

DRAFT
FOR DISCUSSION ONLY

**AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT
(~~2000~~) ()**

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

January 29 – February 1, 2015 Style Committee Meeting

WITH COMMENTS

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ON UNIFORM STATE LAWS

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January 6, 2015

AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000)-()

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1 **AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000) (____)**

2 **SECTION 1. SHORT TITLE.** This [Aet act] may be cited as the Uniform Athlete
3 Agents Act.

4 **Comment**

5 The title Uniform Athlete Agents Act was selected because a majority of the existing acts
6 regulating the activities of agents representing athletes have similar titles.
7

8 **SECTION 2. DEFINITIONS.** In this [Aet act]:

9 (1) "Agency contract" means an agreement in which a ~~student-athlete~~ student athlete
10 authorizes a person to negotiate or solicit on behalf of the ~~student-athlete~~ athlete a professional-
11 sports-services contract or an endorsement contract.

12 ~~(2) "Athlete agent" means an individual who enters into an agency contract with a~~
13 ~~student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an~~
14 ~~agency contract. The term includes an individual who represents to the public that the individual~~
15 ~~is an athlete agent. The term does not include a spouse, parent, sibling, [or] grandparent [, or~~
16 ~~guardian] of the student athlete or an individual acting solely on behalf of a professional sports~~
17 ~~team or professional sports organization.~~

18 (2) "Athlete agent":

19 (A) means an individual who:

20 (i) directly or indirectly recruits or solicits a student athlete to enter into an
21 agency contract or, for compensation, procures employment or offers, promises, attempts, or
22 negotiates to obtain employment for a student athlete as a professional athlete or as a member of
23 a professional sports team or organization;

24 (ii) for compensation or the anticipation of compensation:

25 (I) represents a student athlete for a purpose related to the athlete's

1 participation in professional athletics;

2 (II) serves a student athlete in an advisory capacity on a matter
3 related to finances, business pursuits or ventures, or career management decisions unless the
4 individual is an employee of an educational institution acting exclusively as an employee of the
5 institution for the benefit of the institution; or

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

8 (iii) seeks to obtain financial gain or benefit from securing the enrollment
9 of a student athlete at an educational institution, unless the individual is an employee of the
10 institution acting exclusively for the benefit of the institution.

11 (iii) gives consideration to a student athlete in anticipation of:

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

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

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

18 (B) does not include an individual:

19 (i) an individual acting solely on behalf of a professional sports team or
20 organization; or

21 (ii) an individual who is a licensed, registered, or certified as an attorney,
22 dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax
23 consultant, or member of another licensed, registered, or certified profession when the individual

1 professional and offers or provides services to a student athlete customarily provided by
2 members of the profession, unless the individual:

3 (I) also recruits or solicits the student athlete to enter into an
4 agency contract;

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

8 (III) provides the service on a compensation basis different from
9 the compensation basis for an individual who is not a student athlete.

10 (3) “Athletic director” means ~~an~~ the individual responsible for administering the overall
11 athletic program of an educational institution or, if an educational institution has separately
12 administered athletic programs for male students and female students, the athletic program for
13 males or the athletic program for females, as appropriate.

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

16 (4) “Contact” means a communication, direct or indirect, between an athlete agent and a
17 ~~student-athlete~~ student athlete; to recruit or solicit the ~~student-athlete~~ athlete to enter into an
18 agency contract.

19 (5) “Educational institution” includes a public or private elementary school, secondary
20 school, community college, college, university, or other educational institution.

21 (5) (6) “Endorsement contract” means an agreement under which a ~~student-athlete~~
22 student athlete is employed or receives consideration to use on behalf of the other party any
23 value that the ~~student-athlete~~ athlete may have because of publicity, reputation, following, or

1 fame obtained because of athletic ability or performance.

2 (7) “Enrolled” means registered for courses and attending athletic practice or class.

3 ~~(6)~~ (8) “Intercollegiate sport” means a sport played at the collegiate level for which
4 eligibility requirements for participation by a ~~student-athlete~~ student athlete are established by a
5 national association for the promotion or regulation of that promotes or regulates collegiate
6 athletics.

7 (9) “Interscholastic sport” means a sport played between educational institutions that are
8 not a community college, college, or university.

9 (10) “Licensed, registered, or certified professional” means an individual licensed,
10 registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real
11 estate broker or sales agent, tax consultant, accountant, or member of another profession
12 licensed, registered, or certified by the state or a nationally recognized organization that licenses,
13 registers, or certifies members of the profession on the basis of experience, education, and testing
14 and requires continuing education to maintain the license, registration, or certification. The term
15 does not include an athlete agent.

16 ~~(7)~~ (11) “Person” means an individual, ~~corporation, business trust,~~ estate, ~~trust,~~
17 partnership, limited liability company, association, joint venture, business or nonprofit entity,
18 public corporation, government; or governmental subdivision, agency, or instrumentality; ~~public~~
19 corporation, or any other legal ~~or commercial~~ entity.

20 ~~(8)~~ (12) “Professional-sports-services contract” means an agreement under which an
21 individual is employed as a professional athlete, or agrees to render services, as a player on a
22 professional sports team; or with a professional sports organization; ~~or as a professional athlete.~~

23 ~~(9)~~ (13) “Record” means information that is inscribed on a tangible medium or that is

1 stored in an electronic or other medium and is retrievable in perceivable form.

2 (14) “Recruit or solicit” means attempt to influence the choice of an athlete agent by a
3 student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not
4 include giving advice on the selection of a particular agent in a family, coaching, or social
5 situation unless the individual giving the advice does so because of the receipt or anticipated
6 receipt of economic benefit, directly or indirectly, from the agent.

7 ~~(10)~~ (15) “Registration” means registration as an athlete agent pursuant to under this [Act
8 act].

9 (16) “Sign” means, with present intent to authenticate or adopt a record:

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

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

13 ~~(11)~~ (17) “State” means a State state of the United States, the District of Columbia,
14 Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the
15 jurisdiction of the United States.

16 ~~(12)~~ (18) “~~Student athlete~~ Student athlete” means an individual who is eligible to attend
17 an educational institution and who ~~who~~ engages in, is eligible to engage in, or may be eligible in the
18 future to engage in, any interscholastic or intercollegiate sport. If an individual is permanently
19 ineligible to participate in a particular interscholastic or intercollegiate sport, the individual is not
20 a ~~student athlete~~ student athlete for purposes of that sport.

