

DRAFT
FOR DISCUSSION ONLY

College Athlete Name, Image, and Likeness Issues Act

[Proposed new name: College Student Athlete Name, Image,
and Likeness **Compensation Act**]

Commented [LK1]: It seems to me this would be a helpful and accurate addition.

Uniform Law Commission

April 14, 2021 Video Committee Meeting



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March 23, 2021

College Athlete Name, Image, and Likeness Issues Act

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Commented [LK2]: Note.

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College Athlete Name, Image, and Likeness Issues Act

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

2 **Section 1. Title**

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

4 [Proposed new name: College Student Athlete Name, Image, and Likeness Compensation Act.]

Commented [LK3]: Same as previous Comment.

5 **Section 2. Definitions**

6 In this [act]:

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

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

Commented [LK4]: Why delete the 50 institutions and 25 states?

10 (B) conducts athletic competition among its members institutions;

11 (C) sets playing rules for the competitions;

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

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

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

19 (2) “Booster” means an official or unofficial representative of an institution’s
20 athletic program, including an individual that:

21 (A) provides a donation to obtain an event ticket or a season ticket for an
22 intercollegiate sport at the institution;

23 (B) participates in, is a member of, or makes a financial contribution to an

1 organization promoting the institution's intercollegiate athletic program or directly to that
2 program;

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

4 (D) assists in providing a benefit to ~~an~~ a college student athlete who has
5 been admitted to or is enrolled at the institution, or to the athlete's [redacted]; or

6 (E) is otherwise involved in promoting the institution's athletic program.

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

9 (3) "College student athlete" or "athlete" means an individual who is eligible to
10 attend an institution or is admitted to and enrolls at an institution, and engages in, is eligible to
11 engage in, or may be eligible in the future to engage in an intercollegiate sport at that institution.

12 The term does not include an individual who is in or is eligible to be in elementary or secondary
13 school or an earlier grade level, from kindergarten to grade twelve or, for a particular
14 intercollegiate sport, an individual permanently ineligible to participate in a particular
15 intercollegiate that sport.

16 (4) "Conference" means a person that governs the athletic programs of a
17 collection of institutions from more than one state. The term includes an employee, agent, or
18 independent contractor of the person.

19 (4a) "Enrolled" means an individual who is considered to be a student at an
20 institution under the rules of that institution. "Enrolled" and "enrollment have a corresponding
21 meaning.

22 (5) "Group license" means an agreement in which the name, image, and likeness
23 of a specified minimum number of college student athletes is used.

Commented [LK5]: Who is included?

Commented [LK6]: Why have a lifetime ban? What if a person has not been a booster for the past 10 years?

Commented [LK7]: Why have to use this longer term throughout the Act? Why not use a shorter term such as "student athlete" or just "athlete," making it clear in the definition that we mean a college athlete?

Commented [LK8]: Didn't we intend to include this?

Commented [LK9]: I am concerned about students who either drop out of school, or who are encouraged to drop out of school.

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

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

5 (8) “Intercollegiate sport” means ~~an sport~~athletic activity played at the collegiate
6 level between or among institutions for which eligibility requirements for participation by a
7 college student athlete are established by an athletic association or conference. The term does not
8 include intramural or club sports.

9 (9) “Name, image, and likeness” ~~means the name, image, or likeness~~ of a college
10 student athlete means one or any combination of these words, using their common meaning, and
11 ~~The term~~ includes the athlete’s nickname or nicknames, signature, social media account or
12 accounts, and any other readily identifiable personal characteristic.

13 (10) “Name, image and likeness activity” means licensing or other use or
14 disposition of a college student athlete’s name, image, and likeness for a commercial purpose.

15 (11) “Name, image, and likeness agent” means an individual who is licensed in
16 the state as an athlete agent under [cite to the Uniform Athlete Agents Act or the Revised Athlete
17 Agents Act] and who directly or indirectly recruits or solicits a college student athlete to enter
18 into ~~an agency-a contract~~ for the agent to represent that athlete to obtain name, image, and
19 likeness compensation for that athlete, or, for compensation, offers, promises, attempts, or
20 negotiates to obtain a name, image, and likeness agreement for that student athlete.

21 (12) “Name, image, and likeness agreement” means ~~an agreement-a contract~~
22 under which a college student athlete receives compensation for use or disposition of the
23 athlete’s name, image, and likeness.

Commented [LK10]: “Agency contract” no longer is a defined term.

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

Commented [LK11]: Could be an individual.

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

Commented [LK12]: Why was the definition of this term dropped?

9 (15) “Record” means information:

10 (A) inscribed on a tangible medium; or

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

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

16 (16a) “Secretary means the [Secretary of State].

