

1 **College Student Athlete Name, Image, and Likeness Act**

2 **Section 1. Title**

3 This [act] may be cited as the College Student Athlete Name, Image, and Likeness Act.

4 **Section 2. Definitions**

5 In this [act]:

6 (1) “Athletic association” means a national nonprofit collegiate athletics governance
7 association that:

8 (A) has member institutions located in at least 2 states;

9 (B) conducts athletic competition among its member institutions;

10 (C) sets playing rules for the competition;

11 (D) regulates the eligibility of players and institutions to compete; and

12 (E) determines an annual national champion in a sport in a competitive division or
13 subdivision either by conducting a national championship it wholly owns or recognizing a
14 collegiate national championship conducted by a United States national sport governing body.

15 The term includes the National Collegiate Athletic Association, National Association of
16 Intercollegiate Athletics, and any successor organization.

17 (2) “Booster” means a representative of an institution’s athletic program, including an
18 individual that:

19 (A) provides a donation to obtain a season ticket for a sport at the institution;

20 (B) participates in, is a member of, or makes a financial contribution to an
21 organization promoting the institution’s athletic program;

22 (C) assists or is requested by the institution’s staff to assist in inducement;

23 (D) assists in providing a benefit to an athlete or the athlete’s family; or

1 (E) is otherwise involved in promoting the institution’s athletic program.

2 The term includes a person that has engaged in any of these activities in the past.

3 (3) “College student athlete” means an individual who is eligible to attend an institution
4 and engages in, is eligible to engage in, or may be eligible in the future to engage in an
5 intercollegiate sport. The term does not include an individual in elementary or secondary school
6 from kindergarten to grade twelve or an individual permanently ineligible to participate in a
7 particular intercollegiate sport.

8 (4) “Conference” means a person that governs the athletic programs of a collection of
9 institutions from more than one state. The term includes an employee, agent, or independent
10 contractor of the person.

11 (5) “Group license” means an agreement in which the name, image, and likeness of a
12 specified minimum number of college student athletes is used.

13 (6) “Inducement” means an attempt to influence the decision of a college student athlete
14 to attend, continue attending, or transfer to an institution or conference.

15 (7) “Institution” means a public or private institution of higher education within this state,
16 including a community college, college, and university.

17 (8) “Intercollegiate sport” means a sport played at the collegiate level for which
18 eligibility requirements for participation by a college student athlete are established by an
19 athletic association. The term does not include intramural or club sports.

20 (9) “Name, image, and likeness” means the name, image, or likeness of a college student
21 athlete. The term includes the athlete’s nickname, signature, social media account, and any other
22 readily identifiable personal characteristic..

23 (10) “Name, image and likeness activity” means licensing or other use of a name, image,

1 and likeness for a commercial purpose.

2 (11) “Name, image, and likeness agent” means an individual who directly or indirectly
3 recruits or solicits a college student athlete to enter into an agency contract for name, image, and
4 likeness compensation, [enters into an agency contract for name, image, and likeness](#)
5 [compensation, or](#) offers, promises, attempts, or negotiates to obtain a name, image, and likeness
6 agreement.

7 (12) “Name, image, and likeness agreement” means an agreement under which a college
8 student athlete receives compensation for use of the athlete’s name, image, and likeness.

9 (13) “Name, image, and likeness compensation” means money or other thing of value
10 provided to a college student athlete by a third-party entity in exchange for use of the athlete’s
11 name, image, and likeness. The term does not include a scholarship, grant, fellowship, tuition
12 assistance, or other form of financial aid from the institution at which the athlete is enrolled.

13 (14) “Person” means an individual, estate, business or nonprofit entity, public
14 corporation, government or governmental subdivision, agency, or instrumentality, or other legal
15 entity. The term includes an employee, agent, or independent contractor of the person.

16 (15) “Record” means information:

17 (A) inscribed on a tangible medium; or

18 (B) stored in an electronic or other medium and retrievable in perceivable form.

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

22 (17) “Student” means an individual who is enrolled at an institution.

23 (18) “Third-party entity” means a person, other than the institution attended by the

1 college student athlete, that offers, solicits, or enters into a name, image, and likeness agreement.
2 The term includes an employee, agent, or independent contractor of the person.