21 **Comment**

22 Only individuals are within the definition of “athlete agent” and therefore required to
23 register under Section 5. Corporations and other business entities do not come within the
24 definition of “athlete agent” and therefore are not required to register under the act, even though
25 individuals employed by the corporation or other business entity as athlete agents would be
26 required to register. The definition also includes other individuals or “runners” used by an agent

1 to recruit or solicit a student-athlete to enter into an agency contract. Attorneys are not excluded
2 from the definition. An attorney does not need to comply with the provisions of this act in order
3 to provide legal services to a student-athlete, but is required to register to perform the services of
4 an athlete agent.

5
6 Representatives of “professional sports teams or professional sports organizations,” such
7 as baseball teams, are excluded from the definition of “athlete agent” as long as they are acting
8 for their teams or organizations. If a representative should attempt to induce a student-athlete to
9 enter into an agency contract, rather than a contract with the team or organization, registration is
10 required. Also excluded from the definition are individuals who simply provide information to a
11 student-athlete, but who do not recruit or solicit the student-athlete to sign an agency contract.
12 For example, a professional athlete who gives a student-athlete information about the
13 qualifications of an athlete agent is not required to register unless the professional athlete also
14 attempts to recruit or solicit the student-athlete to sign an agency contract. In the exclusion of
15 certain family members from the definition of “athlete agent,” the phrase “or guardian” is
16 bracketed because some States may use another term to describe an individual who has legal
17 responsibility for the care of another.

18
19 The proposed amendment of the definition of athlete agent retains the language of the
20 UAAA which makes an individual who directly or indirectly recruits or solicits a student athlete
21 to enter an agency contract an athlete agent, but expands the definition to include an individual
22 who, for compensation:

23 (1) procures or attempts to procure employment for a student athlete as a
24 professional athlete;

25 (2) represents a student athlete as an athlete;

26 (3) advises a student athlete on finances, business ventures, or career management;

27 (4) manages the business affairs of a student athlete; or

28 (5) secures the enrollment of a student athlete at a particular institution.

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

33
34 The definition of “contact” does not include communications which merely provide
35 information to the student-athlete. For example, a communication about the position a student-
36 athlete could reasonably expect to have in a professional draft does not constitute recruitment or
37 solicitation to enter into an agency contract.

38
39 Athlete agents are providing benefits to students as early as elementary school if the
40 student appears to have long-term professional sports capability. For example, agents have been
41 known to provide athletic shoes and other athletic equipment to student athletes at an early age.
42 This could cause the student athlete to lose his or her eligibility to participate in intercollegiate
43 sports. Accordingly, a definition of educational institution is added and the definition of student
44 athlete is revised to make clear that the act applies to a student athlete enrolled at any level of
45 public or private education.

1 Recruit or solicit, which is used in the definition of athlete agent, is defined to mean
2 attempting to influence the choice of an athlete agent by a student athlete or, if the athlete is a
3 minor, by a parent or guardian of the athlete. The UAAA excluded a spouse, parent, sibling,
4 grandparent, or guardian of a student athlete from the definition of athlete agent. The act was
5 also silent on the issue of coaches and student athletes. The definition of recruit or solicit
6 excludes advice to select a particular athlete agent given in a family, coaching, or social situation
7 unless the advice is given because of the receipt or anticipated receipt of compensation from the
8 agent. Thus, the parent of a student athlete who advises the athlete to select a particular agent is
9 not an athlete agent unless the advice is given in exchange for compensation or the expectation
10 of compensation from the agent. Similarly, a coach of a student athlete who advises the athlete to
11 select a particular agent is not an agent unless the advice is given for compensation or the
12 expectation of compensation from the agent.

13
14 The definition of “student-athlete” applies to a two-sport athlete who has eligibility
15 remaining in one sport. For example, an individual who has signed a contract to play
16 professional basketball is not a student-athlete in basketball, but is a student-athlete in baseball.
17 The definition of “student-athlete” also includes individuals who are not yet in college. It
18 includes high school students, high school dropouts and high school graduates who have delayed
19 matriculation to a college or university so long as the individual may have future eligibility for
20 intercollegiate sports.

21
22 **SECTION 3. SERVICE OF PROCESS; SUBPOENAS [SECRETARY OF**
23 **STATE]; AUTHORITY; PROCEDURE.**

24 ALTERNATIVE A

25
26 (a) The [Administrative Procedure Act] applies to this [act]. The [Secretary of State] may
27 adopt rules under the [Administrative Procedure Act] to implement this [act].

28 ALTERNATIVE B

29 (a) The [Administrative Procedure Act] of the state in which the commission is located
30 applies to this [act]. The commission may adopt rules under the [Administrative Procedure Act]
31 to implement this [act].

32 End of Alternatives

33 ~~{(a)}~~ (b) By acting as an athlete agent in this State state, a nonresident individual appoints
34 the [Secretary of State] [commission] as the individual’s agent for service of process in any civil
35 action in this State state related to the ~~individual’s~~ individual acting as an athlete agent in this

1 ~~State~~ state.

2 ~~[(b)] (c)~~ ~~{The [Secretary of State] [commission] may issue subpoenas~~ a subpoena for any
3 material that is relevant to the administration of this ~~[Act act].~~

4 **Comment**

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

10
11 Subsection (b) is in brackets because it may not be required under the administrative
12 procedure acts of some States. If subsection (b) is not used, the remainder of the section should
13 not be designated as (a).

14
15 **SECTION 4. ATHLETE AGENTS AGENT: REGISTRATION REQUIRED;**
16 **~~VOID CONTRACTS~~ CONTRACT.**

17 (a) Except as otherwise provided in subsection (b), an individual may not act as an athlete
18 agent in this ~~State~~ state without holding a certificate of registration under Section ~~[5, 6, or 8]~~ [6
19 or 7].

20 (b) Before being issued a certificate of registration under Section [5, 6, or 8] [6 or 7], an
21 individual may act as an athlete agent in this ~~State~~ state for all purposes except signing an agency
22 contract, if:

23 (1) a ~~student-athlete~~ student athlete or another person acting on behalf of the
24 ~~student-athlete~~ athlete initiates communication with the individual; and

25 (2) ~~within~~ not later than seven days after an initial act that requires the individual
26 to register as an athlete agent, the individual submits an application for registration as an athlete
27 agent in this ~~State~~ state.

28 (c) An agency contract resulting from conduct in violation of this section is void and the
29 athlete agent shall return any consideration received under the contract.