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

18 (18) “Third-party ~~entity~~” means a person, other than the institution attended by
19 the college student athlete ~~or a name, image or likeness agent~~, that offers, solicits, ~~seeks to enter~~
20 ~~into~~, or enters into, a name, image, and likeness agreement ~~with that athlete. The term includes~~
21 ~~an employee, agent, or independent contractor of the person.~~

Commented [LK13]: Could be an individual.

22 Section 3. Scope

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

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

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

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

8 *Legislative Note: Section 3(c) should be included in a state that has a United States service*
9 *academy or another institution subject to federal regulation that conflicts with this act.*
10

11 Section 4. Rulemaking Authority

12 The ~~_____~~ adopt rules under [cite to state administrative
13 procedure act] to implement this [act].

Commented [LK14]: Should this be “shell”?

14 ~~Section 5. Name, Image, and Likeness Rights of College Student Athlete~~ 15 ~~Name, Image, and Likeness Compensation; Limit on Athletic Association and Institution~~

Commented [LK15]: Sections 5, 6, and 7 all address conduct in which certain persons may engage and conduct in which they may not engage. I found this to be a bit confusing, so I have suggested a new organization for those three sections. I have provided suggested headings for the proposed reorganized Sections 5, 6, and 7, and revised language to accommodate that reorganization (much of the suggested revised language also would be appropriate for the current organization), but I have not actually moved any of the subsections in the three Sections. Under the proposed reorganization, new Section 5 would focus on the athlete’s basic right to have an NIL agent, enter into an NIL agreement, receive NIL compensation, and engage in NIL activity. It would consist only of current Section 5(a). New Section 6 would include certain limits on NIL compensation and activity, and would consist of current Sections 6(b), 6(a), 6(c), and 6(d), in that order. New Section 7 would address what institutions, conferences, and associations may and may not do regarding NIL. I would consist of current Sections 5(c), 6(e), 6(f), 7(a), 7(b), and 5(b), in that order.

16 (a) Except as provided in Sections 6 and 7, a college student athlete may engage a name,
17 image, and likeness agent, enter into a name, image, and likeness agreement, receive name,
18 image, and likeness compensation, and engage in name, image, and likeness activity.

Commented [LK16]: Why is this necessary?

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19 (b) ~~Except as provided in Section 6, an~~ No athletic association, conference, or institution
20 may ~~not~~:

21 (1) adopt or enforce a rule, requirement, standard, or other limitation that prevents
22 or restricts a college student athlete from ~~_____~~ entering
23 into a name, image, and likeness agreement, receiving name, image, and likeness compensation,
24 engaging in name, image, and likeness activity, or ~~an institution from~~ participating in an
25 intercollegiate sport because ~~an~~ that athlete engages a name, image, and likeness agent, receives

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1 ~~such name, image, and likeness compensation, or engages in name, image, and likeness activity;~~

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

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

8 (c) ~~This section does not apply to the use of~~ An institution, conference, or association
9 may use a college student athlete's name, image, and likeness in the broadcast or rebroadcast of
10 an intercollegiate athletic event.

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11 **Section 6. Certain Restrictions on Name, Image, and Likeness Compensation and**

Commented [LK17]: See Comment to the heading of Section 5.

12 **Activity**

13 (a) A college student athlete may ~~not~~ include in name, image, and likeness activity an
14 institution's, ~~or conference's, or athletic association's~~ name, trademark, service mark, logo,
15 uniform design, or other identifier of athletic performance depicted or included in any form of
16 media broadcast or related game footage ~~if~~unless the use ~~(i) is consistent with use permitted by~~
17 ~~all students at the institution or in the conference,~~ (ii) is not likely to cause confusion about the
18 affiliation, connection, or association of the institution, ~~or~~ conference, ~~or athletic association~~ to
19 the activity or otherwise ~~does not~~ imply sponsorship or endorsement by the institution, ~~or~~
20 conference, ~~or athletic association,~~ and (iii) ~~and (iii)~~ otherwise does not violate patent, trademark,
21 ~~or copyright law.~~

Commented [LK18]: I think this provision works best in the negative, and hopefully will avoid the problem of someone reading just the first couple of lines and thinking they may use search intellectual property, without reading the remainder of the subsection [For some reason I could not both highlight and comment on the text.].

Commented [LK19]: I thought we had decided to include something like this. Why was it deleted?

Commented [LK20]: See previous Comment.

22 (b) Name, image, and likeness compensation, or offers, promises, or solicitations of
23 compensation, must not be an inducement and must represent only consideration for use of

1 name, image, and likeness. A college student athlete may not receive name, image, and likeness
2 compensation or other consideration for performance, participation, or service in an
3 intercollegiate sport.