3 **Section 3. Scope**

4 (a) This [act] applies only to college student athletes and intercollegiate sports.

5 (b) This [act] does not apply to an individual participating in athletics at the high school,
6 youth, recreation, intramural, club, or similar level.

7 [(c)This [act] does not apply to a United States service academy or another institution
8 subject to federal regulation that conflicts with this [act].]

9 (d) This [act] does not affect or create an employment relationship between a
10 college student athlete and the athlete’s institution with respect to the athlete’s participation in an
11 intercollegiate sport.

12 *Legislative note: Section 3(c) should be included in a state that has a United States*
13 *service academy or another institution subject to federal regulation that conflicts with this act.*

14 **Section 4. Rulemaking Authority**

15 The [Secretary of State] may adopt rules under [cite to state administrative procedure act]
16 to implement this [act].

17 **Section 5. Name, Image, and Likeness Compensation; Limit on Athletic Association**
18 **and Institution**

19 (a) Except as provided in Section 6 [or otherwise proscribed by \[state\] law](#), a college
20 student athlete may receive name, image, and likeness compensation.

21 (b) Except as provided in Section 6, an athletic association, conference, or institution may
22 not:

23 (1) adopt or enforce a rule, requirement, standard, or other limitation that prevents

1 or restricts a college student athlete from receiving name, image, and likeness compensation or
2 from obtaining the services of a name, image, and likeness agent, or an institution from
3 participating in an intercollegiate sport because an athlete receives compensation or obtains the
4 services of an agent;

5 (2) consider name, image, and likeness compensation in determining an athlete's
6 eligibility for an athletic scholarship or the amount of the athlete's scholarship;

7 (3) enact or enforce a rule, requirement, standard, or other limitation, or engage in
8 conduct that prevents, an athlete from forming or recognizing, or interferes with the formation or
9 recognition of, a collective representative to facilitate a group license or provide representation
10 for a college student athlete to negotiate a group license.

11 (c) This section does not apply to the use of name, image, and likeness in the broadcast
12 or rebroadcast of an intercollegiate athletic event.

13 **Section 6. Restrictions on Name, Image, and Likeness Activity**

14 (a) A college student athlete may include in name, image, and likeness activity an
15 institution or conference's name, trademark, service mark, logo, uniform design, or other
16 identifier of athletic performance depicted or included in any form of media broadcast or related
17 game footage if the use is not likely to cause confusion about the affiliation, connection, or
18 association of the institution or conference to the activity or otherwise imply sponsorship or
19 endorsement by the institution or conference.

20 (b) Name, image, and likeness compensation, or offers, promises, or solicitations of
21 compensation, must not be an inducement and must represent only consideration for use of
22 name, image, and likeness. A college student athlete may not receive compensation for
23 performance, participation, or service in an intercollegiate sport.

1 (c) A college student athlete may not make an express or implied endorsement on behalf
2 of an institution, conference, or athletic association for ~~compensation name, image, and likeness~~
3 ~~compensation or~~ as part of a name, image, and likeness activity.

4 (d) A college student athlete may not engage in a name, image, and likeness activity that
5 is illegal.

6 (e) An institution may prohibit name, image, and likeness activity that is determined by
7 the institution to be immoral, in conflict with the institution's values, unsafe, or to adversely
8 affect the reputation of the institution, if the institution does not engage in the same commercial
9 activity.

10 (f) An institution may prevent a college student athlete from engaging in a name, image,
11 and likeness activity when the athlete is engaged in an official team activity, including a
12 competition, practice, supervised workout, and community service that involves an athlete and is
13 at the direction of, or supervised by, a member of the institution's coaching staff.

14 *Comment:* Section 6(a) is intended to be consistent with federal intellectual property law.

15
16 **Section 7. Institution and Conference Involvement**

17 (a) An institution or conference may:

18 (1) assist a college student athlete:

19 (i) in evaluating the permissibility of name, image, and likeness activity,
20 including compliance with law and institution, conference, and athletic association rules;

21 (ii) with the disclosure requirements of Section 11; and

22 (iii) in providing a good-faith evaluation of a name, image, and likeness
23 agent or a third-party entity;

24 (2) provide education to a college student athlete about name, image, and likeness

1 activity; and

2 (3) permit a college student athlete to use the institution's facilities for name,
3 image, and likeness activity under the same terms and conditions as other students at the
4 institution.

