

DRAFT

FOR DISCUSSION ONLY

UNIFORM SPORTS AGENTS ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

MARCH 6-8, 1998

UNIFORM SPORTS AGENTS ACT

Without Comments

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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[ARTICLE] 1
GENERAL PROVISIONS

SECTION 101. SHORT TITLE. This [Act] may be cited as
Uniform Athlete Agents Act.

1 **SECTION 102. DEFINITIONS.** In this [Act]:

2 (1) "Athlete Agent" means any individual including an employee, representative,
3 or any other individual acting on behalf of any individual who, directly or indirectly,
4 contacts, induces or attempts to induce, recruits, or solicits a student-athlete to enter into
5 an agent contract, a professional sports services contract, or an endorsement contract, or
6 who procures, offers, promises, or attempts to obtain employment or provides services for
7 an individual with a professional sports team or organization or as a professional athlete.

8 (2) "Agent contract" means any agreement under which a student-athlete
9 authorizes an athlete agent to negotiate or solicit on behalf of the student-athlete a
10 professional sports services contract or an endorsement contract.

11 (3) "Athletic director" means the person discharging the duties of coordinating
12 and administering the overall athletic program for the educational institution attended by
13 the student athlete.

14 (4) "Contact" means any communication between an athlete agent and a student-
15 athlete by whatever means, directly or indirectly, for the purposes of inducing or
16 attempting to induce a student-athlete to enter into an agent contract, professional sports
17 services contract, or an endorsement contract.

18 (5) "Endorsement contract" means any agreement pursuant to which an individual
19 is employed or receives remuneration because of publicity, reputation, fame, or following
20 obtained because of athletic ability or performance.

21 (6) "Educational institution" means the public or private high school, college,
22 junior college, or university that the student-athlete last attended or to which the student-

1 athlete has expressed written intention to attend.

2 (7) "Person" means an individual, corporation, business trust, estate, trust,
3 partnership, limited liability company, association, joint venture, government,
4 governmental subdivision, agency, or instrumentality, public corporation, or any other
5 legal or commercial entity.

6 (8) "Professional sports services contract" means any agreement pursuant to
7 which a student-athlete is employed or agrees to render services as a player on a
8 professional sports team or organization or as a professional athlete.

9 (9) "State" means a State of the United States, the District of Columbia, Puerto
10 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
11 jurisdiction of the United States.

12 (10) "Student-athlete" means an individual who:

13 (a) engages in, is eligible to engage in, or may be eligible to engage in any amateur or
14 intercollegiate sporting event, contest, exhibition, or program. The term includes any
15 individual who may be eligible to engage in any amateur or collegiate sports in the future.

16
17 (b) has participated as a member of a sports team at an institution of higher education and
18 who has never signed a contract of employment with a professional sports team.

SECTION 103. OFFICE OF THE SECRETARY OF STATE.

(a) The [Secretary of State or other regulatory commission] shall administer this

[Act].

1 [ARTICLE]2
2 REGISTRATION
3

4 SECTION 201. ATHLETE AGENT REGISTRATION

5 (a) An individual may not act as an athlete agent within this State or with a
6 student-athlete who is a resident of this State prior to registering with the [Secretary of
7 State].

8 (b) No person shall contact a student-athlete without first obtaining a
9 certificate of registration from the [Secretary of State].

10 (c) Registration may be accomplished by filing a certificate of registration from a
11 foreign state with the [Secretary of State]. The foreign state shall allow the registering
12 state access to the registrant's application upon request.

13 (d) An applicant for registration as an athlete agent shall submit a written
14 application for registration to the secretary of state on a form prescribed by the secretary
15 of state. The applicant shall provide the information required by the secretary of state,
16 which shall include:

17 (1) the name of the applicant and the address of the applicant's principal place of
18 business;

19 (2) the business or occupation engaged in by the applicant for the five years immediately
20 preceding the date of application;

21 (3) a description of the applicant's formal training, practical experience, and educational
22 background relating to the applicant's professional activities as an athlete agent;

23 (4) the names and addresses of three professional references; and

24 (5) the names and addresses of all individuals represented by the athlete agent;

1 (6) the names and addresses of all athletes for whom the athlete agent is providing
2 professional services for compensation at the time of the renewal;

3 (7) the names and addresses of all athletes not currently
4 represented by the athlete agent for whom the athlete agent has performed professional
5 services for compensation during the three years preceding the date of application; and

6 (8) the names and addresses of all individuals operating within the state, who are
7 financially interested as partners, associates, or profit sharers in the operation of the
8 business of the athlete agent.

