

D R A F T

FOR DISCUSSION ONLY

REVISED UNIFORM ATHLETE AGENTS ACT (2015)

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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REVISED UNIFORM ATHLETE AGENTS ACT (2015)

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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June 4, 2015

REVISED UNIFORM ATHLETE AGENTS ACT (2015)

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1 anticipation of:

2 (I) representing the athlete for a purpose related to the athlete's
3 participation in athletics;

4 (II) serving the athlete in an advisory capacity on a matter related
5 to finances, business pursuits, or career management decisions; or

6 (III) managing the business affairs of the athlete by providing
7 assistance with bills, payments, contracts, or taxes; and

8 (B) does not include an individual:

9 (i) acting solely on behalf of a professional sports team or organization; or

10 (ii) who is a licensed, registered, or certified professional and offers or
11 provides services to a student athlete customarily provided by members of the profession, unless
12 the individual:

13 (I) also recruits or solicits the athlete to enter into an agency
14 contract;

15 (II) also, for compensation, procures employment or offers,
16 promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or
17 member of a professional sports team or organization; or

18 (III) receives consideration for providing the services calculated
19 using a different method than for an individual who is not a student athlete.

20 (3) "Athletic director" means the individual responsible for administering the overall
21 athletic program of an educational institution or, if an educational institution has separately
22 administered athletic programs for male students and female students, the athletic program for
23 males or the athletic program for females, as appropriate.

1 [(4) “Commission” means the Commission on Interstate Registration of Athlete Agents.]

2 [(5) “Compact” means the Interstate Compact for Registration of Athlete Agents.]

3 (6) “Contact” means communication, direct or indirect, between an athlete agent and a
4 student athlete to recruit or solicit the athlete to enter into an agency contract.

5 (7) “Educational institution” includes a public or private elementary school, secondary
6 school, community college, college, and university.

7 (8) “Endorsement contract” means an agreement under which a student athlete is
8 employed or receives consideration to use on behalf of the other party any value that the athlete
9 may have because of publicity, reputation, following, or fame obtained because of athletic ability
10 or performance.

11 (9) “Enrolled” means registered for courses and attending athletic practice or class.
12 “Enrollee” has a corresponding meaning.

13 (10) “Intercollegiate sport” means a sport played at the collegiate level for which
14 eligibility requirements for participation by a student athlete are established by a national
15 association that promotes or regulates collegiate athletics.

16 (11) “Interscholastic sport” means a sport played between educational institutions that are
17 not community colleges, colleges, or universities.

18 (12) “Licensed, registered, or certified professional” means an individual licensed,
19 registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real
20 estate broker or sales agent, tax consultant, accountant, or member of a profession, other than
21 that of athlete agent, who is licensed, registered, or certified by the state or a nationally
22 recognized organization that licenses, registers, or certifies members of the profession on the
23 basis of experience, education, and testing.

1 (13) "Person" means an individual, estate, business or nonprofit entity, public
2 corporation, government or governmental subdivision, agency, or instrumentality, or other legal
3 entity.

4 (14) "Professional-sports-services contract" means an agreement under which an
5 individual is employed as a professional athlete or agrees to render services as a player on a
6 professional sports team or with a professional sports organization.

7 (15) "Record" means information that is inscribed on a tangible medium or that is stored
8 in an electronic or other medium and is retrievable in perceivable form.

9 (16) "Recruit or solicit" means attempt to influence the choice of an athlete agent by a
10 student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not
11 include giving advice on the selection of a particular agent in a family, coaching, or social
12 situation unless the individual giving the advice does so because of the receipt or anticipated
13 receipt of an economic benefit, directly or indirectly, from the agent.

14 (17) "Registration" means registration as an athlete agent under this [act].

15 (18) "Sign" means, with present intent to authenticate or adopt a record:

16 (A) to execute or adopt a tangible symbol; or

17 (B) to attach to or logically associate with the record an electronic symbol, sound,
18 or process.

19 (19) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
20 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
21 the United States.

22 (20) "S Student athlete" means an individual who is eligible to attend an educational
23 institution and engages in, is eligible to engage in, or may be eligible in the future to engage in,

1 any interscholastic or intercollegiate sport. The term does not include an individual permanently
2 ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

3 **Comment**

4 Only individuals are within the definition of “athlete agent” and therefore required to
5 register under Section 5. Corporations and other business entities do not come within the
6 definition of “athlete agent” and therefore are not required to register under the act, even though
7 individuals employed by the corporation or other business entity as athlete agents would be
8 required to register. The definition also includes other individuals or “runners” used by an agent
9 to recruit or solicit a student-athlete to enter into an agency contract. Attorneys are not excluded
10 from the definition. An attorney does not need to comply with the provisions of this act in order
11 to provide legal services to a student-athlete, but is required to register to perform the services of
12 an athlete agent.

13
14 Representatives of “professional sports teams or professional sports organizations,” such
15 as baseball teams, are excluded from the definition of “athlete agent” as long as they are acting
16 for their teams or organizations. If a representative should attempt to induce a student-athlete to
17 enter into an agency contract, rather than a contract with the team or organization, registration is
18 required. Also excluded from the definition are individuals who simply provide information to a
19 student-athlete, but who do not recruit or solicit the student-athlete to sign an agency contract.
20 For example, a professional athlete who gives a student-athlete information about the
21 qualifications of an athlete agent is not required to register unless the professional athlete also
22 attempts to recruit or solicit the student-athlete to sign an agency contract. In the exclusion of
23 certain family members from the definition of “athlete agent,” the phrase “or guardian” is
24 bracketed because some States may use another term to describe an individual who has legal
25 responsibility for the care of another.

26
27 The proposed amendment of the definition of athlete agent retains the language of the
28 UAAA which makes an individual who directly or indirectly recruits or solicits a student athlete
29 to enter an agency contract an athlete agent, but expands the definition to include an individual
30 who, for compensation:

- 31 (1) procures or attempts to procure employment for a student athlete as a professional
32 athlete;
33 (2) represents a student athlete as an athlete;
34 (3) advises a student athlete on finances, business ventures, or career management;
35 (4) manages the business affairs of a student athlete; or
36 (5) secures the enrollment of a student athlete at a particular institution.

37
38 The term does not include a licensed professional acting within the scope of his or her
39 license unless the individual also recruits or solicits a student athlete to enter an agency contract
40 or is an individual who, for compensation, procures or attempts to procure employment of a
41 student athlete as a professional athlete.

42
43 The definition of “contact” does not include communications which merely provide
44 information to the student-athlete. For example, a communication about the position a student-

1 athlete could reasonably expect to have in a professional draft does not constitute recruitment or
2 solicitation to enter into an agency contract.

3
4 Athlete agents are providing benefits to students as early as elementary school if the
5 student appears to have long-term professional sports capability. For example, agents have been
6 known to provide athletic shoes and other athletic equipment to student athletes at an early age.
7 This could cause the student athlete to lose his or her eligibility to participate in intercollegiate
8 sports. Accordingly, a definition of educational institution is added and the definition of student
9 athlete is revised to make clear that the act applies to a student athlete enrolled at any level of
10 public or private education.

