

# Uniform College Athlete Name, Image or Likeness Act\*

Drafted by the

Uniform Law Commission

and by it

Approved and Recommended for Enactment  
in All the States

at its

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*Without Prefatory Note and Comments*



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*\*The following text is subject to revision by the Committee on Style of the National Conference of Commissioners on Uniform State Laws.*

## **Uniform College Athlete Name, Image or Likeness Act**

### **Section 1. Title**

This [act] may be cited as the Uniform College Athlete Name, Image or Likeness Act.

### **Section 2. Definitions**

In this [act]:

(1) “Athletic association” means a nonprofit intercollegiate sport governance association that regulates the eligibility of players and institutions to compete.

(2) “College athlete” means an individual who attends or is eligible to attend an institution and engages in or is eligible to engage in an intercollegiate sport. The term does not include an individual participating in a sport in grades kindergarten through grade 12 or at a youth, preparatory school, recreation, or similar level, or an individual permanently ineligible to participate in a particular intercollegiate sport for that sport.

(3) “Conference” means a person, other than an athletic association, that governs the athletic programs of more than one institution.

(4) “Group license” means a name, image, or likeness agreement that includes the name, image, or likeness of more than one college athlete.

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

(6) “Institution” means a public or private institution of higher education in this state, including a community college, junior college, college, and university.

(7) “Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a college athlete are established by an athletic association. The term does not include a recreational, intramural, or club sport.

(8) “Name, image, or likeness” includes any symbol, word, name, design or combination thereof that readily identifies the athlete.

(9) “Name, image, or likeness activity” means licensing, transferring or other commercial use of a name, image, or likeness.

(10) “Name, image, or likeness agent” means an individual who:

(A) directly or indirectly recruits or solicits a college athlete or, if the athlete is a minor, the athlete’s parent or [guardian], to enter into an agency contract or name, image, or likeness agreement;

(B) enters into an agency contract with an athlete or, if the athlete is a minor, the athlete’s parent or [guardian]; or

(C) directly or indirectly offers, promises, attempts, or negotiates to obtain name, image, or likeness compensation or a name, image, or likeness agreement.

(11) “Name, image, or likeness agreement” means an express or implied agreement, either oral or in a record, under which a third party provides name, image, or likeness compensation.

(12) “Name, image, or likeness compensation” means money or other thing of value provided by a third party in exchange for use of a college athlete’s name, image, or likeness.

(13) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(14) “Record” means information:

(A) inscribed on a tangible medium; or

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

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

(16) “Student” means an individual enrolled at an institution under the rules of the institution.

(17) “Third party” means a person, other than an institution, that offers, solicits, or enters into a name, image, or likeness agreement or offers or provides name, image, or likeness compensation.

*Legislative Note: If a state uses a different term to describe the relationship of guardian, the bracketed term “guardian” in paragraph (10) should be changed to the term used.*

### **Section 3. Scope**

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

[(b) This [act] does not apply to a military service academy.]

(c) This [act] does not create an employment relationship between a college athlete and the athlete’s institution with respect to the athlete’s participation in an intercollegiate sport. This [act] may not be used as a factor in determining whether an employment relationship exists.

*Legislative Note: Subsection (b) should be included in a state that has a military service academy.*

### **Section 4. Rulemaking Authority**

The [agency responsible for implementing and administering the Uniform Athlete Agents Act, Revised Uniform Athlete Agents Act, or comparable law, or other appropriate agency] may adopt rules under [cite to state administrative procedure act] to implement and administer this

[act].

**Section 5. Name, Image, or Likeness Activity and Compensation; Limit on Institution, Conference, and Athletic Association**

(a) Except as provided in Section 6, a college athlete may engage in name, image, or likeness activity to the extent permitted under other law of this state.

(b) Except as provided in Section 6:

(1) an institution, conference, or athletic association may not prevent or restrict a college athlete from:

(A) receiving name, image, or likeness compensation, entering into a name, image, or likeness agreement, engaging in name, image, or likeness activity, or obtaining the services of a name, image, or likeness agent; or

(B) creating or participating in a group license or interfere with the formation or recognition of a collective representative to facilitate or provide representation to negotiate a group license;

(2) an athletic association may not prevent or restrict an institution or college athlete from participating in an intercollegiate sport because the athlete receives name, image, or likeness compensation, enters into a name, image, or likeness agreement, engages in name, image, or likeness activity, or obtains the services of a name, image, or likeness agent; and

(3) receipt of name, image, or likeness compensation may not affect the eligibility, duration, amount, or renewal of an athletic scholarship.