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

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

9 (e) An institution may prohibit name, image, and likeness activity that is determined by
10 the institution to be immoral, in conflict with the institution's values, unsafe, or to adversely
11 affect the reputation of the institution, if the institution does not engage in the same commercial
12 activity. An institution making such a determination shall disclose to the college student athlete
13 or to the athlete's name, image, and likeness agent the basis for that determination.

Commented [LK21]: Seems to be very vague and opens the door for the institution to prohibit a wide range of NIL activity.

Commented [LK22]: See previous Comment

Commented [LK23]: What is this intended to include?

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

Commented [LK24]: Why include?

18 **Comment**

19 Section 6(ab) is intended to be consistent with federal intellectual property law.

20 **Section 7. Permissible and Impermissible Conduct by Institutions, and**
21 **Conferences, and Athletic Associations Involvement**

Commented [LK25]: See Comment to Section 5.

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

23 (1) assist a college student athlete:

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

3 (B) with the disclosure requirements of Section 11; and

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

6 (2) provide education to a college student athlete about name, image, and likeness
7 activity; and

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

11 (b) ~~Except as provided in subsection (a), a~~ an institution, or conference, or athletic
12 association shall not:

Commented [LK26]: Why is this necessary?

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

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

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

18 (4) assist with selecting, arranging, or collecting payment from a third-party
19 ~~entity~~;

20 (5) ~~except as provided in Sections 6(a),~~ permit a college student athlete to use the
21 intellectual property of the institution or conference in name, image, and likeness activity;
22 provided that, a college student athlete may use such intellectual property, without permission,
23 subject to the conditions set forth in Section 6(a); or

1 (6) use, license, or otherwise convey a name, image, and likeness for a
2 commercial purpose except as provided in Section 5(c).

3 **Section 8. Disclosure by College Student Athlete, and Duties of Institution**

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

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

8 (2) a copy of each name, image, and likeness agreement entered into by the
9 athlete;

10 (3) for each agreement:

11 (A) the arrangements for providing compensation;

12 (B) the amount of compensation;

13 (C) a description of the relationship with the third-party ~~entity~~;

14 (D) activities required or permitted by the agreement; and

15 (E) if a name, image, and likeness agent was used to arrange the

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

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

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

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

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

23 (c) A college student athlete shall provide the information required by subsection (a)

1 before engaging in name, image, and likeness activity and provide an update after a change in the
2 information not later than [10] days after the earlier of the change or the next scheduled athletic
3 event in which the student athlete may participate.

4 (d) An institution shall adopt policies that describe permissible and impermissible name,
5 image, and likeness activity, including prohibited activity under **Sections 5, 6(e) and 7.**

6 ~~—(e)~~ An institution shall provide in a record a copy of ~~the such~~ policies adopted under this
7 subsection ~~(d)~~ to a college student athlete by the earlier of the time an offer of admission or
8 financial aid is made.

9 ~~(e)~~ When a name, image, and likeness agreement is entered into, the college student
10 athlete, ~~third-party entity~~, and, if a name, image, and likeness agent assisted with the agreement,
11 the agent shall certify to the official designated in subsection (b) at the institution at which the
12 athlete is enrolled that the athlete does not have a side agreement or understanding with the third-
13 party ~~entity~~.

14 **Comment**

15 A college student athlete would be required to disclose to a designated third party under
16 Section 8(a) if a third party is designated by the institution, conference, association, or pursuant
17 to federal law.

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

19 (a) ~~A Prior to contacting a college student athlete about a name, image, and likeness~~
20 ~~agreement or name, image, and likeness compensation,~~ a name, image, and likeness agent shall
21 register and be licensed by this state as an athlete agent under [cite to Uniform Athlete Agents
22 Act or Revised Uniform Athlete Agents Act]. Once licensed, a name, image, and likeness agent
23 shall comply with both that [Act] and this [act].

24 (b) An institution, conference, or athletic association may not prevent, punish, or
25

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1 otherwise deter a college student athlete from obtaining representation by a name, image, and
2 likeness agent.

Commented [LK27]: Move o Section 7?

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

Commented [LK28]: I thought we had agreed to delete this.

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

8 9 Option 1

10 Section 10. Disclosure Requirements by Third-Party ~~Entity~~; Voidable Agreement

11 (a) A third-party ~~entity~~ shall disclose to the official designated in Section 8(ab) any
12 name, image, and likeness compensation provided to any college student athlete at the institution
13 and provide a copy of each name, image, and likeness agreement with an athlete at ~~the that~~
14 institution.

15 (b) A name, image, and likeness agreement that has not been disclosed under subsection
16 (a) is ~~voidable and~~ is a violation of this [act] and is voidable.

17 Option 2

Commented [LK29]: The earlier Comment here has been deleted.