11
12 Recruit or solicit, which is used in the definition of athlete agent, is defined to mean
13 attempting to influence the choice of an athlete agent by a student athlete or, if the athlete is a
14 minor, by a parent or guardian of the athlete. The UAAA excluded a spouse, parent, sibling,
15 grandparent, or guardian of a student athlete from the definition of athlete agent. The act was
16 also silent on the issue of coaches and student athletes although a coach who recruited or
17 solicited a student athlete to enter into an agency contract with an athlete agent was technically
18 an athlete agent. The definition of recruit or solicit excludes advice to select a particular athlete
19 agent given in a family, coaching, or social situation unless the advice is given because of the
20 receipt or anticipated receipt of compensation from the agent. Thus, the parent of a student
21 athlete who advises the athlete to select a particular agent is not an athlete agent unless the
22 advice is given in exchange for compensation or the expectation of compensation from the agent.
23 Similarly, a coach of a student athlete who advises the athlete to select a particular agent is not
24 an agent unless the advice is given for compensation or the expectation of compensation from
25 the agent.

26
27 The definition of “student-athlete” applies to a two-sport athlete who has eligibility
28 remaining in one sport. For example, an individual who has signed a contract to play
29 professional basketball is not a student-athlete in basketball, but is a student-athlete in baseball.
30 The definition of “student-athlete” also includes individuals who are not yet in college. It
31 includes high school students, high school dropouts and high school graduates who have delayed
32 matriculation to a college or university so long as the individual may have future eligibility for
33 intercollegiate sports.

34
35 **SECTION 3. [SECRETARY OF STATE][COMMISSION]; AUTHORITY;**
36 **PROCEDURE.**

37 **Alternative A**

38 (a) The [administrative procedure act] applies to this [act]. The [Secretary of State] may
39 adopt rules under the [administrative procedure act] to implement this [act].

40

1 **Alternative B**

2 (a) Except as otherwise provided in this [act], the commission is an agency of the state in
3 which the commission is located and the law of that state, including the law relating to
4 administrative procedure, public records, and public meetings, applies to the commission. The
5 commission may adopt rules under the [administrative procedure act] of the state in which it is
6 located to implement this [act].

7 **End of Alternatives**

8 (b) By acting as an athlete agent in this state, a nonresident individual appoints the
9 [Secretary of State] [commission] as the individual’s agent for service of process in any civil
10 action in this state related to the individual acting as an athlete agent in this state.

11 (c) The [Secretary of State] [commission] may issue a subpoena for material that is
12 relevant to the administration of this [act].]

13 *Legislative Note: Depending on the alternative selected, this section incorporates the*
14 *administrative procedure act of either the adopting state or the state in which the entity created*
15 *by the Interstate Compact is located. State administrative procedure acts uniformly contain*
16 *provisions for contested case proceedings, which generally include the authority of the*
17 *administering agency to revoke or suspend a license and bring an action to enjoin an act in*
18 *violation of the law being enforced. If a state’s administrative procedure act does not provide*
19 *that authority, it should be added.*

20
21 **Comment**

22 The office of Secretary of State has been designated as the administrator of existing acts
23 regulating the activities of athlete agents more frequently than any other office. The office of
24 Secretary of State is referred to in subsection (b) and throughout this act. It is recognized,
25 however, that the appropriate state office to administer this act may vary from State to State and,
26 therefore, references to the Secretary of State are in brackets.

27
28 Subsection (b) is in brackets because it may not be required under the administrative
29 procedure acts of some States. If subsection (b) is not used, the remainder of the section should
30 not be designated as (a).

31
32 “Administrative Procedures Act” is bracketed because some States may refer to laws
33 relating to due process in administrative procedures by another name.
34

1 **Alternative A for Sections 5 through 9**

2
3 **Legislative Note:** *There are two alternatives for Sections 5 through 9. Alternative A establishes a*
4 *registration system in the enacting state which requires the enacting state to register an*
5 *individual who is registered in another state if the enacting state determines the law of the other*
6 *state is substantially similar to or more restrictive than the law of the enacting state, the*
7 *registration in the other state has not been revoked or suspended, and no action involving the*
8 *agent’s conduct as an agent is pending.*

9 *Alternative B creates a central registration agency, the Commission on the Interstate*
10 *Registration of Athlete Agents, and provides that states enacting Alternative B will be entering*
11 *into an interstate compact with other states that enact it.*

12 *While the numbering of the sections in the two Alternatives is different because Section 5*
13 *of Alternative B creates the commission and the contents of Section 9 are folded into Section 5,*
14 *the substantive requirements for the initial registration and the basis for denial of registration or*
15 *the suspension, revocation, or failure to renew registration are identical in both alternatives.*
16 *Thus, the effect of Alternative B in a state adopting the compact is to delegate the responsibility*
17 *for the registration of athlete agents and the civil enforcement of the act to a central entity*
18 *created by the compact. A state adopting Alternative B also will have to amend Section 2 to*
19 *include a definition of commission for the new central registration agency, select Alternative B*
20 *for Section 3(a), add bracketed Section 18 containing language formally creating the Interstate*
21 *Compact, make conforming changes replacing [Secretary of State] with the commission in*
22 *Section 17, and make additional conforming changes in Section 4. Since the operation of*
23 *Alternative B is conditioned on that alternative being adopted by at least five states, a state that*
24 *elects to participate in the interstate compact before the interstate compact becomes effective*
25 *may wish either to continue its existing athlete agent registration program until the interstate*
26 *compact becomes effective and the commission created by the compact is in operation or enact*
27 *Alternative A on an interim basis.*

28
29 **SECTION 5. REGISTRATION AS ATHLETE AGENT; APPLICATION;**
30 **REQUIREMENTS.**

31 (a) An applicant for registration as an athlete agent shall submit an application for
32 registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. The
33 applicant must be an individual and the application must be signed by the applicant under
34 penalty of perjury. The application must contain at least the following:

35 (1) the name, birth date, and birthplace of the applicant, last four digits of the
36 applicant’s Social Security number, and contact information for the applicant:

37 (A) the address of the applicant’s principal place of business;

1 (B) work and mobile telephone numbers;

2 (C) facsimile number, electronic-mail address, and personal and business
3 or employer websites;

4 (2) the name of the applicant's business or employer, if applicable, including for
5 each business or employer, its mailing address, telephone number, organization form, and the
6 nature of the business;

7 (3) each social-media account with which the applicant or the applicant's business
8 or employer is affiliated;

9 (4) each business or occupation in which the applicant engaged within five years
10 before the date of the application, including self-employment and employment by others, and
11 any professional or occupational license, registration, or certification held by the applicant during
12 that time;

13 (5) a description of the applicant's:

14 (A) formal training as an athlete agent;

15 (B) practical experience as an athlete agent; and

16 (C) educational background relating to the applicant's activities as an
17 athlete agent;

18 (6) the name of each individual for whom the applicant acted as an athlete agent
19 within five years before the date of the application, together with the individual's sport and last-
20 known team;

21 (7) the name and address of each person that:

22 (A) is a partner, member, officer, manager, associate, or profit sharer or
23 directly or indirectly holds an equity interest of five percent or greater of the athlete agent's

1 business if it is not a corporation; and

2 (B) is an officer or director of a corporation employing the athlete agent or
3 a shareholder of the corporation having an interest of five percent or greater;

