee provided:

RESOLVED, that a study committee be formed to study the need for and feasibility of amending the Uniform Athlete Agents Act.

A study committee was appointed by President Michael Houghton. An organizing conference call of the committee was held on May 7, 2012. Among other things, the committee reviewed the issues identified in the proposal to Scope and agreed all of them should be reviewed and considered by the committee. The committee recommended that an in person stakeholders meeting this fall would be helpful to the work of the committee.

During the summer, John Sebert and Nicole Julal, with help from Edgar Burch, the NCAA's Assistant Director of Government Relations, compiled a stakeholders list comprised of nearly forty individuals from a wide range of organizations involved in or interested in the UAAA and its successful enforcement. A copy of the current stakeholders list is attached.

A stakeholders meeting was held in Washington D.C. on November 1, 2012. Thirteen individuals attended in person and nineteen participated by phone. A copy of the issues memorandum sent out for the meeting and a report of the meeting are attached.

The following issues were discussed at the stakeholders meeting:

Whether undertaking a revision of the Uniform Athlete Agents Act would be useful?

If so, what issues might a revision of the act address (referring initially to the issues listed in the issues memo), are there issues there listed that should not be addressed in a revision, and are there additional issues that should be considered for inclusion in an act?

What might be sources of support for or opposition to the ULC's revising the UAAA and seeking to have it enacted in the states?

Would you or your organization be willing to participate actively in a drafting project if ULC were to undertake a revision of the UAAA?

During the meeting, each of the issues on the "issues memorandum" was discussed in detail. The stakeholders unanimously agreed that the UAAA should be revised, that the definition of "athlete agent" needed to be revised and that the registration system needed to be worked on, including the possibility of a national registration system. As to surety bonds, there was a split between the agents and those who enforce the law, the agents saying the costs of surety bonds are prohibitive and the attorney general representative saying bonds were not too expensive. There was no consensus on whether an agent should notify an institution before contact is made with an athlete at the institution. The coaches felt notice was important and the agent representative saying notification is too burdensome. A representative from the NCAA said it is difficult to enforce this requirement. There was a split on whether an agent should represent a coach and an athlete at the same school. There appeared to be consensus that developing a mechanism for broad and consistent enforcement of the Act's provisions remains a major problem. Many noted that the criminal sanctions in the Act are unlikely to be enforced with any consistency because law enforcement is realistically not able to devote scarce enforcement resources to enforcement of the UAAA.

As noted above, at the end of the meeting there was a consensus that the ULC should undertake a revision of the UAAA. All participants indicated that they or their organization would participate actively in any project to revise the Act. Since its adoption in 2000, the UAAA has been adopted by forty-three states. However, since its adoption, Montana has repealed the Act and several states have amended the Act. In 2011, amendatory bills included: amendments to the definition of "athlete agent" to specify runners, include financial advisors, and focus on certification by professional sports associations; clarified or enhanced investigatory/regulatory power and enforcement authority, and increased penalties; amendments to registration content requirements and notification of changes, litigation, etc.; surety bond requirements for agents and notification prior to contact with student athletes. These amendments are making the adopted uniform acts non-uniform and provide a compelling reason why the Act should be revised now. The NCAA would like to move the process forward as quickly as possible.

As indicated above, the participants in the Study Committee Stakeholders meeting on November 1 unanimously said they would participate in the process. Given the success of the Act to date and the involvement of numerous organizations in the revision process,

it is believed the resulting product will be widely received and adopted. In addition, John Sebert and Dale Higer have already started exploring sources of financing this project.

On December 4, 2012, the Study Committee met by conference call, discussed the Stakeholders meeting report and this report and recommended that a drafting committee be created to review and revise the Uniform Athlete Agents Act.