

DRAFT
FOR DISCUSSION ONLY

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

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

March 20 – 21, 2015 Drafting Committee Meeting

WITH COMMENTS

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

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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 career management decisions, unless the individual is an
4 employee of an educational institution acting exclusively as an employee of the institution for the
5 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 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 athlete to enter into an agency
4 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 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 [() “Compact” means the Interstate Compact for the Registration of Athlete Agents.]

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

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

22 (5) (6) “Endorsement contract” means an agreement under which a ~~student-athlete~~
23 student athlete is employed or receives consideration to use on behalf of the other party any

1 value that the ~~student-athlete~~ athlete may have because of publicity, reputation, following, or
2 fame obtained because of athletic ability or performance.

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

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

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

10 (10) “Licensed, registered, or certified professional” means an individual licensed,
11 registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real
12 estate broker or sales agent, tax consultant, accountant, or member of another profession other
13 than as an athlete agent licensed, registered, or certified by the state or a nationally recognized
14 organization that licenses, registers, or certifies members of the profession on the basis of
15 experience, education, and testing and requires continuing education to maintain the license,
16 registration, or certification.

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

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

1 individuals employed by the corporation or other business entity as athlete agents would be
2 required to register. The definition also includes other individuals or “runners” used by an agent
3 to recruit or solicit a student-athlete to enter into an agency contract. Attorneys are not excluded
4 from the definition. An attorney does not need to comply with the provisions of this act in order
5 to provide legal services to a student-athlete, but is required to register to perform the services of
6 an athlete agent.

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

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

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

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

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

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

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

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

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

41
42 Athlete agents are providing benefits to students as early as elementary school if the
43 student appears to have long-term professional sports capability. For example, agents have been
44 known to provide athletic shoes and other athletic equipment to student athletes at an early age.
45 This could cause the student athlete to lose his or her eligibility to participate in intercollegiate
46 sports. Accordingly, a definition of educational institution is added and the definition of student

1 athlete is revised to make clear that the act applies to a student athlete enrolled at any level of
2 public or private education.

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

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

24
25 **SECTION 3. SERVICE OF PROCESS; SUBPOENAS [SECRETARY OF**
26 **STATE]; AUTHORITY; PROCEDURE.**

27 **Alternative A**

28
29 (a) The [Administrative Procedure Act] applies to this [act]. The [Secretary of State] may
30 adopt rules under the [Administrative Procedure Act] to implement this [act].

31 **Alternative B**

32
33 (a) The [Administrative Procedure Act] of the state in which the commission is located
34 applies to this [act]. The commission may adopt rules under the [Administrative Procedure Act]
35 to implement this [act].

36 **End of Alternatives**

37
38 ~~(a)~~ (b) By acting as an athlete agent in this State state, a nonresident individual appoints

1 the [Secretary of State] [commission] as the individual’s agent for service of process in any civil
2 action in this State state related to the ~~individual’s~~ individual acting as an athlete agent in this
3 State state.

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

6 *Legislative Note: Depending on the alternative selected, this section incorporates the*
7 *administrative procedure act of either the adopting state or the state in which the entity created*
8 *by the Intestate Compact is located. State administrative procedure acts uniformly contain*
9 *provisions for contested case proceedings, which generally include the power of the*
10 *administering agency to revoke or suspend licenses and bring an action to enjoin acts in*
11 *violation of the law being enforced. If a state’s administrative procedure act does not provide*
12 *that authority, it should be added.*

13 **Comment**

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

19
20 Subsection (b) is in brackets because it may not be required under the administrative
21 procedure acts of some States. If subsection (b) is not used, the remainder of the section should
22 not be designated as (a).

23
24 **SECTION 4. ATHLETE AGENTS AGENT: REGISTRATION REQUIRED;**
25 **VOID CONTRACTS CONTRACT.**

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

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

32 (1) a ~~student-athlete~~ student athlete or another person acting on behalf of the

1 ~~student-athlete~~ athlete initiates communication with the individual; and

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

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

7 **Comment**

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

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

21
22 In addition to the penalties which may be imposed under Sections 15 and 17, subsection
23 (c) discourages contact with a student-athlete by an individual who has not registered as an
24 athlete agent. An agency contract resulting from that contract is void, not merely voidable.