4 (8) a description of the status of any application by the applicant, or any person
5 named under paragraph (7), for a state or federal business, professional, or occupational license,
6 other than as an athlete agent, from a state or federal agency, including any denial, refusal to
7 renew, suspension, withdrawal, or termination of the license and any reprimand or censure
8 related to the license;

9 (9) whether the applicant, or any person named under paragraph (7), has pleaded
10 guilty or no contest to, has been convicted of, or has charges pending for, a crime that, if
11 committed in this state, would involve moral turpitude or be a felony and, if so, identification of:

12 (A) the crime;

13 (B) the law enforcement agency involved; and

14 (C) if applicable, the date of the conviction and the fine or penalty
15 imposed;

16 (10) whether, within 15 years before the date of application, the applicant, or any
17 person named under paragraph (7), has been a defendant or respondent in a civil proceeding,
18 including a proceeding seeking an adjudication of [legal incompetence] and, if so, the date and a
19 full explanation of each proceeding;

20 (11) whether the applicant, or any person named under paragraph (7), has an
21 unsatisfied judgment or judgment of continuing effect, including [alimony] or a domestic order
22 in the nature of child support;

23 (12) whether, within 10 years before the date of application, the applicant, or any

1 person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that
2 was adjudicated bankrupt;

3 (13) whether there has been any administrative or judicial determination that the
4 applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or
5 fraudulent representation;

6 (14) each instance in which conduct of the applicant, or any person named under
7 paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility
8 to participate in an interscholastic, intercollegiate, or professional athletic event on a student
9 athlete or a sanction on an educational institution;

10 (15) each sanction, suspension, or disciplinary action taken against the applicant,
11 or any person named under paragraph (7), arising out of occupational or professional conduct;

12 (16) whether there has been a denial of an application for, suspension or
13 revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any
14 person named under paragraph (7), as an athlete agent in any state;

15 (17) each state in which the applicant currently is registered as an athlete agent or
16 has applied to be registered as an athlete agent;

17 (18) if the applicant is certified or registered by a professional league or players'
18 association:

19 (A) the name of the league or association;

20 (B) the date of certification or registration, and the date of expiration of
21 the certification or registration, if any; and

22 (C) if applicable, the date of any denial of an application for, suspension
23 or revocation of, refusal to renew, withdrawal of, or termination of, the certification or

1 registration or any reprimand or censure related to the certification or registration; and

2 (19) any additional information required by the [Secretary of State].

3 (b) Instead of proceeding under subsection (a), an individual registered as an athlete agent
4 in another state may apply for registration as an athlete agent in this state by submitting to the
5 [Secretary of State]:

6 (1) a copy of the application for registration in the other state;

7 (2) a statement identifying any change in the information on the application, or
8 that there is no material change in the information, signed under penalty of perjury; and

9 (3) a copy of the certificate of registration from the other state.

10 (c) The [Secretary of State] shall issue a certificate of registration to an individual who
11 applies for registration under subsection (b) if the [Secretary of State] determines:

12 (1) the registration requirements of the other state are substantially similar to or
13 more restrictive than this [act]; and

14 (2) the registration has not been revoked or suspended and no action involving the
15 individual's conduct as an athlete agent is pending against the individual or the individual's
16 registration in any state.

17 (d) For purposes of implementing subsection (c), the [Secretary of State] shall:

18 (1) cooperate with national organizations concerned with athlete agent issues and
19 agencies in other states which register athlete agents to develop a common registration form and
20 determine which states have laws that are substantially similar to or more restrictive than this
21 [act]; and

22 (2) exchange information, including information related to actions taken against
23 registered athlete agents, with those organizations and agencies.

1 **Comment**

2 Most of the requirements for disclosure in an application for registration found in
3 subsection (a) are similar to requirements imposed by existing acts. Subsection (a)(6) is not
4 intended to cause an athlete agent who is also an attorney to violate the attorney-client privilege.
5 If an attorney’s role is limited to providing legal services to a student-athlete, the attorney is not
6 required to register as an athlete agent or comply with this act. An attorney’s actions as an
7 athlete agent, however, are outside the scope of legal services, there is no privilege and the
8 attorney must comply with this act.
9

10 It is the intent of this section to require that records concerning registration of athletes be
11 open to the public. The provision in subsection (a) about an application being a public record is
12 bracketed because it is not necessary in States which have other applicable law causing the
13 records to be open to the public.
14

15 Subsection (b) provides for reciprocal use of applications in States which have adopted
16 the Uniform Act. The need for an agent to comply with substantially different application
17 procedures in multiple jurisdictions is eliminated. It is the first of a number of reciprocity
18 provisions found in the act which are intended to ease the burden placed on agents by
19 substantially different registration requirements and to simplify enforcement of the act. Absence
20 of reciprocity provisions in existing acts is a primary reason why the Uniform Act is needed.
21

22 Section 5 of the UAAA was not a true reciprocal registration provision in that, while it
23 allowed for submission of the application for registration in one state to another state, the second
24 state was free to require additional information or refuse to issue the registration on various
25 grounds. The amended version is a true reciprocal registration provision in that if an individual
26 registered in state A applies for registration in state B, state B is required to grant the registration
27 if it determines the law in state A is the same or more restrictive than the law in state B, the
28 registration is in good standing, and no proceeding involving the individual’s conduct as an
29 athlete agent is pending in any state in which the individual is registered.
30

31 A central registration point with a single form is the easiest way to facilitate the
32 reciprocal licensing provisions of subsection (b) and subsection (c) encourages the administrative
33 agencies to which the enforcement of the act is delegated to cooperate with agencies from other
34 states to that end. It is recognized there are substantial obstacles to a central registration office,
35 not the least of which is cost. If it is not possible or feasible to create a central registration point,
36 agencies are encouraged to adopt the following standard form:
37

1 REGISTRATION FORM

2 PART I. GENERAL INFORMATION

3 [Use additional sheets as necessary]

4 1. Registrant first name: _____

5 2. Registrant middle name: _____

6 3. Registrant last name: _____

7 4. If you have ever been known by any other name, surname, or maiden name, list the
8 name: _____

9 5. Name of your organization involved in providing services for athletes: _____
10 _____

11 6. Your position or title within the organization identified in Item 5: _____
12 _____

13 7. Mailing address, city, state, and zip code of organization identified in Item 5: _____
14 _____

15 8. Work phone: _____

16 9. Mobile phone: _____

17 10. Fax number: _____

18 11. Work and Personal Email and Website: _____

19 12. Birthplace and date of birth: _____

20 13. List all social-media accounts with which you and the organization identified in Item
21 5 are affiliated: _____

22 14. Indicate if you are registered or certified by any professional league or player's
23 association, the date of registration or certification, and, if applicable, the date of expiration, as of

- 1 the date of the completion of this form, with:
- 2 Major League Baseball Players Association _____
- 3 National Basketball Players Association _____
- 4 National Football Players Association _____
- 5 National Hockey League Players Association _____
- 6 Other _____
- 7 None _____

8 15. If "Other" was selected for Item 14, name the professional association(s): _____

9 _____

10 16. List all states in which you are currently registered or have applied to be registered

11 pursuant to any state statute regulating athlete agents: _____

12 _____

13 **PART II. EDUCATION**

14 For each item in this part, include: School name, city and state, degree conferred, and year the

15 degree was awarded.