**Section 6. Limit on Name, Image, or Likeness Compensation and Activity**

(a) A college athlete may not include in name, image, or likeness activity an institution, conference, or athletic association name, trademark, service mark, logo, uniform design, or other

identifier of athletic performance depicted or included in a media broadcast or related game footage unless the use is permitted under intellectual property law.

(b) Name, image, or likeness compensation or an offer, promise, or solicitation of compensation:

(1) may not be an inducement;

(2) must represent only consideration for use of the athlete's name, image, or likeness; and

(3) may not include compensation for performance, participation, or service in an intercollegiate sport.

(c) A college athlete may not express or imply that an institution, conference, or athletic association endorses or is otherwise affiliated with the athlete's name, image, or likeness activity.

(d) An institution may adopt a policy to prevent a college athlete from engaging in name, image, or likeness activity that is illegal or that is determined by the institution to have an adverse impact on its reputation, if the institution complies with the same policy with respect to the institution's sponsorships and similar commercial activity and relationships. An institution that adopts a policy under this subsection shall disclose the policy and its rationale in a record to the athlete and the athlete's name, image, or likeness agent.

(e) An institution may adopt and enforce rules of conduct relating to name, image, or likeness activity that apply when the college athlete is engaged in an official team activity, including a competition, practice, supervised workout, community service, or other activity, at the direction of, or supervised by, a member of the institution's coaching or sport staff.

(f) An institution, conference, or athletic association may require a college athlete to waive a name, image, or likeness right associated with promotion, display, broadcast, or

rebroadcast of an intercollegiate sport.

### **Section 7. Institution, Conference, and Athletic Association Involvement**

(a) An institution, conference, or athletic association may:

(1) assist a college athlete:

(A) in evaluating the permissibility of name, image, or likeness activity, including compliance with law and institution, conference, and association rules;

(B) with the disclosure requirements of Section 8; and

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

(2) educate a college athlete about name, image, or likeness compensation, agreements, and activity.

(b) An institution may permit a college athlete to use the institution's facilities for name, image, or likeness activity under the same terms and conditions as other students at the institution.

(c) Except as provided in subsection (a), an institution or conference and its employees, agents, and independent contractors may not:

(1) provide compensation to a college athlete for the athlete's name, image, or likeness;

(2) assist, identify, arrange, facilitate, develop, operate, secure, or promote name, image, or likeness activity;

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

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

(5) license, transfer, or otherwise convey to a college athlete the right to use the intellectual property of the institution, conference, or athletic association in name, image, or likeness activity; or

(6) use, license, or otherwise convey a college athlete's name, image, or likeness for a commercial purpose except as provided in Section 6(f) or permitted by other law.

### **Section 8. Required Disclosures**

(a) A college athlete shall provide to the individual or office designated under subsection (b):

(1) a copy of a name, image, or likeness agreement that provides name, image, or likeness compensation in an amount more than \$[300], or, if a record of the agreement does not exist, the amount of name, image, or likeness compensation provided or to be provided if the amount is more than \$[300];

(2) the amount of name, image, or likeness compensation provided if the aggregate amount is more than \$[2,000] in a calendar year and a copy of each name, image, or likeness agreement if a record of the agreement exists;

(3) for each agreement or amount that must be provided:

(A) the arrangement for providing compensation;

(B) the amount of compensation;

(C) the identity of and a description of the relationship with the third party;

(D) the activity required or authorized; and

(E) if the athlete is represented by a name, image, or likeness agent, the name of and a description of the agreement with the agent;



(4) a copy of each agreement entered into by the athlete with a name, image, or likeness agent; and

(5) other information required by the [agency designated in Section 4].

(b) An institution shall designate an individual or office to receive the information required by subsections (a) and (e).

(c) A college athlete shall provide:

(1) the information required by subsection (a) before the earlier of:

(A) receiving name, image, or likeness compensation required to be disclosed; or

(B) engaging in a name, image, or likeness activity required to be disclosed; and

(2) an update after a change in any of the information not later than [10] days after the earlier of the change or the next scheduled athletic event in which the athlete may participate.

