

COMMITTEE DRAFT #1
OCTOBER 8, 1997
FOR DISCUSSION ONLY

UNIFORM SPORTS AGENTS ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

Draft #1

UNIFORM SPORTS AGENTS ACT

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Copies of this Act and copies of all Uniform and Model Acts and other printed matter issued by the
conference may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS
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5 **[ARTICLE] 1**
6 **GENERAL PROVISIONS**
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8 **SECTION 101. SHORT TITLE.** This [Act] may be cited as
9 Uniform Athletes Agents Act. (The consensus at the May
10 1997 meeting was to change the name from Sports Agents to Athlete
11 Agents Act. Chairman Hite noted that we would have to ask for
12 change of name of the Act).
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15 **Comment**
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18 The Legislature finds it necessary to regulate the
19 practice of athlete agents and athlete agent firms to
20 protect the public health, safety, and welfare. The public
21 has a right to be kept informed about the role of athlete
22 agents and protected from dishonest or unscrupulous athlete
23 agents. Practices by agents who solicit representation of
24 student athletes can cause significant harm to student
25 athletes and the academic institutions for which they play.
26 It is the intent of the Legislature to protect the interests
27 of student athletes and academic institutions by regulating
28 the activities of athlete agents. (Discussion at the last
29 meeting suggested that we provide reasons (war stories) if you
30 will, supporting the need for this act. The reasons discussed
31 included protecting athletes, protecting institutions, uniformity
32 and alleviating the administrative and financial burden).
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SECTION 102. DEFINITIONS. In this [Act]:

(1) "Athlete Agent" means any person including employees and representatives or any other individuals acting on behalf of any person who, directly or indirectly contacts, induces or attempts to induce, recruits or solicits a student-athlete to enter into an agent contract or professional sport services contract, or who procures, offers, promises or attempts to obtain employment or provide services for a person with a professional sport team or as a professional athlete or an endorsement contract.

(2) "Agent contract" means any contract or agreement under

1 which a student-athlete authorizes a student-athlete agent to
2 negotiate or solicit on behalf of the student-athlete a
3 professional sports services contract or an endorsement contract.

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

9 (4) "Endorsement contract" means any contract or agreement
10 pursuant to which a person is employed or receives remuneration
11 for any value or utility that the person may have because of
12 publicity, reputation, fame, or following obtained because of
13 athletic ability or performance.

14 (5) "Person" means any individual, corporation, business
15 trust, estate, trust, partnership, association, joint venture,
16 government, governmental subdivision, agency, or instrumentality,
17 or any other legal or commercial entity.

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

23 (7) "Student athlete" means an individual who:

24 (a) is eligible to participate in intercollegiate sports contests
25 as a member of a sports team of an institution of higher
26 education located in this state that is a member of a national

1 association for the promotion and regulation of intercollegiate
2 athletics; or

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

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SECTION 103. OFFICE OF THE SECRETARY OF STATE.

16 (a) The Office of the [Secretary of State or other
17 regulatory commission] shall have the responsibility for
18 administering all provisions of this statute.

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**[ARTICLE] 2
REGISTRATION**

SECTION 201. ATHLETE AGENT REGISTRATION

States have approached this area in a variety of ways. Many state statutes contain provisions requiring athlete agent registration, but several require the issuance of licenses or permits. At the May 1997 meeting the Drafting Committee instructed the reporter to "explore the registration provisions of the Uniform Limited Liability Partnership Act." The Drafting Committee also requested that draft application forms and a draft reciprocity form be developed. I have attached the forms to this draft Act. Registration provisions from the Uniform Limited Liability Partnership Act follow sections (a), (b), and (c) below.

(a) No person shall act as an athlete agent as defined in section 103 of this Act either within the state or with a

1 resident of the state without first registering with the
2 Secretary of State.ped. I have attached sample forms to this
3 draft Act An athlete agent shall register with the secretary of
4 state before the athlete agent may contact a student-athlete,
5 either directly or indirectly, while the athlete is eligible. A
6 registered athlete agent may make those contacts only in
7 accordance with this act.