16 17. Professional/Graduate School(s): _____

17 18. Undergraduate School(s): _____

18 19. High School(s): _____

19 **PART III. CURRENT OCCUPATION/EMPLOYMENT**

20 20. Are you self-employed? (Y/N) (If you are not self-employed, skip to Item 23.)

21 21. Provide the dates and duration of your self-employment: _____

22 22. Describe the nature of your current self-employment: _____

23 _____

1 23. If you are not self-employed, provide each item listed below for every organization
2 by which you are employed:

3 Name of employer: _____

4 Supervisor's name: _____

5 Supervisor's address and work phone: _____

6 Initial date of employment (including month and year): _____

7 Nature of your current employment: _____

8 24. Provide the following information for each firm or organization with which you are
9 currently affiliated: Name, mailing address, phone number, organizational form (for example, a
10 sole proprietorship, corporation, partnership, or other entity), and nature of business: _____

11 _____

12 25. If a firm or organization listed in Item 24 is a partnership, list the name of each
13 partner below. If a firm or organization listed in Item 24, is a corporation, list the name of each
14 officer and member of the board of directors. For each firm or organization, designate the
15 partners, officers, shareholders, or members of the board of directors who customarily perform
16 work for or on behalf of professional athletes: _____

17 _____

18 26. List each individual not named in Item 25, who: (a) has an ownership interest of 5%
19 or more in each firm or organization listed in Item 24 which is a corporation; (b) has wholly or
20 partially financed your firm or organization (other than financing or credit extended in the
21 ordinary course of business by lending institutions); or (c) directly or indirectly exercises or has
22 the power to exercise a controlling influence over the management of your firm or organization.

23 For each individual, provide their respective name, mailing address, phone number, and nature of

1 involvement (for example, describe the individual's ownership interest, amount of financing
2 provided, or basis of the individual's controlling influence: _____

3 _____

4 27. Provide your employment history for the past five years or a resume that indicates
5 that employment history: _____

6 _____

7 **PART IV. PROFESSIONAL BACKGROUND**

8 28. List each membership you have in a business or professional organization that
9 directly relates to your occupation or profession: _____

10 _____

11 29. List each occupational or professional license or other similar credential (i.e.,
12 Certified Public Accountant, Chartered Life Underwriter, Registered Investment Advisor, etc.)
13 you have obtained, including the date and status of the license or credential obtained: _____

14 _____

15 30. Have you ever been denied an occupational or professional license from a state or
16 federal regulatory agency? (Y/N)

17 31. If you answered "Yes" to Item 30, explain each occurrence fully: _____

18 _____

19 32. Have you ever been denied a business license, franchise, or other similar credential
20 for which you applied? (Y/N)

21 33. If you answered "Yes" to Item 32, explain each occurrence fully: _____

22 _____

23 34. Describe and indicate the status of any application you currently have pending for an

1 occupational or professional license: _____

2 35. Describe and indicate the status of any application you currently have pending for a
3 business license, franchise, or other similar credential: _____

4 36. As part of your professional endeavors, have you ever been reprimanded or censured
5 or has your right to engage in any profession or occupation ever been disqualified, suspended,
6 withdrawn, or terminated? (Y/N)

7 37. If you answered "Yes" to Item 36, explain each occurrence fully: _____
8 _____

9 **PART V. COMPLIANCE BACKGROUND**

10 38. Have you ever been convicted, reprimanded, censured, disqualified, cited, or
11 otherwise disciplined for a violation of a state statute regulating athlete agents? (Y/N)

12 39. If you answered "Yes" to Item 38, for each occurrence specify: any associated
13 complaint or charge, the date of the alleged violation, the result or status of any related
14 investigation, and the name of any authority imposing a related sanction: _____
15 _____

16 40. Indicate the nature of any charge or complaint currently pending against you
17 regarding your conduct as a member of a profession. For each charge or complaint, specify the
18 name and address of the authority considering the charge or complaint. If no charge or
19 complaint is currently pending against you, enter "None." _____
20 _____

21 41. Have you ever been convicted of or pleaded guilty to a criminal charge or have a
22 criminal charge currently pending against you? (Y/N)

23 42. If you answered "Yes" to Item 41, provide the following information for each

1 occurrence: Offense, law enforcement agency involved, and, if applicable, the date of conviction
2 and the fine or penalty imposed: _____

3 _____

4 43. Within the 15 years before the date of this application, have you been a defendant in a
5 civil proceeding? (Y/N)

6 44. If you answered "Yes" to Item 43, specify the date of each proceeding and explain
7 each occurrence fully: _____

8 45. If you have been adjudicated legally incompetent by any court within the last 15 years
9 of the date of this application, specify the date and nature of the determination: _____

10 _____

11 46. Have you ever been suspended or expelled from an educational institution? (Y/N)

12 47. If you answered "Yes" to Item 46, specify the date of the suspension or expulsion, the
13 educational institution involved, and the reason for the suspension or expulsion: _____

14 _____

15 _____

16 48. Is there any unsatisfied judgment of continuing effect against you (including alimony
17 and child support)? (Y/N)

18 49. If you answered "Yes" to Item 48, explain the unsatisfied judgment fully: _____

19 _____

20 50. Within the 10 years before the date of this application, have you been declared
21 bankrupt or been an owner or part-owner of a business that was declared bankrupt? (Y/N)

22 51. If you answered "Yes" to Item 50, specify the date and fully explain each occurrence:

23 _____

1 certificate of registration to an applicant for registration who complies with Section 5(a).

2 (b) The [Secretary of State] may refuse to issue a certificate of registration to an applicant
3 for registration under Section 5(a) if the [Secretary of State] determines that the applicant has
4 engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an
5 athlete agent. In making the determination, the [Secretary of State] may consider whether the
6 applicant has:

7 (1) been convicted of a crime that, if committed in this state, would involve
8 moral turpitude or be a felony;

9 (2) made a materially false, misleading, deceptive, or fraudulent representation in
10 the application or as an athlete agent;

11 (3) engaged in conduct that would disqualify the applicant from serving in a
12 fiduciary capacity;

13 (4) engaged in conduct prohibited by Section 14;

14 (5) had a registration as an athlete agent suspended, revoked, or denied or been
15 refused renewal of registration as an athlete agent in any state;

16 (6) engaged in conduct resulting in imposition of a sanction, suspension, or
17 declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional
18 athletic event on a student athlete or a sanction on an educational institution; or

19 (7) engaged in conduct that significantly adversely reflects on the applicant's
20 credibility, honesty, or integrity.

21 (c) In making a determination under subsection (b), the [Secretary of State] shall
22 consider:

23 (1) how recently the conduct occurred;

1 (2) the nature of the conduct and the context in which it occurred; and

2 (3) other relevant conduct of the applicant.

3 (d) An athlete agent registered under subsection (a) may apply to renew the registration
4 by submitting an application for renewal in a form prescribed by the [Secretary of State]. The
5 applicant shall sign the application for renewal under penalty of perjury and include current
6 information on all matters required in an original application for registration, as necessary.