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

26
27
28 **Legislative Note:** *There are two alternatives for Sections 5 through 9. Alternative A establishes a*
29 *registration system in the enacting state that requires the enacting state to register an individual*
30 *who is registered in another state if the enacting state determines the law of the other state is*
31 *substantially similar to or more restrictive than the law of the enacting state and the registration*
32 *in the other state has not been revoked or suspended and no action involving the agent’s conduct*
33 *as an agent is pending. Alternative B creates a central registration agency, the Commission on*
34 *the Interstate Registration of Athlete Agents, and provides that states enacting Alternative B will*
35 *be entering into an interstate compact with other states that enact it. While the numbering of the*
36 *sections in the two Alternatives is different because Section 5 of Alternative B creates the*
37 *commission and the contents of Section 9 are folded into Section 5, the substantive requirements*
38 *for the initial registration and the basis for denial of registration or the suspension, revocation,*
39 *or failure to renew registration are identical in both Alternatives. Thus, the effect of Alternative*
40 *B is to delegate the responsibility for the registration of athlete agents in a state adopting the*

1 compact and the civil enforcement of the act to a central entity created by the compact. A state
2 compact and adopting Alternative B also will have to amend Section 2 to include a definition of
3 commission for the new central registration agency, add a section containing language formally
4 creating the Interstate Compact, make conforming changes replacing [Secretary of State] with
5 the commission in Sections 3 and 17, and make additional conforming changes in Section 4.

6
7 **SECTION 5. REGISTRATION AS ATHLETE AGENT; FORM APPLICATION;**
8 **REQUIREMENTS.**

9 (a) An applicant for registration as an athlete agent shall submit an application for
10 registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. ~~[An~~
11 ~~application filed under this section is a public record.] Information on the application which is a~~
12 ~~trade secret or is personal information the disclosure of which would be an unwarranted invasion~~
13 ~~of personal privacy of the applicant is not a public record.~~ The application must be in the name
14 of an individual and, except as otherwise provided in subsection (b), signed ~~or otherwise~~
15 ~~authenticated~~ by the applicant under penalty of perjury, ~~and~~ The application must state or contain
16 at least the following:

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

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

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

26 ~~(3)~~ (4) any each business or occupation engaged in by in which the applicant for

1 engaged during the five years next preceding before the date of submission of the application,
2 including self-employment and employment by others, and any professional or occupational
3 license, registration, or certification held by the applicant during the five years;

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

5 (A) formal training as an athlete agent;

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

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

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

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

14 (7) the ~~names~~ name and ~~addresses~~ address of ~~all persons who are~~ each person that
15 is:

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

20 (B) ~~with respect to a corporation employing the athlete agent, the officers,~~
21 ~~directors,~~ an officer or director of a corporation employing the athlete agent and any shareholder
22 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

1 named under paragraph (7), for a business, professional, or occupational license, other than as an
2 athlete 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 ~~(8)~~ (9) whether the applicant, or any person named pursuant to under paragraph
5 (7), has pleaded guilty to or been convicted of, or has charges pending for, a crime that, if
6 committed in this State state, would ~~be a crime involving~~ involve moral turpitude or a be felony;
7 and, if so, identify:

8 (A) the crime;

9 (B) the law enforcement agency involved; and

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

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

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

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

22 ~~(9)~~ (13) whether there has been any administrative or judicial determination that
23 the applicant, or any person named pursuant to under paragraph (7), made a false, misleading,

1 deceptive, or fraudulent representation;

2 ~~(10)~~ (14) each any instance in which the conduct of the applicant, or any person
3 named ~~pursuant to~~ under paragraph (7), resulted in the imposition of a sanction, suspension, or
4 declaration of ineligibility to participate in an interscholastic, ~~or intercollegiate,~~ or professional
5 athletic event on a ~~student-athlete~~ student athlete or a sanction on an educational institution;

6 ~~(11)~~ (15) each any sanction, suspension, or disciplinary action taken against the
7 applicant, or any person named ~~pursuant to~~ under paragraph (7), arising out of occupational or
8 professional conduct; ~~and~~

9 ~~(12)~~ (16) whether there has been ~~any~~ a denial of an application for, suspension or
10 revocation of, ~~or~~ refusal to renew, abandonment of, or limitation for any reason of, the
11 registration ~~or licensure~~ of the applicant, or any person named ~~pursuant to~~ under paragraph (7),
12 as an athlete agent in any ~~State~~ state;

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

15 (18) if the applicant is certified or registered by a professional ~~organization~~ league
16 or players' association, the name of the ~~organization~~ league or association, the date of
17 certification or registration, and the date of expiration of the certification or registration, if any,
18 and if applicable, the date of any denial of an application for, suspension or revocation of, refusal
19 to renew, withdrawal of, or termination of the certification or registration or any reprimand or
20 censure related to the certification or registration; and

21 (19) Any additional information required by the [Secretary of State].