5 (b) Except as provided in subsection (a), an institution, ~~or~~ conference, or association
6 shall not:

7 (1) provide name, image, and likeness compensation to a college student athlete;

8 (2) play a role in assisting, identifying, arranging, facilitating, developing,
9 operating, securing, or promoting name, image, and likeness activity;

10 (3) assist with selecting, arranging, or providing payment to a name, image, and
11 likeness agent;

12 (4) assist with selecting, arranging, or collecting payment from a third-party
13 entity;

14 (5) except as provided in Sections 6(a), permit a college student athlete to use the
15 intellectual property of the institution or conference in name, image, and likeness activity; or

16 (6) use, license, or otherwise convey a name, image, and likeness for a
17 commercial purpose except as provided in Section 5(c) or otherwise permitted by [state] law.

18 **Section 8. Disclosure By College Student Athlete and Institution**

19 (a) A college student athlete shall disclose to the official designated under subsection (b)
20 by the institution at which the athlete is enrolled:

21 (1) the amount of name, image, and likeness compensation received by the athlete
22 greater than (\$500);

23 (2) a copy of each name, image, and likeness agreement entered into by the

1 athlete;

2 (3) for each agreement:

3 (i) the arrangements for providing compensation;

4 (ii) the amount of compensation;

5 (iii) a description of the relationship with the third-party entity;

6 (iv) activities required by the agreement; and

7 (v) if a name, image, and likeness agent was used to arrange the

8 agreement, the name of and a description of the relationship with the agent.

9 (4) each offer, solicitation, or promise made to the athlete by a third-party entity;

10 (5) a copy of each agreement entered into by the athlete with a name, image, and

11 likeness agent; and

12 (6) other information relevant to the athlete's name, image, and likeness activity.

13 (b) An institution at which college student athletes are enrolled shall designate an official
14 to receive the information under subsection (a).

15 (c) A college student athlete shall provide the information required by subsection (a)
16 before engaging in name, image, and likeness activity and provide an update after a change in the
17 information not later than [10] days after the earlier of the change or the next scheduled athletic
18 event in which the student athlete may participate.

19 (d) An institution shall adopt policies that describe permissible and impermissible name,
20 image, and likeness activity, including prohibited activity under Section 6(e).

21 (e) An institution shall provide in a record a copy of the policies adopted under
22 subsection (d) to a college student athlete by the earlier of the time an offer of admission or
23 financial aid is made.

1 (f) When a name, image, and likeness agreement is entered into, the college student
2 athlete, third-party entity, and, if a name, image, and likeness agent assisted with the agreement,
3 the agent shall certify to the official designated in subsection (b) at the institution at which the
4 athlete is enrolled that the athlete does not have a side agreement or understanding with the third-
5 party entity.

6 *Comment:* A college student athlete would be required to disclose to a designated third
7 party under Section 8(a) if a third party is designated by the institution, conference, association,
8 or pursuant to federal law.
9

10 **Section 9. Name, Image, and Likeness Agent; Duties; Registration**

11 (a) A name, image, and likeness agent shall register as an athlete agent under [cite to
12 Uniform Athlete Agents Act or Revised Uniform Athlete Agents Act].

13 (b) An institution, conference, or athletic association may not prevent or deter a college
14 student athlete from obtaining representation by a name, image, and likeness agent.

15 (c) An agreement between a college student athlete and a name, image, and likeness
16 agent must have a fee arrangement that is consistent with norms for the agent’s industry and
17 comply with [cite to Uniform Athlete Agents Act or Revised Uniform Athlete Agents Act].

18 *Legislative Note:* In subsections (a) and (c), cite to the state’s version of the uniform act or other
19 comparable state law

20 **Option 1**

21 **Section 10. Disclosure Requirements By Third-Party Entity**

22 (a) A third-party entity shall disclose to the official designated in Section 8(a) any name,
23 image, and likeness compensation provided to a college student athlete at the institution and
24 provide a copy of each name, image, and likeness agreement with an athlete at the institution.

25 (b) A name, image, and likeness agreement that has not been disclosed under subsection

1 (a) is voidable and is a violation of this [act].