7 (e) An athlete agent registered under Section 5(c) may renew the registration by
8 proceeding under subsection (d) of this section or, if the registration in the other state has been
9 renewed, by submitting to the [Secretary of State] a copy of the application for renewal in the
10 other state and the renewed registration from the other state. The [Secretary of State] shall renew
11 the registration if the [Secretary of State] determines:

12 (1) the registration requirements of the other state are substantially similar to or
13 more restrictive than this [act]; and

14 (2) the renewed registration has not been suspended or revoked and no action
15 involving the individual's conduct as an athlete agent is pending against the individual or the
16 individual's registration in any state.

17 (f) A certificate of registration or renewal of registration under this [act] is valid for [two]
18 years.

19 **Comment**

20 This section includes many of the factors which are considered in determining whether to
21 register athlete agents under existing legislation. In addition, the Secretary of State is authorized
22 to consider action taken in another State, which has adopted the Uniform Act, regarding
23 registration or licensure.

24
25 A requirement that Secretaries of State exchange information about denial, suspension,
26 revocation or refusal to renew registration of athlete agents is beyond the scope of this act. Since
27 an agreement to exchange such information would reduce the expense of administering this act
28 and provide for more effective enforcement, it seems likely the Secretaries of State will enter

1 into such an agreement.

2
3 **SECTION 7. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW**

4 **REGISTRATION.**

5 (a) The [Secretary of State] may suspend, revoke, or refuse to renew a registration of an
6 individual registered under Section 6(a) for conduct that would have justified refusal to issue a
7 certificate of registration under Section 6(b).

8 (b) The [Secretary of State] may suspend or revoke the registration of an individual
9 registered under Section 5(c) or 6(e) for any reason for which the [Secretary of State] could have
10 refused to grant or renew registration or for conduct that would justify refusal to issue a
11 certificate of registration under Section 6(b).

12 **Comment**

13 By reference to Section 6(b), this section permits the Secretary of State to consider,
14 among other things, actions in another State to suspend, revoke, or refuse to renew registration.

15 **SECTION 8. TEMPORARY REGISTRATION.** The [Secretary of State] may issue a
16 temporary certificate of registration as an athlete agent while an application for registration or
17 renewal of registration is pending.

18
19 **Comment**

20 The discretion to issue a temporary certificate of registration is broad enough to include
21 issuance of such a certificate even where the registration may be contested. It is not necessary to
22 issue a temporary certificate to protect an individual with whom a student-athlete initiated
23 communications. Under Section 4(b), that individual is only required to file an application for
24 registration within seven days after commencement of efforts to recruit or solicit the student-
25 athlete to sign an agency contract.

26
27 **SECTION 9. REGISTRATION AND RENEWAL FEES.** An application for
28 registration or renewal of registration as an athlete agent must be accompanied by a fee in the
29 following amount:

30 (1) \$[] for an initial application for registration;

- 1 (2) \$[] for registration based on a certificate of registration issued by another state;
2 (3) \$[] for an application for renewal of registration; or
3 (4) \$[] for renewal of registration based on a renewal of registration in another state.

4 **Comment**

5 The amount of fees is left for each State to determine. Some States with existing acts
6 have set fees in amounts sufficient to recover the cost of administration. If that approach is
7 taken, a fee for registration or renewal based on registration or renewal of registration in another
8 State should be less than when a complete evaluation and review of an application is necessary.
9

10 Athlete agent registration is the cornerstone of this act. High registration fees imposed by
11 some States with existing acts have probably contributed to seemingly small numbers of
12 registrants under existing acts. The success of this act may be contingent on the implementation
13 of a reasonable fee structure which does not motivate non-compliance.
14

15 **Alternative B for Sections 5 through 9**

16
17 **SECTION 5. COMMISSION ON INTERSTATE REGISTRATION OF ATHLETE**
18 **AGENTS.**

19 (a) The Commission on Interstate Registration of Athlete Agents is created. The
20 commission is a body corporate and joint agency of the states that enact an act that is
21 substantively identical to this [act]. The commission consists of one member from each state that
22 enacts such an [act] appointed by the [Governor] of that state.

23 (b) The first meeting of the commission must be held not later than [90] days after the
24 fifth state enacts an act substantively identical to this [act]. A majority of the states that enact
25 such an act constitutes a quorum for the conduct of business.

26 (c) At its first meeting, the commission shall adopt bylaws that provide for:

- 27 (1) an executive committee to manage day-to-day affairs of the commission;
28 (2) the operation of the commission, including employment of necessary staff;
29 (3) maintaining a site for the registration of athlete agents in the states that enact

1 this [act];

2 (4) establishing the registration fee and the apportionment of the fee among the

3 states that enact this [act]; and

4 (5) any other matter necessary for efficient operation of the commission.

5 (d) The commission:

6 (1) shall pay or provide for payment of the reasonable expenses of the

7 establishment, organization, and ongoing activities of the commission;

8 (2) may accept a grant of money, equipment, supplies, materials, or services and

9 donations;

10 (3) may assess each member state annually on a basis determined by the

11 commission to cover operation costs of the commission not funded by registration fees imposed

12 under subsection (c)(3);

13 (4) may not incur an obligation before securing funds adequate to meet the

14 obligation;

15 (5) may not pledge the credit of a member state, except with the authority of the

16 member state; and

17 (6) shall keep an accurate account of receipts and disbursements, under audit and

18 accounting procedures established under the commission's bylaws.

19 (e) The receipt and disbursement of funds by the commission must be audited yearly by a

20 certified or licensed public accountant, and the commission shall include the audit report in an

21 annual report of the commission.

22 **SECTION 6. REGISTRATION AS ATHLETE AGENT; APPLICATION;**

23 **REQUIREMENTS.** An applicant for registration as an athlete agent shall submit an application

1 for registration to the commission in a form prescribed by the commission. The applicant must
2 be an individual and the application must be signed by the applicant under penalty of perjury.

3 The application must contain at least the following:

4 (1) the name, birth date, and birthplace of the applicant, last four digits of the applicant's
5 Social Security number, and contact information for the applicant, including the address of the
6 applicant's principal place of business, work and mobile telephone numbers, facsimile number,
7 electronic-mail address, and personal and business or employer websites;

8 (2) the name of the applicant's business or employer, if applicable, including for each
9 business or employer, its mailing address, telephone number, organization form, and the nature
10 of the business;

11 (3) each social-media account with which the applicant or the applicant's business or
12 employer is affiliated;

13 (4) each business or occupation in which the applicant engaged within five years before
14 the date of the application, including self-employment and employment by others, and any
15 professional or occupational license, registration, or certification held by the applicant during
16 that time;

17 (5) a description of the applicant's:

18 (A) formal training as an athlete agent;

19 (B) practical experience as an athlete agent; and

20 (C) educational background relating to the applicant's activities as an athlete
21 agent;

22 (6) the name of each individual for whom the applicant acted as an athlete agent within
23 five years before the date of the application, together with the individual's sport and last-known

1 team;

2 (7) the name and address of each person that:

3 (A) is a partner, member, officer, manager, associate, or profit sharer or directly
4 or indirectly holds an equity interest of five percent or more of the athlete agent's business if it is
5 not a corporation; and

6 (B) is an officer or director of a corporation employing the athlete agent or a
7 shareholder of the corporation having an interest of five percent or greater;