8 (b) An applicant for registration as an athlete agent shall
9 submit a written application for registration to the secretary of
10 state on a form prescribed by the secretary of state (see
11 attached sample forms). The applicant shall provide the
12 information required by the secretary of state, which shall
13 include:

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

16 (2) the business or occupation engaged in by the applicant for
17 the five years (a few states suggest two years) immediately
18 preceding the date of application;

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

22 (4) if requested by the secretary of state, the names and
23 addresses of five professional references; and

24 (5) the names and addresses of all persons represented by the
25 athlete agent residing in this state; and the names and addresses
26 of all persons operating within the state, [except bona fide

1 employees on stated salaries], that are financially interested as
2 partners, associates, or profit sharers in the operation of the
3 business of the athlete agent. An application for registration
4 or renewal by any individual licensed to practice law in this
5 State shall provide only the names and addresses of those persons
6 that are involved in the activities of the athlete agent and is
7 not required to provide the names and addresses of all persons
8 who may be financially interested as members of a law firm or
9 professional corporation but who do not become involved in the
10 business of the athlete agent.

11 (6) whether the applicant has ever been convicted of a felony,
12 or a misdemeanor involving moral turpitude.

13 (7) has made a material false, misleading, deceptive, untrue, or
14 fraudulent representation as an athlete agent or in any document
15 related to the business of the athlete agent or practiced fraud
16 or deceit or made a false statement of a material nature in his
17 or her application for registration or made a false or deceptive
18 statement of a material nature on an application for registration
19 renewal.

20 (8) has engaged in such other conduct that has a significant
21 adverse impact on his or her credibility, honesty, integrity, or
22 competence to serve in a fiduciary capacity.

23 (9) has engaged in conduct which results in a violation of any
24 rule or regulation promulgated by an intercollegiate sports
25 governing body; or has engaged in conduct which results in a
26 student-athlete losing eligibility to participate in

1 intercollegiate sports contests as a member of a sports team of
2 an institution of higher education; or has engaged in conduct
3 which results in an educational institution receiving a sanction
4 from its governing body.

5 (c) If the applicant is a corporation, the information
6 required by subsection (b) shall be provided by each officer of
7 the corporation. If the applicant is an association or
8 partnership, the information shall be provided by each associate
9 or partner.

10 Article 10 section 1001 Statement of Qualification provides in
11 pertinent part:

12 A partnership may become a limited liability partnership by
13 filing a statement of qualification. The statement must contain:

- 14 (1) the name of the partnership;
- 15 (2) the street address of the partnership's chief executive
16 office and, if different, the street address of an
17 office in this State, if any;
- 18 (3) if there is no office in this State, the name and
19 street address of the partnership's agent for service
20 of process who must be an individual resident of this
21 State or any other person authorized to do business in
22 this State;
- 23 (4) a statement that the partnership elects to be a limited
24 liability partnership; and
- 25 (5) a deferred effective date, if any.

26 Article 11, Foreign Limited Liability Partnership

1 Section 1101. Law Governing Foreign Limited Liability
2 Partnership.

3 (a) The laws under which a foreign limited liability
4 partnership is formed govern relations among the
5 partners and between the partners and the partnership
6 and the liability of partners for obligations of the
7 partnership.

8 (b) A foreign limited liability partnership may not be
9 denied a statement of foreign qualification by reason
10 of any difference between the laws under which the
11 partnership was formed and the laws of this State.

12 (c) A statement of foreign qualification does not authorize
13 a foreign limited liability partnership to engage in
14 any business or exercise any power that a partnership
15 may not engage in or exercise in this State as a
16 limited liability partnership.

17 Section 1102. Statement of Foreign Qualification.

18 (a) Before transacting business in this State, a foreign
19 limited liability partnership must file a statement of
20 foreign qualification. The statement must contain:

- 21 (1) the name of the foreign limited liability
22 partnership which satisfies the requirements of
23 the State or other jurisdiction under whose laws
24 it is formed and ends with "Registered Limited
25 Liability Partnership," "Limited Liability
26 Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or

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"LLP";

- (2) the street address of the partnership's chief executive office and, if different, the street address of an office in this State, if any;
- (3) if there is no office in this State, the name and street address of the partnership's agent for service of process who must be an individual resident of this State or any other person authorized to do business in this State; and
- (4) a deferred effective date, if any.

(b) The status of a partnership as a foreign limited liability partnership is effective on the later of the filing of the statement of foreign qualification or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to section 105(d) or revoked pursuant to Section 1003.