2 **Option 2**

3 **Section 10. Third-Party Entity; Registration; Void Contract**

4 (a) Except as provided in subsection (b), a person must be registered under this act to be a
5 third-party entity.

6 (b) A person that provides less than \$[1,000] in name, image, and likeness compensation
7 in a calendar year ~~does not need~~ is not required to register under this [act].

8 (c) A name, image, and likeness agreement with a person that is required to register under
9 this section but has not registered is voidable.

10 **Section 11. Registration as Third-Party Entity; Application**

11 (a) An applicant for registration as a third-party entity shall submit an application for
12 registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. The
13 application must be signed by an authorized representative of the applicant under penalty of
14 perjury. The application must include:

15 (1) the address of the applicant's principal place of business;

16 (2) if registered in another state, the state of registration;

17 (3) the name and contact information of the applicant seeking registration;

18 (4) telephone number;

19 (5) means of communicating electronically, including an email address and, if
20 available, a website related to the entity;

21 (6) each social-media account with which the applicant is affiliated;

22 (7) a brief description of type of business and business activity of the applicant;

23 (8) name and address of each person that is a partner, member, officer, manager,

24 associate, or profit sharer or directly or indirectly holds an equity interest of at least [five]

25 percent in the entity;

1 (9) whether the applicant or an individual named under paragraph (8) has been a
2 defendant or respondent in a civil or criminal proceeding and, if so, the date and a brief
3 explanation of each proceeding;

4 (10) whether the applicant or an individual named under paragraph (8) has been
5 adjudicated as bankrupt or has declared bankruptcy;

6 (11) whether conduct of the applicant or an individual named under paragraph (8)
7 has caused a college student athlete to be sanctioned, suspended, or declared ineligible to
8 participate in an intercollegiate sport or an institution to be sanctioned;

9 (12) whether an application by the applicant or any individual named under
10 paragraph (8) to be a third-party entity in a state has been denied, suspended, abandoned, or not
11 renewed; and

12 (13) each state in which the applicant is currently registered or has applied to be
13 registered as a third-party entity.

14 (b) The [Secretary of State] may require a booster to comply with additional disclosure
15 requirements.

16 **Section 12. Third-Party Entity Certificate of Registration**

17 (a) Except as provided in subsection (b), the [Secretary of State] shall issue a certificate
18 of registration to an applicant for registration who complies with Section 11

19 (b) The [Secretary of State] may refuse to issue a certificate of registration to an applicant
20 for registration under Section 11 if the [Secretary of State] determines that the applicant has
21 engaged in conduct that significantly adversely impacts the reputation of the college student
22 athlete or the athlete's institution, conference, or athletic association. In making this
23 determination, the [Secretary of State] should consider whether the applicant has:

1 (1) pleaded guilty or no contest to, has been convicted of, or has charges pending
2 for, a crime that would involve moral turpitude or be a felony if committed in this state;

3 (2) made a materially false, misleading, deceptive, or fraudulent representation in
4 the application or as a third-party entity;

5 (3) engaged in conduct prohibited by Section 15;

6 (4) engaged in conduct resulting in imposition of a sanction, suspension, or
7 declaration of ineligibility to participate in an intercollegiate event on a college student athlete or
8 a sanction on an institution; or

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

11 (c) A third-party entity registered under subsection (a) may apply to renew the
12 registration by submitting an application for renewal in a form prescribed by the [Secretary of
13 State]. The application must be signed by an authorized representative of the applicant under
14 penalty of perjury and include current information on all matters required in an original
15 application for registration.

16 **Section 13. Limitation, Suspension, Revocation, Nonrenewal of Third-Party**
17 **Registration**

18 The [Secretary of State] may limit, suspend, revoke, or refuse to renew a registration of a
19 third-person entity registered under Section 12(a) for a reason that would have justified refusal to
20 issue a certificate of registration under Section 12(b).

21 **Section 14. Temporary Registration of Third-Party Entity**

22 The [Secretary of State] may issue a temporary certificate of registration as a third-party
23 entity while an application for registration or renewal of registration is pending.