22 ~~(b) An individual who has submitted an application for, and holds a certificate of,~~
23 ~~registration or licensure as an athlete agent in another State, may submit a copy of the application~~

1 and certificate in lieu of submitting an application in the form prescribed pursuant to subsection
2 (a). ~~The [Secretary of State] shall accept the application and the certificate from the other State
3 as an application for registration in this State if the application to the other State:~~

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

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

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

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

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

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

15 (3) the certificate of registration from the other state.

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

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

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

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

1 not the least of which is cost. If it is not possible or feasible to create a central registration point,
2 agencies are encouraged to adopt the following standard form:

3
4 REGISTRATION FORM

5 PART I. GENERAL INFORMATION

6 [Use additional sheets as necessary]

7 1. Registrant first name: _____

8 2. Registrant middle name: _____

9 3. Registrant last name: _____

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

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

13 _____

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

15 _____

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

17 _____

18 8. Work phone: _____

19 9. Mobile phone: _____

20 10. Fax number: _____

21 11. Work and Personal Email and Website: _____

22 12. Birthplace and date of birth: _____

23 13. List all social-media accounts with which you and the organization identified in Item
24 5 are affiliated: _____

25 14. Indicate if you are registered or certified by any professional ~~organization~~ league or

1 player's association, the date of registration or certification and if applicable, the date of
2 expiration, as of the date of the completion of this form, with:

3 Major League Baseball Players Association _____

4 National Basketball Players Association _____

5 National Football Players Association _____

6 National Hockey League Players Association _____

7 Other _____

8 None _____

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

10 _____

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

13 _____

14 **PART II. EDUCATION**

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

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

18 18. Undergraduate School(s): _____

19 19. High School(s): _____

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

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

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

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

1 _____

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

4 Name of employer: _____

5 Supervisor's name: _____

6 Supervisor's address and work phone: _____

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

8 Nature of your current employment: _____

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

12 _____

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

18 _____

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

1 For each individual, provide their respective name, mailing address, phone number, and nature of
2 involvement (for example, describe the individual's ownership interest, amount of financing
3 provided, or basis of the individual's controlling influence: _____
4 _____

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

8 **PART IV. PROFESSIONAL BACKGROUND**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54. For any organization listed in Item 14, list any denial, refusal to renew, withdrawal, or termination of the certification or registration, or any reprimand or censure related to the certification or license: _____

ACKNOWLEDGEMENT

By entering my name below, I attest under penalty of perjury that all statements, affirmations, and representations made in this application and its attachments are accurate as of my application date and are made for the benefit of the state and its student athletes, both present and future, and that the information contained herein, except for information that is a trade secret or personal information the disclosure of which would constitute an unwarranted invasion of personal privacy, is public information and may be provided by the state to student athletes and other individuals without restriction.

Name

1 **SECTION 6. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL;**
2 **RENEWAL.**

3 (a) Except as otherwise provided in subsection (b), the [Secretary of State] shall issue a
4 certificate of registration to an ~~individual~~ applicant who complies with Section 5(a) ~~or whose~~
5 ~~application has been accepted under Section 5(b).~~

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

11 (1) been convicted of a crime that, if committed in this ~~State~~ state, would ~~be a~~
12 ~~crime involving~~ involve moral turpitude or be a felony;

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

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

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

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

20 (6) engaged in conduct the consequence of which was that a sanction, suspension,
21 or declaration of ineligibility to participate in an interscholastic, ~~or intercollegiate,~~ or
22 professional athletic event was imposed on a ~~student-athlete~~ student athlete or a sanction was
23 imposed 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 [Secretary of State] shall
4 consider:

5 (1) how recently the conduct occurred;

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

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

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

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

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

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

1 the conduct of business.

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

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

4 (2) the operation of the commission, including employment of necessary staff;

5 (3) maintaining a site for the registration of athlete agents in the states that enact

6 this [act], and establishing the registration fee and the apportionment of the fee among the states

7 that enact this [act]; and

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

9 (d) The commission:

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

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

12 (2) may accept any appropriate revenue source, donation, and grant of money,

13 equipment, supplies, materials, and services;

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

15 commission to cover the cost of operation of the commission not funded by registration fees

16 imposed under subsection (c)(3);

17 (4) may not incur an obligation of any kind before securing funds adequate to

18 meet the obligation;

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

20 member state; and

21 (6) shall keep accurate accounts of all receipts and disbursements, subject to audit

22 and accounting procedures established under the commission's bylaws.