9 (9) An application for registration or renewal by any individual licensed to practice law in
10 this State shall provide only the names and addresses of those individuals involved in the
11 activities of the athlete agent and is not required to provide the names and addresses of all
12 individuals who may be financially interested as members of a law firm or professional
13 corporation but who do not become involved in the business of the athlete agent;

14 (10) a statement of whether the applicant has ever been convicted of a felony, or a
15 misdemeanor involving moral turpitude;

16 (11) a statement of whether the applicant has made a material false, misleading,
17 deceptive, untrue, or fraudulent representation as an athlete agent or in any document
18 related to the business of the athlete agent.

19 (12) a statement that the applicant has not engaged in such other conduct that has a
20 significant adverse impact on his or her credibility, honesty, integrity, or competence to
21 serve in a fiduciary capacity;

22 (13) a statement that the applicant has not engaged in conduct which is a violation of any

1 rule or regulation promulgated by an amateur or intercollegiate sports governing body,
2 which resulted in a student-athlete losing eligibility to participate in amateur or
3 intercollegiate sports contests as a member of a sports team of an institution of higher
4 education, or conduct which resulted in an educational institution receiving a sanction
5 from its governing body.

6 (11) a statement of whether the applicant as been the subject of any disciplinary action or
7 whether the applicant's registration in this state or a foreign state has ever been revoked
8 or suspended.

1 **SECTION 203. GROUNDS FOR DENIAL OF REGISTRATION**

2 **CERTIFICATE AND REVOCATION**

3 (a) The [Secretary of State] shall deny a certificate of registration to an applicant
4 who has been convicted of a felony or of a misdemeanor involving moral turpitude. The
5 [Secretary of State] shall deny or revoke a certificate of registration if that individual:

6 (1) has knowingly made a material false, misleading, deceptive, untrue, or
7 fraudulent representation as an athlete agent or in any document related to the business of
8 the athlete agent.

9 (2) has ever misappropriated funds or engaged in other specific acts
10 such as embezzlement, theft, or fraud which would render him or her unfit to serve in a
11 fiduciary capacity;

12 (b) The [Secretary of State] may revoke a registration
13 already granted or may discipline a person registered upon a finding that the registrant or
his or her representative or employee:

14 (1) has engaged in such other conduct that has a significant adverse impact
15 on his or her creditability, honesty, integrity, or competence to serve in a fiduciary
16 capacity;

17 (2) has had an application suspended, revoked or denied or has been
18 the subject of disciplinary action by a players association.

19 Or see new Alabama statute which provides the following:

20 (a) The [Secretary of State] may refuse to grant or renew a registration upon
21 proof that the applicant or the applicant's representative committed any of the following
22 acts:

1 (1) Has made false or misleading statements of a material nature in the
2 application for registration.

3 (2) Has ever misappropriated funds, or engaged in other specific acts
4 such as embezzlement, theft, or fraud, which would render the applicant unfit to serve in
5 a fiduciary capacity.

6 (3) Has engaged in such other conduct that significantly impacts
7 adversely on the applicant's credibility, integrity, or competence to serve in a fiduciary
8 capacity.

9 (4) Has engaged in conduct which violates or causes a student-athlete
10 to violate any rule or regulation promulgated by the National Collegiate Athletic
11 Association governing student-athletes and their relationship with athlete agents.

12 (5) Is unwilling to swear or affirm that the applicant will comply with
13 the rules and standards of conduct for athlete agents as may from time to time be
14 promulgated by the [Secretary of State].

15 (6) Has failed to include the agent's name in any advertising related to
16 the business of an athlete agent. Advertising shall not include clothing or novelty items.

17 (7) Has published or caused to be published false or misleading
18 information or advertisements, or given any false information or making false promises to
19 a student-athlete concerning employment or financial services.

20 (8) Has offered anything of value to any person to induce a student-
21 athlete to enter into an agreement by which the agent will represent the student-athlete.
22 However, negotiation regarding the agent's fee shall not be considered an inducement.

1 (9) Has accepted as a client a student-athlete referred by, or in
2 exchange for, any consideration made to an employee of, or a coach for a college or
3 university.

4 (10) Has committed mismanagement or misconduct as an agent which
5 causes financial harm to a student-athlete or college or university.

6 (11) Has sent a student-athlete written materials without simultaneously
7 sending an identical copy of such written materials to the athletics director, or the
8 director's designee, of the college or university in which the student-athlete is enrolled or
9 to which the student-athlete has provided written intent to participate in intercollegiate
10 athletics.