(d) If an institution, conference, or athletic association voluntarily or as required by this [act] adopts a limitation affecting a college athlete's ability to engage in name, image, or likeness activity, the institution shall provide in a record a copy of the limitation to each athlete by the time an offer of admission or financial aid is made, whichever is earlier, or, if the limitation is not adopted until after the athlete is a student at the institution, as soon as practicable after adoption.

(e) When a name, image, or likeness agreement is entered into, the agreement must contain a certification from the following parties that the agreement is the sole, complete, and final agreement between the parties:

(1) the college athlete, or, if the athlete is a minor, the parent or [guardian] of the

minor:

(2) the third party; and

(3) if a name, image, or likeness agent assisted with the agreement, the agent.

### **Section 9. Name, Image, or Likeness Agent; Duties; Registration**

(a) A name, image, or likeness agent shall register in this state as an athlete agent under [cite to Uniform Athlete Agents Act or Revised Uniform Athlete Agents Act or other comparable law] before engaging in conduct under this [act].

(b) An institution, conference, or athletic association may not prevent or restrict a college athlete from obtaining the services of a name, image, or likeness agent.

[(c) An agreement between a college athlete and a name, image, or likeness agent must have a fee arrangement consistent with the customary practice of the agent's industry and otherwise in compliance with [cite to Uniform Athlete Agents Act or Revised Uniform Athlete Agents Act or other comparable law]].

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

*A state should include subsection (c) if it wants to permit oversight of fee arrangements between college athletes and name, image, or likeness agents.*

### **[Section 10. Third Party; Registration; Voidable Contract**

(a) A person shall register as a third party if in a calendar year the person provides or agrees to provide:

(1) more than \$[300] for a name, image, or likeness agreement; or

(2) more than \$[2,000] in the aggregate to college athletes for name, image, and likeness agreements.

(b) A third party shall provide to the individual or office designated under Section 8(b)

the name, image, or likeness compensation and agreements described in subsection (a).

(c) A college athlete or, if the athlete is a minor, the parent or [guardian] of the athlete, may void a name, image, or likeness agreement with a third party if the party fails to comply with subsection (a) or (b).]

*Legislative Note: A state should adopt Sections 10 through 15 if it decides to require registration of third parties.*

### **[Section 11. Registration as Third Party; Application**

(a) A person applying for registration as a third party shall submit an application for registration to the [insert name of agency designated in Section 4] in a form prescribed by the [insert name of agency designated in Section 4]. The application must be signed under penalty of perjury by an authorized representative of the applicant and include:

(1) the name and contact information of the applicant, including telephone number, email address, and, if available, a website address;

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

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

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

(5) the name and address of each person that is a partner, member, officer, director, manager, associate, or entitled to share profits, income, receipts, or other funds or directly or indirectly holds an equity interest of at least [five] percent in the applicant;

(6) whether the applicant or a person named under paragraph (5) has been a defendant in a criminal proceeding or respondent in a civil proceeding and, if so, the date and a brief explanation of each proceeding;

(7) whether the applicant or a person named under paragraph (5) has been

adjudicated as bankrupt or has declared bankruptcy;

(8) whether conduct of the applicant or a person named under paragraph (5) has caused a college athlete to be sanctioned, suspended, or declared ineligible to participate in an intercollegiate sport or an institution to be sanctioned;

(9) whether an application to be a third party by the applicant or a person named under paragraph (5) has been denied, suspended, abandoned, or not renewed;

(10) each state in which the applicant is currently registered or has applied to be registered as a third party; and

(11) other information required by [insert name of agency designated in Section 4].

(b) Instead of proceeding under subsection (a), a person registered as a third party in another state may apply for registration as a third party in this state by submitting to the [insert name of agency designated in Section 4]:

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

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

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

(c) The [insert name of agency designated under Section 4] shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the [insert name of agency designated under Section 4] determines:

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

(2) the registration has not been revoked or suspended and no action involving the individual's conduct as a third party is pending against the person or the person's registration in any state.

(d) In implementing subsection (c), the [insert name of agency designated in Section 4] shall:

(1) cooperate with agencies in other states that register third parties to develop a common registration form;

(2) determine which states have laws that are substantially similar or more restrictive than this [act]; and

(3) exchange information, including information related to actions taken against third parties or their registrations, with those agencies.]

#### **[Section 12. Third-Party Certificate of Registration**

(a) Except as provided in subsection (b), the [insert name of agency designated in Section 4] shall issue a certificate of registration to a person that applies for registration under and complies with Section 11.