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

1 certified or licensed public accountant, and the commission shall include the report of the audit
2 in the annual report of the commission.

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

4 **REQUIREMENTS.** An applicant for registration as an athlete agent shall submit an application
5 for registration to the commission in a form prescribed by the commission. Information on the
6 application which is a trade secret or is personal information the disclosure of which would be an
7 unwarranted invasion of personal privacy of the applicant is not a public record. The applicant
8 must be an individual and the application must be signed by the applicant under penalty of
9 perjury. The application must state or contain at least the following:

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

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

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

19 (4) each business or occupation in which the applicant engaged during the five years
20 before the date of the application, including self-employment and employment by others, and
21 any professional or occupational license, registration, or certification held by the applicant during
22 the five years;

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

1 (A) formal training as an athlete agent;

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

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

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

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

8 (A) a partner, member, officer, manager, associate, or profit sharer of the athlete
9 agent's business if it is not a corporation; and

10 (B) an officer or director of a corporation employing the athlete agent and any
11 shareholder of the corporation having an interest of five percent or greater;

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

16 (9) whether the applicant, or any person named under paragraph (7), has pleaded guilty to
17 or been convicted of, or has charges pending for, a crime that, if committed in this state, would
18 involve moral turpitude or be a felony and, if so, identify:

19 (A) the crime;

20 (B) the law enforcement agency involved; and

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

22 (10) whether, within 15 years before the date of application, the applicant, or any person
23 named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a

1 proceeding seeking an adjudication of legal incompetence, and, if so, the date of each proceeding
2 and a full explanation of the occurrence;

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

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

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

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

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

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

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

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

1 association, the name of the league or association, the date of certification or registration, and the
2 date of expiration of the certification or registration, if any, and if applicable, the date of any
3 denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or
4 termination of the certification or registration or any reprimand or censure related to the
5 certification or registration; and

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

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

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

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

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

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

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

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

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

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

23 (6) engaged in conduct the consequence of which was that a sanction, suspension,

1 or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional
2 athletic event was imposed on a student athlete or a sanction was imposed on an educational
3 institution; or

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

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

7 (1) how recently the conduct occurred;

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

9 (3) other relevant conduct of the applicant.

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

14 (e) The commission may refuse to issue a certificate of registration under subsection (b)
15 only after notice and an opportunity for a hearing.

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

17 **REGISTRATION.** The commission may suspend, revoke, or refuse to renew a registration as
18 an athlete agent for conduct that would have justified refusal to issue a certificate of registration
19 under Section 7(b).

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

23 **End of Alternatives**

24

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

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

4 (b) An agency contract must ~~state or~~ contain:

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

7 (1) (2) the amount and method of calculating the consideration to be paid by the
8 ~~student-athlete~~ student athlete for services to be provided by the athlete agent under the contract
9 and any other consideration the ~~athlete~~ agent has received or will receive from any other source
10 for entering into the contract or ~~for~~ providing the services;

11 (2) (3) the name of any person not listed in the agent's application for registration
12 or renewal of registration ~~who~~ which will be compensated because the ~~student-athlete~~ athlete
13 signed the ~~agency~~ contract;

14 (3) (4) a description of any expenses ~~that~~ the ~~student-athlete~~ athlete agrees to
15 reimburse;

16 (4) (5) a description of the services to be provided to the ~~student-athlete~~ athlete;

17 (5) (6) the duration of the contract; and

18 (6) (7) the date of execution.

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

22 **WARNING TO ~~STUDENT-ATHLETE~~ STUDENT ATHLETE**
23 **IF YOU SIGN THIS CONTRACT:**

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

3 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
4 ENTERING INTO THIS CONTRACT OR BEFORE THE NEXT SCHEDULED
5 ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST,
6 BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
7 DIRECTOR; AND

8 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
9 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE
10 YOUR ELIGIBILITY.

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

14 ~~[(d) (e)]~~ An agency contract that does not conform to this section is voidable by the
15 ~~student-athlete~~ student athlete. If a ~~student-athlete~~ the athlete voids an agency the contract, the
16 ~~student-athlete~~ athlete is not required to pay any consideration under the contract or to return any
17 consideration received from the athlete agent to induce the ~~student-athlete~~ athlete to enter into
18 the contract.