11 (12) Has otherwise contacted a student-athlete without the student-
12 athlete having first initiated the contact with the athlete agent and the athlete agent having
13 given prior notice to the college or university in which the student-athlete is enrolled or to
14 which the student-athlete has provided a written intent to participate in intercollegiate
15 athletics.

1 **SECTION 204. DURATION OF REGISTRATION CERTIFICATE.**

2 (a) The [Secretary of State] shall issue a certificate of registration to an individual
3 who complies with Section 201.

4 (b) A certificate of registration issued under this act is valid for 12 months
5 from the date of issuance.

6 (c) A registered athlete agent may renew the registration by filing a renewal
7 application in the form prescribed by the secretary of state. The renewal application must
8 include any new information not contained in, or different from, the original application.
9 Information prescribed by the secretary of state shall include all information required in
10 the original application.

SECTION 205. REGISTRATION FEE

(a) Each application for the registration or renewal of registration shall be accompanied by a fee.

1 **SECTION 206. TEMPORARY REGISTRATION**

2 When an application for registration or renewal is made and the registration process has
3 not been completed, the [Secretary of State] may issue a temporary certificate of
4 registration that is valid for no more than [90 days].

1 **SECTION 207. SURETY BOND/LIABILITY INSURANCE**

2 (a) Before the issuance or renewal of a certificate of registration, an athlete agent
3 shall deposit with the [Secretary of State] a surety bond or evidence of a certificate of
4 liability insurance in the sum of \$100,000, payable to the state and shall be on the
5 condition that the person applying for the registration will comply with this act, will pay
6 all amounts due any individual or group of individuals, and will pay all damages caused
7 to any athlete by reason of the intentional misrepresentation, fraud, deceit, or any
8 unlawful or negligent act or omission by the registered athlete agent.

9 (b) This section does not limit the recovery of damages to the amount of the
10 surety bond.

11 (c) If an athlete agent fails to file a new bond or liability insurance policy with the
12 [Secretary of State] not later than the 30th day after date of receipt of a notice of
13 cancellation issued by the surety of the bond, the [Secretary of State] shall suspend the
14 certificate of registration issued to that athlete agent under the bond until the athlete agent
15 files a new surety bond with the [Secretary of State].

16 (d) An athlete agent may provide to the secretary of state proof of an equivalent
17 amount of professional liability insurance in lieu of a surety bond, if such professional
18 liability insurance provides coverage for the same types of conduct, acts, or activities as
19 are covered by the bond otherwise provided for in this section.
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1 **SECTION 208. ATTORNEYS LICENSED IN STATE.**

2 The term “Athlete Agent” does not include a person licensed
3 as an attorney, dealer in securities, financial planner, insurance agent, real estate broker
4 or sales agent, or tax consultant, or other professional person, when the professional
5 person offers or provides the type of services customarily provided by that profession,
6 except and solely to the extent that the professional person also recruits or solicits an
7 athlete to enter into any agent contract, endorsement contract, or professional sports
8 services contract, or for compensation procures, offers, promises, attempts, or negotiates
9 to obtain employment for any person with a professional sports team or organization or as
10 a professional athlete.

11 The following language was also suggested:

12 An attorney licensed to practice law in this State is not exempt from the
13 requirements of this [Act], exempt to the extent the representation of the student-athlete is
14 of a nature that representation by a person not licensed to practice law would be an
15 unauthorized practice of law.

1 [ARTICLE]3

2 AGENT CONTRACTS

3 SECTION 301. FORM

4 An agent contract shall be in writing and shall include:

5 (1) The agent's fees;

6 (2) A description of any expenses the player agrees to reimburse the agent and the
7 percentages to be paid by the student-athlete and other compensation to be paid by any
8 other source.

9 (3) A description of the professional services provided to the player.

10 (4) Any representations provided by the athlete agent to the student-athlete.

11 (5) The term of the contract.