8 (8) a description of the status of any application by the applicant, or any person named
9 under paragraph (7), for a state or federal business, professional, or occupational license, other
10 than as an athlete agent, including any denial, refusal to renew, suspension, withdrawal, or
11 termination of the license and any reprimand or censure related to the license;

12 (9) whether the applicant, or any person named under paragraph (7), has pleaded guilty or
13 no contest to, has been convicted of, or has charges pending for, a crime involving moral
14 turpitude or a felony and, if so, identify:

15 (A) the crime;

16 (B) the law enforcement agency involved; and

17 (C) if applicable, the date of the conviction and the fine or penalty imposed;

18 (10) whether, within 15 years before the date of application, the applicant, or any person
19 named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a
20 proceeding seeking an adjudication of [legal incompetence], and, if so, the date and a full
21 explanation of each proceeding of the occurrence;

22 (11) whether the applicant, or any person named under paragraph (7), has an unsatisfied
23 judgment or judgment of continuing effect, including [alimony] or a domestic order in the nature

1 of child support;

2 (12) whether, within 10 years before the date of application, the applicant, or any person
3 named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was
4 adjudicated bankrupt;

5 (13) whether there has been any administrative or judicial determination that the
6 applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or
7 fraudulent representation;

8 (14) each instance in which conduct of the applicant, or any person named under
9 paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility
10 to participate in an interscholastic, intercollegiate, or professional athletic event on a student
11 athlete or a sanction on an educational institution;

12 (15) each sanction, suspension, or disciplinary action taken against the applicant, or any
13 person named under paragraph (7), arising out of occupational or professional conduct;

14 (16) whether there has been a denial of an application for, suspension or revocation of,
15 refusal to renew, or abandonment of, the registration of the applicant, or any person named under
16 paragraph (7), as an athlete agent in any state;

17 (17) each state in which the applicant currently is registered as an athlete agent or has
18 applied to be registered as an athlete agent;

19 (18) if the applicant is certified or registered by a professional league or players'
20 association:

21 (A) the name of the league or association;

22 (B) the date of certification or registration, and the date of expiration of the
23 certification or registration, if any, and;

1 (C) if applicable, the date of any denial of an application for, suspension or
2 revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration
3 or any reprimand or censure related to the certification or registration; and

4 (19) any additional information required by the commission.

5 **SECTION 7. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL;**
6 **RENEWAL.**

7 (a) Except as otherwise provided in subsection (b), the commission shall issue a
8 certificate of registration to an applicant for registration who complies with Section 6.

9 (b) The commission may refuse to issue a certificate of registration to an applicant for
10 registration under Section 6 if the commission determines that the applicant has engaged in
11 conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent.

12 In making the determination, the commission may consider whether the applicant has:

13 (1) been convicted of a crime involving moral turpitude or a felony;

14 (2) made a materially false, misleading, deceptive, or fraudulent representation in
15 the application or as an athlete agent;

16 (3) engaged in conduct that would disqualify the applicant from serving in a
17 fiduciary capacity;

18 (4) engaged in conduct prohibited by Section 14;

19 (5) had a registration as an athlete agent suspended, revoked, or denied or been
20 refused renewal of registration as an athlete agent in any state;

21 (6) engaged in conduct resulting in imposition of a sanction, suspension, or
22 declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional
23 athletic event on a student athlete or a sanction on an educational institution; or

1 (7) engaged in conduct that significantly adversely reflects on the applicant's
2 credibility, honesty, or integrity.

3 (c) In making a determination under subsection (b), the commission shall consider:

4 (1) how recently the conduct occurred;

5 (2) the nature of the conduct and the context in which it occurred; and

6 (3) other relevant conduct of the applicant.

7 (d) An athlete agent registered under subsection (a) may apply to renew the registration
8 by submitting an application for renewal in a form prescribed by the commission. The applicant
9 shall sign the application for renewal under penalty of perjury and include current information on
10 all matters required in an original application for registration, as necessary.

11 (e) A certificate of registration or a renewal of registration under this [act] is valid for
12 [two] years.

13 **SECTION 8. LIMITATION, SUSPENSION, REVOCATION, OR REFUSAL TO**
14 **RENEW REGISTRATION.** The commission may limit, suspend, revoke, or refuse to renew a
15 certificate of registration as an athlete agent for conduct that would have justified refusal to issue
16 a certificate of registration under Section 7(b).

17 **SECTION 9. TEMPORARY REGISTRATION.** The commission may issue a
18 temporary certificate of registration as an athlete agent while an application for registration or
19 renewal of registration is pending.

20 **End of Alternatives**

21
22 **SECTION 10. REQUIRED FORM OF AGENCY CONTRACT.**

23 (a) An agency contract must be in a record signed by the parties.

24 (b) An agency contract must contain:

1 (1) a statement that the athlete agent is registered as an athlete agent in this state
2 and a list of any other states in which the agent is registered as an athlete agent;

3 (2) the amount and method of calculating the consideration to be paid by the
4 student athlete for services to be provided by the agent under the contract and any other
5 consideration the agent has received or will receive from any other source for entering into the
6 contract or providing the services;

7 (3) the name of any person not listed in the agent's application for registration or
8 renewal of registration which will be compensated because the athlete signed the contract;

9 (4) a description of any expenses the athlete agrees to reimburse;

10 (5) a description of the services to be provided to the athlete;

11 (6) the duration of the contract; and

12 (7) the date of execution.

13 (c) An agency contract must contain a conspicuous notice in substantially the following
14 form stating:

15 **WARNING TO STUDENT ATHLETE**

16 **IF YOU SIGN THIS CONTRACT:**

17 **(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A - STUDENT**
18 **ATHLETE IN YOUR SPORT;**

19 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**
20 **SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC**
21 **EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU**
22 **AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT**
23 **YOU HAVE ENTERED INTO THIS CONTRACT AND THE NAME AND CONTACT**

1 **INFORMATION OF THE ATHLETE AGENT; AND**

2 **(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**
3 **SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE**
4 **YOUR ELIGIBILITY.**

5 (d) An agency contract must be accompanied by a separate record signed by the student
6 athlete acknowledging that signing the contract may result in the loss of the athlete's eligibility
7 to participate in the athlete's sport.

8 (e) A student athlete may void an agency contract that does not conform to this section.
9 If the athlete voids the contract, the athlete is not required to pay any consideration under the
10 contract or return any consideration received from the athlete agent to induce the athlete to enter
11 into the contract.

12 (f) At the time an agency contract is executed, the athlete agent shall give the student
13 athlete a copy in a record of the contract and the separate acknowledgement required by
14 subsection (d).

15 **Comment**

16 This section is intended to provide protection to the student-athlete by requiring a form of
17 agency contract similar to those required in some consumer transactions. The Drafting
18 Committee preferred to require that agency contracts be in traditional written form. However,
19 the adoption of the Electronic Signatures in Global and National Commerce Act (see Section 19)
20 eliminated that option.

21
22 A student-athlete who opts to void an agency contract under this section because it does
23 not comply with the specified form is not required to return any consideration received to induce
24 the signing of the agency contract because such inducement is prohibited conduct under Section
25 14.