18 Section 10. ~~Third-Party Entity~~; Registration; ~~Void~~Voidable Contract

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

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

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

25 End of Options

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

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

- 6 (1) the address of the applicant’s principal place of business;
- 7 (2) if registered in another state, the state of registration;
- 8 (3) the name and contact information of the applicant seeking registration;
- 9 (4) the applicant’s telephone number;
- 10 (5) means of communicating with the applicant electronically, including an email
11 address and, if available, a website related to the entity;
- 12 (6) each social-media account with which the applicant is affiliated;
- 13 (7) a brief description of type of business and business activity of the applicant;
- 14 (8) name and address of each person that is a partner, member, officer, manager,
15 associate, or profit sharer of the applicant or directly or indirectly holds an equity interest of at
16 least [five] percent in the entity applicant;
- 17 (9) whether the applicant or an individual named under paragraph (8) has been a
18 defendant or respondent in a civil or criminal proceeding and, if so, the date and a brief
19 explanation of each proceeding;
- 20 (10) whether the applicant or an individual named under paragraph (8) has been
21 adjudicated as bankrupt or has declared bankruptcy;
- 22 (11) whether conduct of the applicant or an individual named under paragraph (8)
23 has caused a college student athlete to be sanctioned, suspended, or declared ineligible to

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1 participate in an intercollegiate sport or an institution to be sanctioned;

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

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

7 (b) The ~~Secretary of State~~ may require a booster to comply with additional disclosure
8 requirements.

9 **Section 12. Third-Party ~~Entity~~ Certificate of Registration**

10 (a) Except as provided in subsection (b), the ~~Secretary of State~~ shall issue a certificate
11 of registration to an applicant for registration ~~who that~~ complies with Section 11.

12 (b) The ~~Secretary of State~~ may refuse to issue a certificate of registration to an applicant
13 for registration under Section 11 if the ~~Secretary of State~~ determines that the applicant has
14 engaged in conduct that significantly adversely impacts the reputation of the college student
15 athlete or the athlete's institution, conference, or athletic association. In making this

16 determination, ~~the Secretary of State should shall~~ consider whether the applicant has:

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

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

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

22 (4) engaged in conduct resulting in imposition of a sanction, suspension, or

23 declaration of ineligibility to participate in an intercollegiate event on a college student athlete or

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1 a sanction on an institution; or

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

4 (c) A third-party ~~entity~~ registered under subsection (a) may apply to renew the
5 registration by submitting an application for renewal in a form prescribed by the ~~Secretary of~~
6 ~~State~~. The application must be signed by an authorized representative of the applicant under
7 penalty of perjury and include current information on all matters required in an original
8 application for registration.

9 **Section 13. Limitation, Suspension, Revocation, Nonrenewal of Third-Party**
10 **Registration**

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

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

15 The ~~Secretary of State~~ may issue a temporary certificate of registration as a third-party
16 ~~entity~~ while ~~an that third party's~~ application for registration or renewal of registration is
17 pending.

18 **Section 15. Third-Party ~~Entity~~ Prohibited Conduct**

19 A third-party ~~entity~~ may not intentionally:

20 (1) give a college student athlete or, if the athlete is a minor, a parent or
21 [guardian] of the athlete, materially false or misleading information or make a materially false
22 promise or representation with the intent to influence the athlete, parent, or [guardian] to enter
23 into, ~~or to permit the minor to enter into,~~ a name, image, and likeness agreement ~~or to agree to~~

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1 ~~receive, or permit the minor to receive, name, image or likeness compensation, or to engage in,~~

2 ~~or permit the minor to engage in, name, image, and likeness activity;~~

3 (2) furnish anything of value to a college student athlete or another individual
4 except as permitted under this [act], if to do so may result in the loss of the athlete's eligibility to
5 participate in ~~the athlete's~~ an intercollegiate sport;

6 (3) ~~[unless registered under this [act],~~ initiate contact, directly or indirectly, with a
7 college student athlete ~~or, if the athlete who is~~ a minor, without the express consent of a parent
8 or [guardian] of the athlete, or to recruit or solicit the athlete, parent, or [guardian] to enter into
9 ~~an~~ name, image, and likeness agreement];

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

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

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

15 *Legislative Note:* If a state used a different term to describe the relationship of guardian, the
16 bracketed term "guardian" should be changed to the term used in the state.

17 **Section 16. Civil Remedy**

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

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

25 (2) suffers financial damage.

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

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

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

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

20 21 **Section 17. Civil Penalty**

22 The Secretary of State may assess a civil penalty against a name, image, and likeness
23 agent or third-party entity not to exceed \$[50,000] for each violation of this [act].

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

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

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

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

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

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

9

10 **[Section 20. Severability**

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

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

16

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

18 (a) . . .

19 (b) . . .]

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

22

23 **Section 22. Effective Date**

24 This [act] takes effect