1 **Comment**

2 The intent of this section is to make the registration requirement as broad as
3 constitutionally permissible consistent with the minimum contacts theory of *International Shoe*
4 *Company v. Washington*, 326 U.S. 310 (1945). Agents must register in each State in which they
5 have established minimum contacts. For example, an individual in State A contacting a student-
6 athlete in State B is acting as an athlete agent in both States and is therefore required to register
7 in both States.

8
9 Subsection (b) provides a safe harbor for an unregistered individual with whom a student-
10 athlete initiates communications. The individual must apply for registration within seven days
11 from the beginning of any effort to recruit or solicit the student-athlete to enter into agency
12 contract. If the individual does not attempt to recruit or solicit the student-athlete to sign an
13 agency contract, registration is not required. References to “days” in this section and throughout
14 the act mean calendar days.

15
16 In addition to the penalties which may be imposed under Sections 15 and 17, subsection
17 (c) discourages contact with a student-athlete by an individual who has not registered as an
18 athlete agent. An agency contract resulting from that contract is void, not merely voidable.

19
20 **Alternative A**

21
22 *Legislative Note: There are two alternatives for Sections 5, 6, 7, 8, and 9. Alternative A*
23 *establishes a registration system in the enacting state that requires the enacting state to register*
24 *an individual who is registered in another state if the enacting state determines the law of the*
25 *other state is substantially similar to or more restrictive than the law of the enacting state and*
26 *the registration in the other state has not been revoked or suspended and no action involving the*
27 *agent’s conduct as an agent is pending. Alternative B creates a central registration agency, the*
28 *Commission on the Interstate Registration of Athlete Agents, and provides that states enacting*
29 *Alternative B will be entering into an interstate compact with other states that enact it. While the*
30 *numbering of the sections in the two Alternatives is different because Section 5 of Alternative B*
31 *creates the commission and the contents of Section 9 are folded into Section 5, the substantive*
32 *requirements for the initial registration and the basis for denial of registration or the suspension,*
33 *revocation, or failure to renew registration are identical in both Alternatives. Thus, the effect of*
34 *Alternative B is to delegate the responsibility for the registration of athlete agents in a state*
35 *adopting the compact and the civil enforcement of the act to a central entity created by the*
36 *compact. States adopting Alternative B will also have to amend Section 2 to include a definition*
37 *of commission for the new central registration agency, add a section containing language*
38 *formally creating the Interstate Compact, make conforming changes replacing [Secretary of*
39 *State] with the commission in Sections 3 and 17, and additional conforming changes in Section*
40 *4.*

41
42 **SECTION 5. REGISTRATION AS ATHLETE AGENT; FORM APPLICATION;**
43 **REQUIREMENTS.**

44 (a) An applicant for registration as an athlete agent shall submit an application for

1 registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. ~~[An~~
2 ~~application filed under this section is a public record.]~~ Information on the application which is a
3 trade secret or is personal information the disclosure of which would constitute an unwarranted
4 invasion of personal privacy is not a public record under the [state's public records act]. The
5 application must be in the name of an individual and, except as otherwise provided in subsection
6 (b), signed or otherwise authenticated by the applicant under penalty of perjury. ~~and~~ The
7 application must state or contain at least the following:

8 (1) the name, [last four digits of the applicant's] Social Security number,
9 birthdate, and birthplace of the applicant and the contact information for the applicant, including
10 the address of the applicant's principal place of business, work and mobile telephone numbers,
11 facsimile number, electronic-mail address, and personal and organization websites;

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

15 (3) each social media account with which the applicant or the applicant's
16 organization is affiliated;

17 ~~(3) (4) any~~ each business or occupation ~~engaged in by~~ in which the applicant ~~for~~
18 engaged during the five years next preceding before the date of submission of the application,
19 including self-employment and employment by others, and any professional or occupational
20 license held by the applicant;

21 ~~(4) (5) a description of the applicant's:~~

22 (A) formal training as an athlete agent;

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

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

3 ~~(5) the names and addresses of three individuals not related to the applicant who~~
4 ~~are willing to serve as references;~~

5 (6) the name, sport, and last-known team for each individual for whom the
6 applicant acted as an athlete agent during the five years ~~next preceding~~ before the date of
7 ~~submission of the application;~~

8 (7) the names and addresses of ~~all persons who are~~ each person that is:

9 (A) with respect to the athlete agent's business if it is not a corporation,
10 ~~the partners, members, officers, managers, associates, or profit sharers~~ a partner, member,
11 officer, manager, associate, or profit sharer of the business; and

12 (B) with respect to a corporation employing the athlete agent, ~~the officers,~~
13 ~~directors,~~ an officer or director and any shareholder of the corporation having an interest of five
14 percent or greater;

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

19 ~~(8)~~ (9) whether the applicant, or any person named ~~pursuant to~~ under paragraph
20 (7), has pleaded guilty to or been convicted of, or has charges pending for, a crime that, if
21 committed in this ~~State~~ state, would be a crime involving moral turpitude or a felony; and, if so,
22 identify;

23 (A) the crime;

1 (B) the law enforcement agency involved; and

2 (C) if applicable, the date of the conviction and the fine or penalty

3 imposed;

4 (10) whether, within 15 years before the date of application, the applicant, or any
5 person named under paragraph (7), has been a defendant or respondent in a civil proceeding,
6 including a proceeding seeking an adjudication of legal incompetence, and, if so, identify the
7 date of each proceeding and explain each occurrence fully;

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

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

14 ~~(9)~~ (13) whether there has been any administrative or judicial determination that
15 the applicant, or any person named pursuant to under paragraph (7), made a false, misleading,
16 deceptive, or fraudulent representation;

17 ~~(10)~~ (14) any instance in which the conduct of the applicant, or any person named
18 pursuant to under paragraph (7), resulted in the imposition of a sanction, suspension, or
19 declaration of ineligibility to participate in an interscholastic, ~~or~~ intercollegiate, or professional
20 athletic event on a ~~student-athlete~~ student athlete or a sanction on an educational institution;

21 ~~(11)~~ (15) any sanction, suspension, or disciplinary action taken against the
22 applicant, or any person named pursuant to under paragraph (7), arising out of occupational or
23 professional conduct; and

1 ~~(12)~~ (16) whether there has been ~~any~~ a denial of an application for, suspension or
2 revocation of, ~~or~~ refusal to renew, abandonment of, or limitation for any reason of, the
3 registration ~~or licensure~~ of the applicant, or any person named ~~pursuant to~~ under paragraph (7),
4 as an athlete agent in any ~~State~~ state;

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

7 (18) if the applicant is certified or registered by any professional ~~organization~~
8 league or players' association, the name of the ~~organization~~ league or association, the date of
9 certification or registration, and the date of expiration of the certification or registration, if any,
10 and if applicable, the date of any denial of an application for, refusal to renew, suspension or
11 revocation of, withdrawal of, or termination of the certification or registration or any reprimand
12 or censure related to the certification or registration.