26
27 The compensation referred to in subsection (b)(2) is compensation for services intended
28 to induce the student-athlete to sign an agency contract. It does not include compensation
29 individuals may receive because an athlete agent has been successful in securing an agency
30 contract. For example, the compensation paid employees of an athlete agent who did not
31 participate in inducing the student-athlete to sign an agency contract is not compensation under
32 subsection (b)(2) even though their compensation may be made possible by the income resulting

1 from the agency contract.
2

3 Subsection (b) contains references to a student-athlete in a time context in which the
4 individual may be a former student-athlete. This is done for simplicity in drafting. It should be
5 noted that violation of eligibility rules adopted by an educational institution or a national
6 association is not automatic and does not occur until a determination has been made by the
7 educational institution or the national association
8

9 **SECTION 11. NOTICE TO EDUCATIONAL INSTITUTION.**

10 (a) In this section, “communicating or attempting to communicate” means contacting or
11 attempting to contact by an in-person meeting, a record, or any other method that conveys or
12 attempts to convey a message.

13 (b) Not later than 72 hours after entering into an agency contract or before the next
14 scheduled athletic event in which the student athlete may participate, whichever occurs first, the
15 athlete agent shall give notice in a record of the existence of the contract to the athletic director
16 of the educational institution at which the athlete is enrolled or at which the agent has reasonable
17 grounds to believe the athlete intends to enroll.

18 (c) Not later than 72 hours after entering into an agency contract or before the next
19 scheduled athletic event in which the student athlete may participate, whichever occurs first, the
20 athlete shall inform the athletic director of the educational institution at which the athlete is
21 enrolled that the athlete has entered into an agency contract and the name and contact
22 information of the athlete agent.

23 (d) If an athlete agent enters into an agency contract with a student athlete and the athlete
24 subsequently enrolls at an educational institution, the agent shall notify the athletic director of
25 the institution of the existence of the contract within 72 hours after the agent knew the athlete
26 enrolled.

27 (e) If an athlete agent has a preexisting relationship with a student athlete who enrolls in

1 an educational institution and receives an athletic scholarship from the institution, the agent
2 shall notify the institution of the relationship not later than 10 days after the enrollment if the
3 agent knows or should have known of the enrollment and:

4 (1) the relationship was motivated in whole or part by the intention of the agent to
5 recruit or solicit the athlete to enter an agency contract in the future; or

6 (2) the agent directly or indirectly recruited or solicited the athlete to enter an
7 agency contract prior to the enrollment.

8 (f) An athlete agent shall give notice in a record to the athletic director of any educational
9 institution at which a student athlete is enrolled before the agent communicates or attempts to
10 communicate with:

11 (1) the athlete or, if the athlete is a minor, a parent or guardian of the athlete, to
12 influence the athlete or parent or guardian to enter into an agency contract; or

13 (2) with another individual to have that individual influence the athlete or, if the
14 athlete is a minor, the parent or guardian of the athlete, to influence the athlete or parent or
15 guardian to enter into an agency contract.

16 (g) If a communication or attempt to communicate with an athlete agent is initiated by a
17 student athlete or another individual or behalf of the athlete, the agent shall notify in a record the
18 athletic director of any educational institution at which the athlete is enrolled not later than 10
19 days after the communication or attempt.

20 (h) An educational institution that becomes aware of a violation of this [act] by an athlete
21 agent shall notify the [Secretary of State] [commission] and any professional league or players'
22 association with which the institution is aware the agent is licensed or registered of the violation.

23 **Comment**

24 The purpose of this section is to prevent an educational institution from being sanctioned

1 or penalized by allowing an ineligible player to participate in intercollegiate sports. The
2 penalties may be severe. In addition to non-monetary penalties mentioned in the prefatory note,
3 penalties may include loss of very substantial revenues received for participation in a football
4 bowl game or a post-season basketball tournament.

5
6 Subdivision (e) imposes a requirement an athlete agent notify the educational institution
7 in a record before attempting to communicate with a student athlete enrolled at the institution.
8 This provision is one the institutions feel is crucial to trying to control the excesses in the
9 process.

10 **SECTION 12. STUDENT ATHLETE’S RIGHT TO CANCEL.**

11
12 (a) A student athlete may cancel an agency contract by giving notice in a record of
13 cancellation to the athlete agent not later than 14 days after the contract is signed.

14 (b) A student athlete may not waive the right to cancel an agency contract.

15 (c) If a student athlete cancels an agency contract, the athlete is not required to pay any
16 consideration under the contract or return any consideration received from the athlete agent to
17 influence the athlete to enter into the contract.

18 **Comment**

19 Because of the disparity in the sophistication of the parties, this section gives the student-
20 athlete or former student-athlete the right to cancel an agency contract within 14 days even if the
21 athlete agent has complied with the provisions of Section 10 regarding the form of the contract.
22 The section provides relief to the student-athlete who has entered into an ill-considered agency
23 contract, but does not provide any assurance that the student-athlete will be eligible to compete
24 in a sport.

25 **SECTION 13. REQUIRED RECORDS.**

26 (a) An athlete agent shall create and retain for five years records of the following:

27 (1) the name and address of each individual represented by the agent;

28 (2) each agency contract entered into by the agent; and

29 (3) direct costs incurred by the agent in the recruitment or solicitation of each
30 student athlete to enter into an agency contract.

31 (b) Records described in subsection (a) are open to inspection by the [Secretary of State]

1 [commission] during normal business hours.

2 **SECTION 14. PROHIBITED CONDUCT.**

3 (a) An athlete agent, with the intent to influence a student athlete or, if the athlete is a
4 minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of
5 the following actions or encourage any other individual to take or assist any other individual in
6 taking any of the following actions on behalf of the agent:

7 (1) give any materially false or misleading information or make a materially false
8 promise or representation;

9 (2) furnish anything of value to the athlete before the athlete enters into the
10 contract; or

11 (3) furnish anything of value to an individual other than the athlete or another
12 registered athlete agent.

13 (b) An athlete agent may not intentionally do any of the following or encourage any other
14 individual to do any of the following on behalf of the agent:

15 (1) initiate contact with a student athlete or, if the athlete is a minor, a parent or
16 guardian of the athlete, unless registered under this [act];

17 (2) fail to create or retain or to permit inspection of the records required by
18 Section 13 to be retained;

19 (3) fail to register when required by Section 4;

20 (4) provide materially false or misleading information in an application for
21 registration or renewal of registration;

22 (5) predate or postdate an agency contract; or

23 (6) fail to notify a student athlete or, if the athlete is a minor, a parent or guardian

1 of the athlete before the athlete or, if the athlete is a minor, the parent or guardian signs an
2 agency contract for a particular sport that the signing may make the athlete ineligible to
3 participate as a student athlete in that sport.

4 **Comment**

5 This section describes the conduct which gives rise to criminal penalties and civil
6 liabilities under Sections 15 and 16.

7
8 Subsection (a)(3) prohibits an athlete agent from making any payment or providing
9 anything of value to an individual who is in a position to influence a student-athlete to enter into
10 an agency contract unless that individual is registered as an athlete agent. There have been
11 numerous instances in which an athlete agent has made payment to or provided something of
12 value to family members, friends or roommates of student-athletes to enlist their services in
13 inducing a student-athlete to sign an agency contract usually without disclosure to the student-
14 athlete.