19 ~~(e) (f)~~ The An athlete agent shall give a record of ~~the a~~ signed ~~or otherwise authenticated~~
20 agency contract to the ~~student-athlete~~ student athlete at the time of execution.

21 Comment

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

1 A student-athlete who opts to void an agency contract under this section because it does
2 not comply with the specified form is not required to return any consideration received to induce
3 the signing of the agency contract because such inducement is prohibited conduct under Section
4 14.

5
6 The compensation referred to in subsection (b)(2) is compensation for services intended
7 to induce the student-athlete to sign an agency contract. It does not include compensation
8 individuals may receive because an athlete agent has been successful in securing an agency
9 contract. For example, the compensation paid employees of an athlete agent who did not
10 participate in inducing the student-athlete to sign an agency contract is not compensation under
11 subsection (b)(2) even though their compensation may be made possible by the income resulting
12 from the agency contract.

13
14 Subsection (b) contains references to a student-athlete in a time context in which the
15 individual may be a former student-athlete. This is done for simplicity in drafting. It should be
16 noted that violation of eligibility rules adopted by an educational institution or a national
17 association is not automatic and does not occur until a determination has been made by the
18 educational institution or the national association

19
20 **SECTION 11. NOTICE TO EDUCATIONAL INSTITUTION.**

21 (a) ~~Within~~ Not later than 72 hours after entering into an agency contract or before the
22 next scheduled athletic event in which the ~~student-athlete~~ student athlete may participate,
23 whichever occurs first, the athlete agent shall give notice in a record of the existence of the
24 contract to the athletic director of the educational institution at which the ~~student-athlete~~ athlete
25 is enrolled or the ~~athlete~~ agent has reasonable grounds to believe the ~~student-athlete~~ athlete
26 intends to enroll.

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

32 (c) Not later than 72 hours after a student athlete enrolls at an educational institution, an
33 athlete agent who previously entered into an agency contract with the athlete shall notify the

1 athletic director of the institution of the existence of the contract.

2 **Comment**

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

8
9 **SECTION 12. ~~STUDENT-ATHLETE'S~~ STUDENT ATHLETE'S RIGHT TO**

10 **CANCEL.**

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

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

15 (c) If a ~~student-athlete~~ student athlete cancels an agency contract, the ~~student-athlete~~
16 athlete is not required to pay any consideration under the contract or ~~to~~ return any consideration
17 received from the athlete agent to induce the ~~student-athlete~~ 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 ~~the following~~ records of the following for a
27 period of five years:

- 28 (1) the name and address of each individual represented by the ~~athlete~~ agent;
- 29 (2) ~~any~~ each agency contract entered into by the ~~athlete~~ agent; and

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

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

5 **SECTION 14. PROHIBITED CONDUCT.**

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

9 ~~(a)~~ (b) An athlete agent, with the intent to induce a ~~student-athlete~~ student athlete or, if
10 the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not
11 take any of the following actions or encourage any other individual to take or assist any other
12 individual in taking any of the following actions on behalf of the agent:

13 (1) give any materially false or misleading information or make a materially false
14 promise or representation;

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

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

19 ~~(b)~~ (c) An athlete agent may not intentionally take any of the following actions or
20 encourage any other individual to take or assist any other individual in taking any of the
21 following actions on behalf of the agent:

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

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

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

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

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

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

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

15 (e) Before communicating or attempting to communicate with a student athlete or, if the
16 athlete is a minor, a parent or guardian of the athlete to influence the athlete to enter into an
17 agency contract or before communicating or attempting to communicate with another individual
18 to have that individual influence a student athlete or, if the athlete is a minor, a parent or
19 guardian of the athlete, to enter into an agency contract, an athlete agent shall notify in a record
20 the athletic director of the educational institution at which the athlete is enrolled. If the
21 communication or attempt to communicate is initiated by the athlete or another individual on
22 behalf of an athlete, the agent shall notify in a record the athletic director of the institution not
23 later than 10 days after the communication or attempt.

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

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

7 **Comment**

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

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

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

22
23 Subdivision (d) imposes a requirement an athlete agent notify the educational institution
24 in a record before attempting to communicate with a student athlete enrolled at the institution.
25 This provision is one the institutions feel is crucial to trying to control the excesses in the
26 process.

27 **SECTION 15. CRIMINAL PENALTIES.** (a) An athlete agent who violates Section 14
28 is guilty of a [misdemeanor] [felony] and, ~~upon~~ on conviction, is punishable by [].

29 (b) Prosecution under this section does not preclude prosecution for the same act under
30 law of this state other than this [act].