(b) The [insert name of agency designated in Section 4] may refuse to issue a certificate of registration to an applicant under Section 11 if the [insert name of agency designated in Section 4] determines that the applicant has engaged in conduct that has a significant adverse impact on the reputation of a college athlete or the athlete's institution, conference, or athletic association. In making the determination, the [insert name of agency designated in Section 4] shall consider whether the applicant has:

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

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

(3) engaged in conduct prohibited by Section 16;

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

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

(c) A third party registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the [insert name of agency designated in Section 4]. The application must be signed by an authorized representative of the applicant under penalty of perjury and include current information on all matters required in an original application for registration.]

**[Section 13. Limitation, Suspension, Revocation, or Nonrenewal of Third-Party Registration**

The [insert name of agency designated in Section 4] may suspend, revoke, or refuse to renew registration of a third party registered for a reason that would justify refusal to issue a certificate of registration under Section 12(b).]

**[Section 14. Temporary Registration of Third Party**

The [insert name of agency designated in Section 4] may issue a temporary certificate of registration as a third party while an application for registration or renewal of registration is pending.]

**[Section 15. Third Party Registration and Renewal Fees**

(a) An application for registration or renewal of registration as a third party must be accompanied by a fee of:

(1) \$[200] for an initial application for registration;

(2) \$[100] for registration based on a certificate of registration issued by another state;

(3) \$[50] for an application for renewal of registration; or

(4) \$[25] for renewal of registration based on a renewal of registration in another state.]

(b) The [insert name of agency designated in Section 4] may establish or modify the fees under Section 4 of this [act].]

### **Section 16. Third Party Prohibited Conduct**

A third party may not intentionally:

(1) give materially false or misleading information or make a materially false promise or representation with the intent to influence a college athlete, parent or [guardian], or another person to enter into a name, image, or likeness agreement, receive name, image, or likeness compensation, or engage in name, image, or likeness activity;

(2) provide anything of value to a college athlete or another person except as permitted under this [act], if to do so may result in loss of the athlete's eligibility to participate in the athlete's sport; [or]

(3) predate or postdate a name, image, or likeness agreement[.][;]

[(4) unless registered under this [act], initiate contact, directly or indirectly, with a college athlete or, if the athlete is a minor, a parent [or guardian] of the athlete, to recruit or solicit the athlete, parent, or [guardian] to enter a name, image, or likeness agreement, receive

name, image, or likeness compensation, or engage in name, image, or likeness activity;

(5) fail to apply for registration under Section 11; or

(6) provide materially false or misleading information in an application for registration or renewal of registration.]

**Legislative Note:** *A state should include the bracketed language in paragraphs (4) through (6) only if the state includes optional Sections 11 through 15 that provide for third-party registration.*

### **Section 17. Civil Remedy**

(a) An institution or college athlete has a cause of action for damages against a name, image, or likeness agent or third party if the institution or athlete is adversely affected by an act or omission of the agent or third party in violation of this [act]. An institution or athlete is adversely affected by an act or omission of the agent or third party only if, because of the act or omission, the institution or athlete:

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

(2) suffers financial damage.

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

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

[(d) A violation of this [act] is a violation of and enforceable under [cite to state consumer protection or unfair trade practice law].]

**Legislative Note:** *A state that permits amendment by reference and has an unfair trade practice or consumer protection law that provides for civil enforcement by a state agency or person, including a competitor, should replace the bracketed language in subsection (d) with the name of the state agency or person. A state that has an unfair trade practice or consumer protection law*



*but does not permit amendment by reference should delete subsection (d) and make appropriate amendments to its unfair trade practice or consumer protection law. A state that does not have an unfair trade practice or consumer protection law should delete subsection (d) and substitute language providing for civil enforcement by a state agency, affected member of the public, or a competitor.*

### **Section 18. Civil Penalty**

The [Attorney General] [and] [insert name of the agency designated in Section 4] may assess a civil penalty against a name, image, or likeness agent or third party not to exceed \$[50,000] for a violation of this [act].

***Legislative Note:** A state may authorize the Attorney General or another state official, or the agency designated in Section 4, or both to enforce this section.*

### **Section 19. Uniformity of Application and Construction**

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

### **Section 20. Relation to Electronic Signatures in Global and National Commerce Act**

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

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

### **[Section 21. Severability**

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

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

**Section 22. Effective Date**

This [act] takes effect . . .