1 **End of Options**

2 **Section 15. Third-Party Entity Prohibited Conduct**

3 A third-party entity may not intentionally:

4 (1) give a college student athlete or, if the athlete is a minor, a parent or [guardian] of the
5 athlete, materially false or misleading information or make a materially false promise or
6 representation with the intent to influence the athlete, parent, or [guardian] to enter into a name,
7 image, and likeness agreement;

8 (2) furnish anything of value to a college student athlete or another individual except as
9 permitted under this [act], if to do so may result in loss of the athlete’s eligibility to participate in
10 the athlete’s sport;

11 (3) [unless registered under this [act], initiate contact, directly or indirectly, with a college
12 student athlete or, if the athlete is a minor, a parent or [guardian] of the athlete, to recruit or
13 solicit the athlete, parent, or [guardian] to enter an name, image, and likeness agreement];

14 (4) [if required by Section 10, fail to register under Section 11 [or disclose under Section
15 10]];

16 (5) provide materially false or misleading information in an application for registration or
17 renewal of registration [or disclosure]; or

18 (6) predate or postdate a name, image, and likeness agreement.

19 **Legislative Note:** If a state used a different term to describe the relationship of guardian, the
20 bracketed term “guardian” should be changed to the term used in the state.

21 **Section 16. Civil Remedy**

22 (a) An institution or college student athlete has a cause of action for damages against a
23 name, image, and likeness agent or third-party entity if the institution or athlete is adversely

1 affected by an act or omission of the agent or entity in violation of this [act]. An institution or
2 athlete is adversely affected by an act or omission of the agent or entity only if, because of the
3 act or omission, the institution or athlete:

4 (1) is suspended or disqualified from participating in an intercollegiate sport; or

5 (2) suffers financial damage.

6 (b) A college student athlete has a cause of action under this section only if the athlete
7 was enrolled in an institution at the time of the act or omission.

8 (c) In an action under this section, a prevailing plaintiff may recover [actual or treble]
9 damages, [punitive damages,] and reasonable attorney’s fees, court costs, and other reasonable
10 litigation expenses.

11 [(d) A violation of this [act] is an [unfair trade or deceptive practice] for the purpose of
12 [cite to state unfair trade practices or consumer protection law].] A civil penalty authorized by
13 such law or laws, or a civil penalty of no more than [\$5000] per violation of this [act], whichever
14 is greater, may be imposed on a name, image, and likeness agent or third party that violates this
15 [act].

16

17 **Legislative Note:** *If a state has an unfair trade or deceptive practices or consumer protection*
18 *law that provides for civil enforcement by a state agency or person, including a competitor, the*
19 *appropriate name for the practice and statutory citation to the applicable law should replace the*
20 *bracketed language in subsection (d). Some states prohibit an amendment by reference and may*
21 *require the unfair trade practices or consumer protection law to be amended. In that case, the*
22 *bill should contain an appropriate amendment of the specific law and subsection (d) should be*
23 *deleted. If a state does not have an unfair trade or deceptive practices or consumer protection*
24 *law, subsection (d) should be deleted or amended to provide for civil enforcement by a state*
25 *agency, an affected member of the public, and a competitor.*

26

27 **Section 17. Civil Penalty.**

28

29 The [Secretary of State] may assess a civil penalty against a name, image, and likeness

1 agent or third-party entity not to exceed \$[50,000] for a violation of this [act].

2 **Section 18. Uniformity of Application and Construction**

3 In applying and construing this uniform act, a court shall consider the promotion of
4 uniformity of the law among jurisdictions that enact it.

5 **Section 19. Relation to Electronic Signatures in Global and National Commerce Act**

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

10 *Legislative Note: It is the intent of this act to incorporate future amendments to the cited federal*
11 *law. A state in which the constitution or other law does not permit incorporation of future*
12 *amendments when a federal statute is incorporated into state law should omit the phrase “, as*
13 *amended”. A state in which, in the absence of a legislative declaration, future amendments are*
14 *incorporated into state law also should omit the phrase.*

15 **[Section 20. Severability**

16 If a provision of this [act] or its application to a person or circumstance is held invalid,
17 the invalidity does not affect another provision or application that can be given effect without the
18 invalid provision.]

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

21

22 **[Section 21. Repeals; Conforming Amendments**

23 (a) . . .

24 (b) . . .]

1 **Legislative Note:** *A state should examine its statutes to determine whether conforming*
2 *revisions are required by provisions of this act relating to { }. See Section { }.*
3

4 **Section 22. Effective Date**

5 This [act] takes effect