13 ~~(b) An individual who has submitted an application for, and holds a certificate of,~~
14 ~~registration or licensure as an athlete agent in another State, may submit a copy of the application~~
15 ~~and certificate in lieu of submitting an application in the form prescribed pursuant to subsection~~
16 ~~(a). The [Secretary of State] shall accept the application and the certificate from the other State~~
17 ~~as an application for registration in this State if the application to the other State:~~

18 ~~(1) was submitted in the other State within six months next preceding the~~
19 ~~submission of the application in this State and the applicant certifies that the information~~
20 ~~contained in the application is current;~~

21 ~~(2) contains information substantially similar to or more comprehensive than that~~
22 ~~required in an application submitted in this State; and~~

23 ~~(3) was signed by the applicant under penalty of perjury.~~

1 (b) Instead of proceeding under subsection (a), an individual registered as an athlete agent
2 in another state may apply for registration in this state by submitting to the [Secretary of State] a
3 copy of the application for registration and a statement identifying any change in the information
4 on the application, or that there is no material change in the information, signed under penalty of
5 perjury, the certificate of registration from the other state, and the applicable fee. The [Secretary
6 of State] shall issue a certificate of registration to the individual if the [Secretary of State]
7 determines:

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

10 (2) the registration has not been revoked or suspended and no action involving
11 the individual's conduct as an athlete agent is pending against the individual or a registration in
12 any state in which the individual is registered.

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

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

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

20 **Comment**

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

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

5
6 Subsection (b) provides for reciprocal use of applications in States which have adopted
7 the Uniform Act. The need for an agent to comply with substantially different application
8 procedures in multiple jurisdictions is eliminated. It is the first of a number of reciprocity
9 provisions found in the act which are intended to ease the burden placed on agents by
10 substantially different registration requirements and to simplify enforcement of the act. Absence
11 of reciprocity provisions in existing acts is a primary reason why the Uniform Act is needed.

12
13 Section 5 of the UAAA was not a true reciprocal registration provision in that, while it
14 allowed for submission of the application for registration in one state to another state, the second
15 state was free to require additional information or refuse to issue the registration on various
16 grounds. The amended version is a true reciprocal registration provision in that if an individual
17 registered in state A applies for registration in state B, state B is required to grant the registration
18 if it determines the law in state A is the same or more restrictive than the law in state B, the
19 registration is in good standing, and no proceeding involving the individual's conduct as an
20 athlete agent is pending in any state in which the individual is registered.

21
22 A central registration point with a single form is the easiest way to facilitate the
23 reciprocal licensing provisions of subsection (b) and subsection (c) encourages the administrative
24 agencies to which the enforcement of the act is delegated to cooperate with agencies from other
25 states to that end. It is recognized there are substantial obstacles to a central registration office,
26 not the least of which is cost. If it is not possible or feasible to create a central registration point,
27 agencies are encouraged to adopt the following standard form:

28 REGISTRATION FORM

29 PART I. GENERAL INFORMATION

30 [Use additional sheets as necessary]

31 1. Registrant first name: _____

32 2. Registrant middle name: _____

33 3. Registrant last name: _____

34 4. If you have ever been known by any other name, surname, or maiden name, list
35 the name: _____
36

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

1 _____
2 6. Your position or title within the organization identified in Item 5: _____

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

5 _____
6 8. Work phone: _____

7 9. Mobile phone: _____

8 10. Fax number: _____

9 11. Work and Personal Email and Website: _____

10 12. Birthplace and date of birth: _____

11 13. List all social media accounts with which you and the organization identified in Item
12 5 are affiliated: _____

13 14. Indicate if you are registered or certified by any professional organization, the date of
14 registration or certification and if applicable, the date of expiration, as of the date of the
15 completion of this form, with:

16 Major League Baseball Players Association _____

17 National Basketball Players Association _____

18 National Football Players Association _____

19 National Hockey League Players Association _____

20 Other _____

21 None _____

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

23 _____

1 16. List all states in which you are currently registered or have applied to be registered
2 pursuant to any state statute regulating athlete agents: _____

3 _____

4 PART II. EDUCATION

5 For each item in this part, include: School name, city and state, degree conferred, and year the
6 degree was awarded.

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

8 18. Undergraduate School(s): _____

9 19. High School(s): _____

10 PART III. CURRENT OCCUPATION/EMPLOYMENT

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

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

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

14 _____

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

17 Name of employer: _____

18 Supervisor's name: _____

19 Supervisor's address and work phone: _____

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

21 Nature of your current employment: _____

22 24. Provide the following information for each firm or organization with which you are
23 currently affiliated: Name, mailing address, phone number, organizational form (for example, a

1 sole proprietorship, corporation, partnership, or other entity), and nature of business: _____
2 _____

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

9 26. List each individual not named in Item 25, who: (a) has an ownership interest of 5%
10 or more in each firm or organization listed in Item 24 which is a corporation; (b) has wholly or
11 partially financed your firm or organization (other than financing or credit extended in the
12 ordinary course of business by lending institutions); or (c) directly or indirectly exercises or has
13 the power to exercise a controlling influence over the management of your firm or organization.
14 For each individual, provide their respective name, mailing address, phone number, and nature of
15 involvement (for example, describe the individual's ownership interest, amount of financing
16 provided, or basis of the individual's controlling influence: _____
17 _____

18 27. Provide your employment history for the past five years or a resume that indicates
19 that employment history: _____
20 _____

21 **PART IV. PROFESSIONAL BACKGROUND**

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

1 _____

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

5 _____

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

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

9 _____

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

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

13 _____

14 34. Describe and indicate the status of any application you currently have pending for an
15 occupational or professional license: _____

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

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

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

22 _____

23

PART V. COMPLIANCE BACKGROUND

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

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

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

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

42. If you answered "Yes" to Item 41, provide the following information for each occurrence: Offense, law enforcement agency involved, and, if applicable, the date of conviction and the fine or penalty imposed: _____