15
16 If a student-athlete signs an agency contract in the form required by Section 10, there is
17 no failure to notify under subsection (b)(6) because the agency contract includes the warning to
18 student-athlete required by Section 10(c).

19
20 **SECTION 15. CRIMINAL PENALTY.** An athlete agent who violates Section 14 is
21 guilty of a [misdemeanor] [felony] and, on conviction, is punishable by [].

22 *Legislative Note: Each state should determine the penalties to be imposed for a violation of the*
23 *act. A state may wish to include a suspension or revocation of the registration as a part of the*
24 *penalty and also may wish to dedicate all or a part of any fine to the enforcement of the act (see,*
25 *for example, Section 18897.93, California Business and Professions Code).*

26
27 **Comment**

28
29 The extent of the criminal penalties which may be imposed for violation of the act are left
30 to the States adopting the act because of a wide variation in the criminal penalties provided for
31 by existing acts. Variations in the criminal penalties which may be imposed would not detract
32 from the otherwise uniform and reciprocal provisions of the act. Some potential criminal penalty
33 is necessary to discourage those individuals who are willing to engage in improper or illegal
34 conduct because of the size of the monetary stakes in the contemporary professional sports
35 world.

36
37 **SECTION 16. CIVIL REMEDY.**

38 (a) An educational institution or student athlete has a right of action for damages against
39 an athlete agent if the institution or athlete is adversely affected by an act or omission of the

1 agent in violation of this [act]. An educational institution or student athlete is adversely affected
2 by an act or omission of the agent only if, because of the act or omission, the institution or an
3 individual who was a student athlete at the time of the act or omission and enrolled in the
4 institution:

5 (1) is suspended or disqualified from participation in an interscholastic or
6 intercollegiate [sports] event by or under the rules of a state or national federation or association
7 for the promotion or regulation of interscholastic or intercollegiate sports; or

8 (2) suffers financial damage.

9 (b) A plaintiff that prevails in an action under this section may recover [actual damages]
10 [treble damages] [,] [punitive damages,] [and] costs[, and reasonable attorney’s fees]. An athlete
11 agent found liable under this section forfeits any right of payment for anything of benefit or
12 value provided to the student athlete and shall refund any consideration paid to the agent by or
13 on behalf of the athlete.

14 [(c) A violation of this [act] is an [unfair trade or deceptive practice] for purposes of
15 [insert reference to state’s unfair trade practice law].]

16 **Legislative Note:** *If a state has a law that prohibits unfair or deceptive trade practices and*
17 *provide for civil enforcement by a state agency or persons, including competitors, injured by the*
18 *practice, the appropriate name for the practice and statutory citation to the applicable law*
19 *should be added in the brackets. The drafting rules in some states may prohibit what is an*
20 *amendment by reference and may require the unfair or deceptive trade practice act be amended.*
21 *In that case, the bill should contain an appropriate amendment of the specific law and subsection*
22 *(c) should be deleted. Similarly, if a state does not have an unfair or deceptive trade practice*
23 *law, subsection (c) should be deleted or substantially expanded to provide for civil enforcement*
24 *by a state agency, affected members of the public, and competitors.*

25

26

Comment

27 It is assumed that educational institutions will be very reluctant to bring an action against
28 a former student-athlete. Public opinion and the desire to be successful in future recruiting of
29 athletes should cause educational institutions to carefully consider whether to exercise the right
30 established by subsection (a) in most situations. There are, however, known instances of

1 extremely egregious conduct by student-athletes who received lucrative professional contracts
2 which caused serious damage to educational institutions. Subsection (a) keeps open the
3 possibility of a civil action against those individuals.
4

5 Section 16 does not specifically authorize an action by a student-athlete against an athlete
6 agent because the student-athlete can bring an action against an athlete agent under existing law.
7 Subsection (e) preserves the rights of the student-athlete under existing law.
8

9 The UAAA provided a cause of action for an educational institution against an athlete
10 agent or a student athlete for damages caused by a violation of the act. The amended section,
11 which is based on Section 18897.8 of the California Business and Professions Code, removes the
12 cause of action against a student athlete and gives the student athlete a cause of action against the
13 athlete agent.
14

15 **SECTION 17. ADMINISTRATIVE PENALTY.** The [Secretary of State]
16 [commission] may assess a civil penalty against an athlete agent not to exceed \$[50,000] for a
17 violation of this [act].
18

18 **Comment**

19 The procedure for imposing an administrative penalty and complying with due process
20 requirements are left to the adopting State's administrative procedures law.
21

22 **[SECTION 18. INTERSTATE COMPACT FOR REGISTRATION OF ATHLETE**
23 **AGENTS.**

24 (a) In enacting this [act], this state adopts the Interstate Compact for Registration of
25 Athlete Agents and agrees to participate with other states enacting those provisions in
26 maintaining the Commission on Interstate Registration of Athlete Agents.

27 (b) Once effective, the compact continues in force and, except as otherwise provided in
28 subsection (c), remains binding on each member state.

29 (c) A member state may withdraw from the compact by repealing the statute that enacted
30 the compact into law. The withdrawal may not take effect until one year after the effective date
31 of the statute that repeals the statute that enacted the compact into law and until [written] notice
32 of the withdrawal has been given by the [Governor] [and] [Secretary of State] of the withdrawing

1 state to the [Governor] [and] [Secretary of State] of each member state.

2 (d) A member state immediately shall notify the executive director of the commission in
3 a record of the introduction of legislation to repeal the compact in the member state. Not later
4 than 60 days after receipt of the notice, the executive director shall notify other member states of
5 the introduction of the legislation.

6 (e) A state withdrawing from the compact under subsection (c) is responsible for all
7 assessments, obligations, and liabilities incurred through the effective date of withdrawal,
8 including obligations the performance of which extend beyond the effective date of withdrawal.

9 (f) The compact is dissolved effective on the date of the withdrawal of the member state
10 that reduces the membership in the compact to fewer than five states. On dissolution, the
11 compact has no further effect, and the affairs of the commission must be concluded and assets
12 distributed in accordance with the commission's bylaws.]

13 **SECTION 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
14 applying and construing this uniform act, consideration must be given to the need to promote
15 uniformity of the law with respect to its subject matter among states that enact it.

16 **SECTION 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
17 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the Electronic
18 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
19 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize
20 electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C.
21 Section 7003(b).

22 **Comment**

23 The Electronic Signatures in Global and National Commerce Act (ESGNCA) contains
24 provisions governing the legal effect, validity, or enforceability of electronic records and
25 electronic signatures. The act recognizes contracts which have been formed with the use of

1 electronic records or electronic signatures even though the Drafting Committee recommends that
2 agency contracts be in the traditional written form.

3
4 **[SECTION 21. SEVERABILITY.** If any provision of this [act] or its application to
5 any person or circumstance is held invalid, the invalidity does not affect other provisions or
6 applications of this [act] which can be given effect without the invalid provision or application,
7 and to this end the provisions of this [act] are severable.]

8 *Legislative Note: Include this section only if this state lacks a general severability statute or a*
9 *decision by the highest court of this state stating a general rule of severability.*

10
11 **SECTION 22. REPEALS; CONFORMING AMENDMENTS.**

12 (a)

13 (b)

14 (c)

15 **SECTION 23. EFFECTIVE DATE.** This [act] takes effect