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1 **SECTION 302. WARNING NOTICE TO STUDENT ATHLETES.**

2 (a) Every agent contract shall contain, in close proximity to the signature of the
3 student-athlete, a conspicuous notice in boldface type in capital letters stating:

4 **WARNING TO STUDENT-ATHLETE: SIGNING THIS CONTRACT**
5 **WILL IMMEDIATELY RESULT IN A LOSS OF ANY REMAINING**
6 **ELIGIBILITY TO COMPETE IN YOUR SPORT, YOU SHOULD NOTIFY**
7 **YOUR COACH OR ATHLETIC DIRECTOR PRIOR TO SIGNING THIS**
8 **CONTRACT.**

9 **DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ AND**
10 **UNDERSTAND ALL OF IT. DO NOT SIGN THIS CONTRACT IF IT**
11 **CONTAINS BLANK SPACES. IF YOU DECIDE THAT YOU DO NOT**
12 **WISH TO PURCHASE THE SERVICES OF THE ATHLETE AGENT,**
13 **YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE**
14 **ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL THE**
15 **CONTRACT NOT LATER THAN 7 DAYS AFTER THE DATE ON**
16 **WHICH YOU SIGN THIS CONTRACT. CANCELLATION OF THIS**
17 **CONTRACT MAY NOT MEAN REINSTATEMENT OF ELIGIBILITY.**

1 **SECTION 303. NOTICE TO INSTITUTION.**

2 (a) Within seventy-two hours after entering into an agent contract or prior to the
3 student-athlete’s participation in the next athletic event, the athlete agent shall notify the
4 athletic director of the institution at which the student-athlete is enrolled or the athlete
5 agent has reasonable grounds to believe the student-athlete intends to enroll, and provide
6 a copy of the signed agent contract.

7 (b) If the student-athlete has any remaining eligibility, the student-athlete must
8 give written notice that a contract has been entered into. This notice should be provided
9 to the athletic director] the student-athlete’s educational institution within 72 hours after
10 entering into this contract or prior to participating in the student-athlete’s next athletic
11 event, whichever comes first.

1 **SECTION 304. STUDENT-ATHLETE'S RIGHT TO RESCIND.**

2 (a) A student-athlete may rescind a contract with an athlete agent by giving
3 written notice to the athlete agent of the student-athlete's recision of the contract within 7
4 days after the date on which the contract is signed.

5 (b) A student-athlete may not waive the right to rescind the agent contract.

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1 [ARTICLE]4

2 PROHIBITED ACTS

3 SECTION 401. INTENTIONALLY PROVIDING FALSE INFORMATION.

4 (a) An athlete agent may not intentionally give any false or misleading
5 information or intentionally make any false promises or representations to induce a
6 student-athlete to enter into an agents contract.

7 (b) Offer or provide anything of value or benefit to a student-athlete. However,
8 negotiations regarding an athlete agent's fee shall not be considered a benefit.

9 (c) Offer or provide anything of value or benefit to any person to induce or
10 attempt to induce a student-athlete to enter into an agreement by which an athlete agent
11 will represent the student-athlete.

12 (d) Postdate any agent contract between an athlete agent and a student-athlete or
13 any person who acts on behalf of the student athlete.

14 (e) Provide or cause to be provided money or anything of value to any student-
15 athlete, for the purpose of inducing or encouraging the student-athlete to utilize the
16 athlete agent's services.

17 (f) Provide or cause to be provided money or anything of value to a member of the
18 student-athlete's family, or any other person, for the purpose of inducing or encouraging
19 the student-athlete to utilize the athlete agent's services.

20 (g) Provide or cause to be provided materially false or misleading information to
21 any student-athlete in the context of seeking to be selected as the student-athlete's athlete
22 agent.

1 (h) Engage in any activity which creates an actual or potential conflict of interest.

2 (I) Publishing or causing to be published any false, fraudulent, or misleading
3 information, representation, notice or advertisement concerning the business of an athlete
4 agent.

5 (j) Postdating any agent contract between an athlete agent and a student-athlete or
6 any person who acts on behalf of the student-athlete.

7 (k) Doing business as an athlete agent without complying with the registration
8 provisions contained in section 201 of this Act.

9 (l) Unless an athlete agent is registered with the [Secretary of State] as provided
10 in section 201, and has notified the student-athlete's institution's coach and athletic
11 director prior to the first contact, an athlete agent may not contact directly or indirectly
12 whether in person, in writing, electronically, or in any other manner, for the purpose of
13 inducing or attempting to establish a representational relationship, unless the student-
14 athlete's eligibility to participate in the sport in which the athlete agent seeks to represent
15 the student-athlete has expired. The notification shall be in writing and describe the
16 nature of the contact.