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

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

45. If you have been adjudicated legally incompetent by any court within the last 15 years

1 of the date of this application, specify the date and nature of the determination: _____
2 _____

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

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

6 _____
7 _____

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

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

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

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

16 52. Have you ever been involved in any action that resulted in the imposition of a
17 sanction against an educational institution or the imposition of a sanction against or suspension
18 or declaration of ineligibility of a student athlete from participating in an interscholastic,
19 intercollegiate, or professional athletic event? (Y/N)

20 53. If you answered "Yes" to Item 52, provide the following for each occurrence: the
21 complaint or charge, the date of alleged violation, the results or status of any related
22 investigation, and the name of the authority imposing any related sanction: _____
23 _____

1 crime involving moral turpitude or a felony;

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

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

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

7 (5) had a registration ~~or licensure~~ as an athlete agent suspended, revoked, or
8 denied or been refused renewal of registration ~~or licensure~~ as an athlete agent in any ~~State~~ state;

9 (6) engaged in conduct the consequence of which was that a sanction, suspension,
10 or declaration of ineligibility to participate in an interscholastic, ~~or~~ intercollegiate, or
11 professional athletic event was imposed on a ~~student-athlete~~ student athlete or a sanction was
12 imposed on an educational institution; or

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

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

17 (1) how recently the conduct occurred;

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

19 (3) any other relevant conduct of the applicant.

20 (d) An athlete agent registered under subsection (a) may apply to renew a the registration
21 by submitting an application for renewal in a form prescribed by the [Secretary of State]. ~~[An~~
22 ~~application filed under this section is a public record.]~~ The application for renewal must be
23 signed by the applicant under penalty of perjury and must contain current information on all

1 matters required in an original application for registration.

2 ~~(e) An individual who has submitted an application for renewal of registration or~~
3 ~~licensure in another State, in lieu of submitting an application for renewal in the form prescribed~~
4 ~~pursuant to subsection (d), may file a copy of the application for renewal and a valid certificate~~
5 ~~of registration or licensure from the other State. The [Secretary of State] shall accept the~~
6 ~~application for renewal from the other State as an application for renewal in this State if the~~
7 ~~application to the other State:~~

8 ~~(1) was submitted in the other State within six months next preceding the filing in~~
9 ~~this State and the applicant certifies the information contained in the application for renewal is~~
10 ~~current;~~

11 ~~(2) contains information substantially similar to or more comprehensive than that~~
12 ~~required in an application for renewal submitted in this State; and~~

13 ~~(3) was signed by the applicant under penalty of perjury.~~

14 (e) An athlete agent who is registered under Section 5(b) may renew the registration by
15 proceeding under subsection (d) or, if the registration in the other state has been renewed, by
16 submitting to the [Secretary of State] a copy of the application for renewal in the other state and
17 the renewal registration from the other state and paying the applicable fee. The [Secretary of
18 State] shall renew the registration if the [Secretary of State] determines:

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

21 (2) the renewed registration has not been revoked or suspended and no action
22 involving the individual's conduct as an athlete agent is pending against the individual or a
23 registration in any state in which the individual is registered.

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

3 (g) The [Secretary of State] may refuse to issue a certificate of registration under
4 subsection (b) only after proper notice and an opportunity for a hearing.

5 **Comment**

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

10
11 A requirement that Secretaries of State exchange information about denial, suspension,
12 revocation or refusal to renew registration of athlete agents is beyond the scope of this act. Since
13 an agreement to exchange such information would reduce the expense of administering this act
14 and provide for more effective enforcement, it seems likely the Secretaries of State will enter
15 into such an agreement.

16 **SECTION 7. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW**

17 **REGISTRATION.**

18
19 ~~{(a)}~~ The [Secretary of State] may suspend, revoke, or refuse to renew a registration of an
20 individual registered under Section 6(a) for conduct that would have justified denial of
21 registration under Section 6(b).

22 (b) The [Secretary of State] may suspend or revoke the registration of an individual
23 registered under Section 5(b) or 6(e) for any reason for which the [Secretary of State] could have
24 refused to grant or renew registration or for conduct for which the [Secretary of State] could have
25 denied registration of an individual applying under Section 5(a).

26 ~~{(b) (c)}~~ The [Secretary of State] may ~~deny~~, suspend, revoke, or refuse to renew a
27 certificate of registration ~~or licensure~~ under this [act] only after proper notice and an opportunity
28 for a hearing. ~~The [Administrative Procedures Act] applies to this [Act].~~

1 **Comment**

2 By reference to Section 6(b), this section permits the Secretary of State to consider,
3 among other things, actions in another State to suspend, revoke, or refuse to renew registration.
4 “Administrative Procedures Act” is bracketed because some States may refer to laws
5 relating to due process in administrative procedures by another name.
6

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

10 **Comment**

11 The discretion to issue a temporary certificate of registration is broad enough to include
12 issuance of such a certificate even where the registration may be contested. It is not necessary to
13 issue a temporary certificate to protect an individual with whom a student-athlete initiated
14 communications. Under Section 4(b), that individual is only required to file an application for
15 registration within seven days after commencement of efforts to recruit or solicit the student-
16 athlete to sign an agency contract.
17

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

- 21 (1) ~~[\$]-\$[]~~ for an initial application for registration;
- 22 (2) ~~[\$]-\$[]~~ for ~~an application for~~ registration based ~~upon~~ on a certificate of registration ~~or~~
23 ~~license~~ issued by another ~~State~~ state;
- 24 (3) ~~[\$]-\$[]~~ for an application for renewal of registration; or
- 25 (4) ~~[\$]-\$[]~~ for ~~an application for~~ renewal of registration based ~~upon an application for~~ on
26 a renewal of registration or license submitted in another ~~State~~ state.

27 **Comment**

28 The amount of fees is left for each State to determine. Some States with existing acts
29 have set fees in amounts sufficient to recover the cost of administration. If that approach is
30 taken, a fee for registration or renewal based on registration or renewal of registration in another
31 State should be less than when a complete evaluation and review of an application is necessary.
32

33 Athlete agent registration is the cornerstone of this act. High registration fees imposed by

1 some States with existing acts have probably contributed to seemingly small numbers of
2 registrants under existing acts. The success of this act may be contingent on the implementation
3 of a reasonable fee structure which does not motivate non-compliance.

4
5 **Alternative B**

6 **SECTION 5. COMMISSION ON INTERSTATE REGISTRATION OF ATHLETE**

7 **AGENTS.**

8 (a) The Commission on Interstate Registration of Athlete Agents is hereby created. The
9 commission is a body corporate and joint agency of the states that enact this [act]. The
10 commission consists of one member from each state enacting this [act] appointed by the
11 [Governor] of that state.