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

1 **Comment**

2
3 The extent of the criminal penalties which may be imposed for violation of the act are left
4 to the States adopting the act because of a wide variation in the criminal penalties provided for
5 by existing acts. Variations in the criminal penalties which may be imposed would not detract
6 from the otherwise uniform and reciprocal provisions of the act. Some potential criminal penalty
7 is necessary to discourage those individuals who are willing to engage in improper or illegal
8 conduct because of the size of the monetary stakes in the contemporary professional sports
9 world.

10
11 **SECTION 16. CIVIL REMEDIES.**

12 ~~(a) An educational institution has a right of action against an athlete agent or a former~~
13 ~~student athlete for damages caused by a violation of this [Act]. In an action under this section,~~
14 ~~the court may award to the prevailing party costs and reasonable attorney's fees.~~

15 ~~(b) Damages of an educational institution under subsection (a) include losses and~~
16 ~~expenses incurred because, as a result of the conduct of an athlete agent or former student~~
17 ~~athlete, the educational institution was injured by a violation of this [Act] or was penalized,~~
18 ~~disqualified, or suspended from participation in athletics by a national association for the~~
19 ~~promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed~~
20 ~~disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.~~

21 ~~(c) A right of action under this section does not accrue until the educational institution~~
22 ~~discovers or by the exercise of reasonable diligence would have discovered the violation by the~~
23 ~~athlete agent or former student athlete.~~

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

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

28 (a) An educational institution or student athlete has a right of action for damages against

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

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

9 (2) suffers financial damage; or

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

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

16 [(c) A violation of this act is an [unfair trade practice] for purposes of [insert reference to
17 state's unfair trade practice law].]

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

28 **Comment**

29 It is assumed that educational institutions will be very reluctant to bring an action against

1 a former student-athlete. Public opinion and the desire to be successful in future recruiting of
2 athletes should cause educational institutions to carefully consider whether to exercise the right
3 established by subsection (a) in most situations. There are, however, known instances of
4 extremely egregious conduct by student-athletes who received lucrative professional contracts
5 which caused serious damage to educational institutions. Subsection (a) keeps open the
6 possibility of a civil action against those individuals.

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

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

16
17 **SECTION 17. ADMINISTRATIVE PENALTY.** The [Secretary of State]
18 [commission] may assess a civil penalty against an athlete agent not to exceed \$[~~\$~~25,000] for a
19 violation of this [~~Act~~ act].

20 **Comment**

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

23 **[SECTION _____]**

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

28 (b) Once effective, the compact ~~shall continue~~ continues in force and, except as otherwise
29 provided in subsection (c), ~~shall remain~~ remains binding ~~upon~~ on each ~~and every~~ member state.

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

1 ~~other~~ member state.

2 (d) A ~~withdrawing~~ state withdrawing from the compact under subsection (c) shall
3 immediately notify the executive director of the commission in ~~writing upon a record~~ the
4 introduction of legislation ~~repealing to repeal~~ the compact in the withdrawing state. ~~The~~ Not later
5 than 60 days after receipt of the notice, the executive director shall notify ~~the~~ other member
6 states of the ~~withdrawing state's intent to withdraw within 60 days of its receipt~~ introduction of
7 the legislation.

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

11 (f) The compact is dissolved effective ~~upon~~ on the date of the withdrawal or default of the
12 member state ~~which that~~ reduces the membership in the compact to less than [five] states. ~~Upon~~
13 On dissolution, the compact is ~~null and void and shall be of~~ has no further force or effect, and the
14 business and affairs of the commission ~~shall~~ must be concluded and surplus funds ~~shall be~~
15 distributed in accordance with the commission's bylaws.]

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

20 **SECTION 19. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
21 **NATIONAL COMMERCE ACT.** ~~The provisions of this [Act act] governing the legal effect,~~
22 ~~validity, or enforceability of electronic records or signatures, and of contracts formed or~~
23 ~~performed with the use of such records or signatures conform to the requirements of Section 102~~

1 of the ~~Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114~~
2 ~~Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and~~
3 ~~National Commerce Act.~~

4 This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National
5 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section
6 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the
7 notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

8 **Comment**

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

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

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

21
22 **SECTION 21. REPEALS; CONFORMING AMENDMENTS.** The following acts
23 and parts of acts are hereby repealed:

24 (a)

25 (b)

26 (c)

27 **SECTION 22. EFFECTIVE DATE.** This [~~Act~~ act] takes effect _____