17 (m) If a student-athlete, or any individual on behalf of a student-athlete, initiates
18 contact with an athlete agent or athlete agent's representative or employee, the athlete
19 agent, representative or employee, may continue the contact and make new contacts with
20 that individual if the athlete agent immediately completes a registration application under
21 section and complies with the notice requirements under section 404(l). No later than
22 the first regular business day after that person first initiates contact, the athlete agent shall

1 notify in writing the coach or athletic director of the secondary school, college, junior
2 college, university, or other educational institution to which the student-athlete has been
3 admitted or in which the student-athlete is enrolled, of that contact. The notification shall
4 be in writing and describe the nature of the contact.

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1 [ARTICLE]5

2 RECORDKEEPING

3 SECTION 501. RECORDKEEPING REQUIREMENTS

4 (a) Every athlete agent shall maintain the following records for a period of five
5 years:

6 (1) the name and address of each student-athlete employing the athlete
7 agent;

8 (2) the amount of any fee collected;

9 (3) a contract entered into between the athlete agent and the student-
10 athlete;

11 (4) any expenses paid or gifts provided by the athlete agent in the
12 recruitment or attempted recruitment of the student-athlete.

13 (b) The athlete agent shall maintain all records required by this Act for a period of
14 five calendar years, and shall be open to inspection by the [Secretary of State] during
15 normal business hours.

16 (c) Refusal or wilful failure of an athlete agent to provide the records requested
17 shall result in revocation of the athlete agent's certificate of registration.

1 [ARTICLE]6

2 SANCTIONS FOR VIOLATIONS

3 SECTION 601. CIVIL REMEDY

4 (a) An athlete agent who negotiates or enters into an agent contract or provides
5 any monetary or in-kind benefits to a student-athlete and fails to notify the athletic
6 director or president of the college or university in which the student athlete is enrolled is
7 liable for actual damages to the college or university in which the student-athlete is
8 enrolled that results from the student-athlete's subsequent ineligibility.

9 (b) For the purposes of subsection (a), a college or university suffers actual
10 damages if, because of activities of the individual, the college or university is penalized
11 or is disqualified or suspended from participation in intercollegiate athletics by a national
12 association for the promotion and regulation of intercollegiate athletics, by an
13 intercollegiate athletic conference, or by self-imposition and, because of that penalty,
14 disqualification, or suspension, the institution:

- 15 (1) loses revenue from media coverage of a sports contest;
- 16 (2) loses the right to grant an athletic scholarship;
- 17 (3) loses the right to recruit an athlete;
- 18 (4) is prohibited from participating in postseason athletic competition;
- 19 (5) is required to forfeit an athletic contest; or
- 20 (6) suffers an adverse financial impact.
- 21 (7) Nothing in this Act is meant to limit common law rights or
22 remedies.

1 (c)An institution or student-athlete that prevails in a suit brought under this
2 section may recover the following:

- 3 (1) Actual damages.
- 4 (2) Punitive damages.
- 5 (3) Court costs.
- 6 (4) Reasonable attorney's fees.

7 (d) In actions seeking relief under this section, the claim shall not have been
8 considered as having accrued until the discovery by the aggrieved college, university or
9 student-athlete of the alleged violation by the student-athlete or the athlete agent after
10 which the college, university or student-athlete shall have two years to bring an action.

Section 602. ADMINISTRATIVE PENALTY

The [Secretary of State] may assess a civil penalty not to exceed [\$25,000] for any violation of this [Act].

1 **SECTION 603. ENFORCEMENT**

2 If the [Secretary of State] believes that a violation of certain sections of
3 this Act may have occurred, the [Secretary of State] shall refer the case to the [Attorney
4 General] for appropriate disciplinary action.

1 **SECTION 604. MISDEMEANOR/FELONY**

2 (a) Violation of section is a misdemeanor punishable by a fine of not more than
3 or imprisonment of not more than years.

4 (b) Violation of section is a felony punishable by a fine of not more than or
5 imprisonment of not more than years.

1 [ARTICLE] 7

2 SUBPOENAS/CONSTRUCTION/SEVERABILITY

3 SECTION 701. SUBPOENAS

4 (a) The [Agency or Secretary of State] may compel attendance of witnesses
5 necessary to conduct appropriate investigations and hold proceedings, by issuing a
6 subpoena for the attendance of witnesses or production of documents or records.

1 **SECTION 702. APPLICATION AND CONSTRUCTION**

2 In applying and construing this Uniform Act, consideration must be given to the
3 need to promote uniformity of the law with respect to the subject matter of this [Act]
4 among States enacting it.

1 **SECTION 703. SEVERABILITY CLAUSE.**

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

SECTION 704. REPEALS.

The following acts and parts of acts are hereby repealed:

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SECTION 705. EFFECTIVE DATE. This [Act] takes effect _____.