12 (b) The first meeting of the commission shall be held within [90] days after the [5th] state
13 enacts this [act]. A majority of the states enacting this [act] constitutes a quorum for the conduct
14 of business.

15 (c) At the first meeting of the commission, the commission shall adopt bylaws for the
16 operation of the commission that provide for:

17 (1) an executive committee to manage day-to-day affairs of the commission;

18 (2) the operation of the commission, including provision for the employment of
19 necessary staff;

20 (3) maintaining a site for the registration of athlete agents in the states that enact
21 this [act], including establishing the registration fee and the apportionment of the fee among the
22 states enacting this [act]; and

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

24 (d) The commission:

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

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

2 (2) may accept any appropriate revenue source, donation, and grant of money,
3 equipment, supplies, materials, and services;

4 (3) may assess each member state annually on a basis determined by the
5 commission to cover the cost of operation of the commission not funded by registration fees
6 imposed under subsection (b)(3);

7 (4) may not incur obligation of any kind prior to securing the funds adequate to
8 meet the obligation or pledge the credit of a member state, except with the authority of the
9 member state; and

10 (5) shall keep accurate accounts of all receipts and disbursements, subject to audit
11 and accounting procedures established under its bylaws.

12 (e) The receipts and disbursements of funds by the commission shall be audited yearly by
13 a certified or licensed public accountant and the report of the audit shall be included in the
14 annual report of the commission.

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

16 **REQUIREMENTS.** An applicant for registration as an athlete agent shall submit an application
17 for registration to the commission in a form prescribed by the commission. Information on the
18 application which is a trade secret or is personal information the disclosure of which would
19 constitute an unwarranted invasion of personal privacy is not a public record. The application
20 must be in the name of an individual and signed or otherwise authenticated by the applicant
21 under penalty of perjury. The application must state or contain at least the following:

22 (1) the name, [last four digits of the applicant's] Social Security number, birth date, and
23 birthplace of the applicant and the contact information for the applicant, including the address of

1 the applicant's principal place of business, work and mobile telephone numbers, facsimile
2 number, electronic-mail address, and personal and organization websites;

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

6 (3) each social media account with which the applicant or the applicant's organization is
7 affiliated;

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

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

12 (A) formal training as an athlete agent;

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

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

16 (6) the name, sport, and last-known team for each individual for whom the applicant
17 acted as an athlete agent during the five years before the date of the application;

18 (7) the names and addresses of each person that is:

19 (A) with respect to the athlete agent's business if it is not a corporation, a partner,
20 member, officer, manager, associate, or profit sharer of the business; and

21 (B) with respect to a corporation employing the athlete agent, an officer or
22 director and any shareholder of the corporation having an interest of five percent or greater;

23 (8) a description of the status of any application by the applicant, or any person named

1 under paragraph (7), for a business, professional, or occupational license, other than as an athlete
2 agent, from a state or federal agency, including any denial, refusal to renew, suspension,
3 withdrawal, or termination of the license and any reprimand or censure related to the license;

4 (9) whether the applicant, or any person named under paragraph (7), has pleaded guilty to
5 or been convicted of, or has charges pending for, a crime that, if committed in this state,
6 involving moral turpitude or a felony and, if so, identify:

7 (A) the crime;

8 (B) the law enforcement agency involved; and

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

10 (10) whether, within 15 years before the date of application, the applicant, or any person
11 named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a
12 proceeding seeking an adjudication of legal incompetence, and, if so, identify the date of each
13 proceeding and explain each occurrence fully;

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

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

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

23 (14) any instance in which conduct of the applicant, or any person named under

1 paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility
2 to participate in an interscholastic, intercollegiate, or professional athletic event on a student
3 athlete or a sanction on an educational institution;

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

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

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

11 (18) if the applicant is certified or registered by any professional organization, the name
12 of the organization, the date of certification or registration, and the date of expiration of the
13 certification or registration, if any, and if applicable, the date of any denial of an application for,
14 refusal to renew, suspension or revocation of, withdrawal of, or termination of the certification or
15 registration or any reprimand or censure related to the certification or registration; and

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

17 **SECTION 7. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL;**

18 **RENEWAL.**

19 (a) Except as otherwise provided in subsection (b), the commission shall issue a
20 certificate of registration to an individual who complies with Section 6.

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

1 In making the determination, the commission may consider whether the applicant has:
2 (1) been convicted of a crime involving moral turpitude or a felony;
3 (2) made a materially false, misleading, deceptive, or fraudulent representation in
4 the application or as an athlete agent;
5 (3) engaged in conduct that would disqualify the applicant from serving in a
6 fiduciary capacity;
7 (4) engaged in conduct prohibited by Section 14;
8 (5) had a registration as an athlete agent suspended, revoked, or denied or been
9 refused renewal of registration as an athlete agent in any state;
10 (6) engaged in conduct the consequence of which was that a sanction, suspension,
11 or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional
12 athletic event was imposed on a student athlete or a sanction was imposed on an educational
13 institution; or
14 (7) engaged in conduct that significantly adversely reflects on the applicant's
15 credibility, honesty, or integrity.

16 (c) In making a determination under subsection (b), the commission shall consider:
17 (1) how recently the conduct occurred;
18 (2) the nature of the conduct and the context in which it occurred; and
19 (3) any other relevant conduct of the applicant.

20 (d) An athlete agent registered under subsection (a) may apply to renew the registration
21 by submitting an application for renewal in a form prescribed by the commission. The
22 application for renewal must be signed by the applicant under penalty of perjury and must
23 contain current information on all matters required in an original application for registration.

1 (e) The commission may refuse to issue a certificate of registration under subsection (b)
2 only after proper notice and an opportunity for a hearing. The ~~[Administrative Procedures Act]~~
3 of the state in which the commission is located applies to this ~~[act]~~.

4 **SECTION 8. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW**

5 **REGISTRATION.** The commission may suspend, revoke, or refuse to renew a registration for
6 conduct that would have justified denial of registration under Section 7(b).

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

10 **End of Alternatives**

11 **SECTION 10. REQUIRED FORM OF AGENCY CONTRACT.**

12 (a) An agency contract must be in a record, signed or otherwise authenticated by the
13 parties.

14 (b) An agency contract must state or contain:

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

17 ~~(1)~~ (2) the amount and method of calculating the consideration to be paid by the
18 ~~student-athlete~~ student athlete for services to be provided by the athlete agent under the contract
19 and any other consideration the ~~athlete~~ agent has received or will receive from any other source
20 for entering into the contract or ~~for~~ providing the services;

21 ~~(2)~~ (3) the name of any person not listed in the application for registration or
22 renewal of registration ~~who~~ which will be compensated because the ~~student-athlete~~ athlete signed
23 the agency contract;

1 ~~(3)~~ (4) a description of any expenses that the ~~student-athlete~~ athlete agrees to
2 reimburse;

3 ~~(4)~~ (5) a description of the services to be provided to the ~~student-athlete~~ athlete;

4 ~~(5)~~ (6) the duration of the contract; and

5 ~~(6)~~ (7) the date of execution.

6 (c) An agency contract must contain, in close proximity to the signature of the ~~student-~~
7 ~~athlete~~ student athlete, a conspicuous notice ~~in boldface type in capital letters~~ in substantially the
8 following form stating:

9 **WARNING TO ~~STUDENT-ATHLETE~~ STUDENT ATHLETE**

10 **IF YOU SIGN THIS CONTRACT:**

11 **(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A ~~STUDENT-~~**
12 **~~ATHLETE~~ STUDENT ATHLETE IN YOUR SPORT;**

13 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**
14 **ENTERING INTO THIS CONTRACT OR BEFORE THE NEXT SCHEDULED**
15 **ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST,**
16 **BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC**
17 **DIRECTOR; AND**

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

21 (d) An agency contract must be accompanied by a separate record executed by the
22 student athlete acknowledging that executing the agency contract may result in the loss of the
23 athlete's eligibility to participate in the athlete's sport.

1 whichever occurs first, the athlete agent shall give notice in a record of the existence of the
2 contract to the athletic director of the educational institution at which the ~~student-athlete~~ athlete
3 is enrolled or the ~~athlete~~ agent has reasonable grounds to believe the ~~student-athlete~~ athlete
4 intends to enroll.

5 (b) ~~Within~~ Not later than 72 hours after entering into an agency contract or before the
6 next scheduled athletic event in which the ~~student-athlete~~ student athlete may participate,
7 whichever occurs first, the ~~student-athlete~~ athlete shall inform the athletic director of the
8 educational institution at which the ~~student-athlete~~ athlete is enrolled that ~~he or she~~ the athlete
9 has entered into an agency contract.

10 (c) Not later than 72 hours after a student athlete enrolls at an educational institution, an
11 athlete agent who previously entered into an agency contract with the athlete shall notify the
12 athletic director of the institution of the existence of the contract.

13 **Comment**

14 The purpose of this section is to prevent an educational institution from being sanctioned
15 or penalized by allowing an ineligible player to participate in intercollegiate sports. The
16 penalties may be severe. In addition to non-monetary penalties mentioned in the prefatory note,
17 penalties may include loss of very substantial revenues received for participation in a football
18 bowl game or a post-season basketball tournament.

19 **SECTION 12. ~~STUDENT-ATHLETE'S~~ STUDENT ATHLETE'S RIGHT TO**

20 **CANCEL.**

21 (a) A ~~student-athlete~~ student athlete may cancel an agency contract by giving notice in a
22 record of the cancellation to the athlete agent ~~in a record within~~ not later than 14 days after the
23 contract is signed or otherwise authenticated.

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

25 (c) If a ~~student-athlete~~ student athlete cancels an agency contract, the ~~student-athlete~~
26 athlete is not required to pay any consideration under the contract or ~~to~~ return any consideration
27

1 received from the athlete agent to induce the ~~student-athlete~~ athlete to enter into the contract.

2 **Comment**

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

9 **SECTION 13. REQUIRED RECORDS.**

10 (a) An athlete agent shall retain ~~the following~~ records of the following for a period of five
11 years:

12 (1) the name and address of each individual represented by the ~~athlete~~ agent;

13 (2) ~~any~~ each agency contract entered into by the ~~athlete~~ agent; and

14 (3) ~~any~~ direct costs incurred by the ~~athlete~~ agent in the recruitment or solicitation
15 of a each ~~student-athlete~~ student athlete to enter into an agency contract.

16 (b) Records ~~required by~~ described in subsection (a) ~~to be retained~~ are open to inspection
17 by the [Secretary of State] [commission] during normal business hours.

18 **SECTION 14. PROHIBITED CONDUCT.**

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

22 ~~(a)~~ (b) An athlete agent, with the intent to induce a ~~student-athlete~~ student athlete or, if
23 the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may
24 not:

25 (1) give any materially false or misleading information or make a materially false
26 promise or representation;

1 (2) furnish anything of value to ~~a student-athlete~~ the athlete before the ~~student-~~
2 ~~athlete~~ athlete enters into the ~~agency~~ contract; or

3 (3) furnish anything of value to ~~any~~ an individual other than the ~~student-athlete~~
4 athlete or another registered athlete agent.

5 **(b)** (c) An athlete agent may not intentionally:

6 (1) initiate contact with a ~~student-athlete~~ student athlete or, if the athlete is a
7 minor, a parent or guardian of the athlete unless registered under this [~~Act~~ act];

8 (2) refuse or fail to retain or permit inspection of the records required by Section
9 13 to be retained ~~by Section 13~~;

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

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

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

14 (6) fail to notify a ~~student-athlete~~ student athlete or, if the athlete is a minor, a
15 parent or guardian of the athlete before the ~~student-athlete~~ athlete or, if the athlete is a minor, a
16 parent or guardian of the athlete signs or otherwise authenticates an agency contract for a
17 particular sport that the signing or authentication may make the ~~student-athlete~~ athlete ineligible
18 to participate as a ~~student-athlete~~ student athlete in that sport.

19 (d) An athlete agent who is aware that an employee or agent of the athlete agent is
20 engaging in conduct on behalf of the athlete agent that is a violation of this [act] must take
21 effective action to stop the conduct.

22 (e) Before communicating or attempting to communicate with a student athlete or, if the
23 athlete is a minor, a parent or guardian of the athlete to influence the athlete to enter into an

1 agency contract or before communicating or attempting to communicate with another individual
2 to have that individual influence a student athlete or, if the athlete is a minor, a parent or
3 guardian of the athlete to enter into an agency contract, an athlete agent shall notify in a record
4 the athletic director of the educational institution at which the athlete is enrolled. If the
5 communication or attempt to communicate is initiated by the athlete or another individual on
6 behalf of an athlete, the agent shall notify in a record the athletic director of the institution not
7 later than 10 days after the communication or attempt.

8 (f) Not later than 10 days after a student athlete enrolls at an educational institution, an
9 athlete agent who has a pre-existing social relationship with the athlete shall notify in a record
10 the athletic director of the institution of the relationship.

11 (g) An educational institution that becomes aware of a violation of this section must
12 notify the [Secretary of State] [commission] and any professional league or players' association
13 with which the institution is aware the athlete agent is licensed or registered of the violation.

14 **Comment**

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

17
18 Subsection (a)(3) prohibits an athlete agent from making any payment or providing
19 anything of value to an individual who is in a position to influence a student-athlete to enter into
20 an agency contract unless that individual is registered as an athlete agent. There have been
21 numerous instances in which an athlete agent has made payment to or provided something of
22 value to family members, friends or roommates of student-athletes to enlist their services in
23 inducing a student-athlete to sign an agency contract usually without disclosure to the student-
24 athlete.

25
26 If a student-athlete signs an agency contract in the form required by Section 10, there is
27 no failure to notify under subsection (b)(6) because the agency contract includes the warning to
28 student-athlete required by Section 10(c).

29
30 Subdivision (d) imposes a requirement an athlete agent notify the educational institution
31 in a record before attempting to communicate with a student athlete enrolled at the institution.
32 This provision is one the institutions feel is crucial to trying to control the excesses in the
33 process.

1 ~~athlete agent or former student athlete.~~

2 (d) ~~Any liability of the athlete agent or the former student athlete under this section is~~
3 ~~several and not joint.~~

4 (e) ~~This [Act] does not restrict rights, remedies, or defenses of any person under law or~~
5 ~~equity.~~

6 (a) An educational institution or student athlete has a right of action for damages against
7 an athlete agent if the institution or student athlete is adversely affected by an act or omission of
8 the agent in violation of this [act]. An educational institution or a student athlete is adversely
9 affected by an act or omission of the agent only if, because of the act or omission, the institution
10 or an individual who was a student athlete at the time of the act and admitted to or enrolled in the
11 institution:

12 (1) is suspended or disqualified from participation in one or more interscholastic
13 or intercollegiate sports events by or under the rules of a state or national federation or
14 association for the promotion or regulation of interscholastic or intercollegiate sports;

15 (2) suffers financial damage; or

16 (3) suffers both suspension or disqualification and financial damage.

17 (b) A plaintiff that prevails in an action under this section may recover actual damages
18 [,treble damages] [,punitive damages,] [and] costs [, and reasonable attorney's fees]. An athlete
19 agent found liable under this section shall forfeit any right of payment for anything of benefit or
20 value provided to the student athlete and shall refund any consideration paid to the agent by or
21 on behalf of the athlete.

22 **Comment**

23 It is assumed that educational institutions will be very reluctant to bring an action against
24 a former student-athlete. Public opinion and the desire to be successful in future recruiting of
25 athletes should cause educational institutions to carefully consider whether to exercise the right

1 established by subsection (a) in most situations. There are, however, known instances of
2 extremely egregious conduct by student-athletes who received lucrative professional contracts
3 which caused serious damage to educational institutions. Subsection (a) keeps open the
4 possibility of a civil action against those individuals.

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 \$[25,000] for a
17 violation of this [~~Act~~ act].

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 _____].**

23 (a) In enacting Sections 5 through 9 of the [act], the state adopts the Interstate Compact
24 for the Registration of Athlete Agents and agrees to participate with other states enacting those
25 provisions in maintaining the Commission on the Interstate Registration of Athlete Agents.]

26 (b) Once effective, the compact shall continue in force and, except as otherwise provided
27 in subsection (c), shall remain binding upon each and every member state.

28 (c) A member state may withdraw from the compact by specifically repealing the statute,
29 which enacted the compact into law. The repeal may not take effect until one year after the
30 effective date of the statute and until written notice of the withdrawal has been given by the
31 withdrawing state to the Governor of each other member state.

32 (d) A withdrawing state shall immediately notify the executive director of the

1 commission in writing upon the introduction of legislation repealing the compact in the
2 withdrawing state. The executive director shall notify the other member states of the
3 withdrawing state's intent to withdraw within 60 days of its receipt.

4 (e) A withdrawing state is responsible for all assessments, obligations, and liabilities
5 incurred through the effective date of withdrawal, including obligations, the performance of
6 which extend beyond the effective date of withdrawal.

7 (f) The compact is dissolved effective upon the date of the withdrawal or default of the
8 member state which reduces the membership in the compact to less than [five]. Upon dissolution,
9 the compact is null and void and shall be of no further force or effect, and the business and
10 affairs of the commission shall be concluded and surplus funds shall be distributed in accordance
11 with the bylaws.

12 **SECTION 18. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
13 applying and construing this ~~Uniform Act~~ uniform act, consideration must be given to the need
14 to promote uniformity of the law with respect to its subject matter among ~~States~~ states that enact
15 it.

16 **SECTION 19. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
17 **NATIONAL COMMERCE ACT.** ~~The provisions of this [Act act] governing the legal effect,~~
18 ~~validity, or enforceability of electronic records or signatures, and of contracts formed or~~
19 ~~performed with the use of such records or signatures conform to the requirements of Section 102~~
20 ~~of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114~~
21 ~~Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and~~
22 ~~National Commerce Act.~~

23 This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National

1 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section
2 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the
3 notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

4 **Comment**

5 The Electronic Signatures in Global and National Commerce Act (ESGNCA) contains
6 provisions governing the legal effect, validity, or enforceability of electronic records and
7 electronic signatures. The act recognizes contracts which have been formed with the use of
8 electronic records or electronic signatures even though the Drafting Committee recommends that
9 agency contracts be in the traditional written form.

10
11 **[SECTION 20. SEVERABILITY.** If any provision of this [~~Aet~~ act] or its application
12 to any person or circumstance is held invalid, the invalidity does not affect other provisions or
13 applications of this [~~Aet~~ act] which can be given effect without the invalid provision or
14 application, and to this end the provisions of this [~~Aet~~ act] are severable.]

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

17
18 **SECTION 21. REPEALS; CONFORMING AMENDMENTS.** The following acts
19 ~~and parts of acts are hereby repealed:~~

20 (a)

21 (b)

22 (c)

23 **SECTION 22. EFFECTIVE DATE.** This [~~Aet~~ act] takes effect _____