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SECTION 202. RECIPROCITY

(a) This state will not require registered sports agents to:

- (1) Sit for a comprehensive entrance examination; or
- (2) Attend annual continuing education seminars; or
- (3) Pay an annual licensing fee; or
- (4) Post a surety bond or possess liability insurance;

provided these requirements have been satisfied in compliance with other state sport agent acts.

(b) Despite the reciprocity provisions in section (a), all sports agents desiring to represent an athlete must be registered with this state's Secretary of State.

The reporter was asked to delete the current section and draft new reciprocity provisions consistent with the limited liability partnership act reciprocity provisions. The only provision resembling reciprocity in that act were sections 1101 and 1102. This language does provide the kind of reciprocity necessary if we want to go in that direction.

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SECTION 203. EVALUATION AND INVESTIGATION

Upon receipt of an application for registration, the secretary of state may evaluate and investigate all information disclosed on the application and may conduct investigations as necessary to ensure compliance.

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

2 (a) A certificate of registration issued under this act is
3 valid [for 12 (24) months from the date of issuance].

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

10 (1) The names and addresses of all athletes for whom the athlete
11 agent is providing professional services for compensation at the
12 time of the renewal; and

13 (2) the names and addresses of all athletes not currently
14 represented by the athlete agent for whom the athlete agent has
15 performed professional services for compensation during the three
16 years preceding the date of application.

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26 **SECTION 205. REGISTRATION FEE**

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

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25 **SECTION 206. TEMPORARY OR PROVISIONAL REGISTRATION**

26 (a) When an application for registration or renewal is made and

1 the registration process has not been completed, the secretary of
2 state may issue a temporary or provisional registration
3 certificate that is valid for no more than [90 days].
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24 **SECTION 207. SURETY BOND**

25 [(a) Before the issuance or renewal of a certificate of
26 registration, an athlete agent shall deposit with the secretary

1 of state a surety bond in the sum of \$100,000, payable to the
2 state; and

3 (b) conditioned that the person applying for the
4 registration will comply with this act, will pay all amounts due
5 any individual or group of individuals when the person or the
6 person's representative or agent has received those amounts, and
7 will pay all damages caused to any athlete by reason of the
8 intentional misrepresentation, fraud, deceit, or any unlawful or
9 negligent act or omission by the registered athlete agent or the
10 agent's representative or employee while acting within the scope
11 of the representative's authority or within the scope of
12 employment of the employee.

13 (c) An athlete agent may provide to the secretary of state
14 proof of an equivalent amount of professional liability insurance
15 in lieu of a surety bond, if such professional liability
16 insurance provides coverage for the same types of conduct, acts,
17 or activities as are covered by the bond otherwise provided for
18 in this section.

19 (d) This subsection does not limit the recovery of damages
20 to the amount of the surety bond.

21 (e) If an athlete agent fails to file a new bond with the
22 secretary of state not later than the 30th day after date of
23 receipt of a notice of cancellation issued by the surety of the
24 bond, the secretary of state shall suspend the certificate of
25 registration issued to that athlete agent under the bond until
26 the athlete agent files a new surety bond with the secretary of

1 state.]

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22 **[SECTION 208. EXEMPTION FOR LICENSED OR REGISTERED**
23 **FINANCIAL PROFESSIONAL].**

24 (a) This act does not apply to a person who, for
25 compensation, directly or indirectly recruits or solicits an
26 athlete to enter into a contract under which the person provides

1 financial services to the athlete if:

2 (1) The person is licensed or registered by this state as a
3 broker-dealer, an agent, or an investment advisor for securities,
4 a real estate broker or salesperson, an insurance agent, or
5 another licensed or registered financial professional;

6 (2) the services are of a type that are customarily provided by
7 persons in those regulated professions; and

8 (3) the person does not:

9 (A) Recruit or solicit the athlete to enter into an agent
10 contract or a professional services contract on behalf of the
11 person, an affiliate, a related entity, or a third party; or

12 (B) procure, offer, promise, or attempt to obtain employment for
13 an athlete with a professional sports team.

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21 **SECTION 209. ENFORCEMENT**

22 If the [secretary of state] believes that a violation
23 may have occurred, the [secretary of state] shall refer the case
24 to the [attorney general] for appropriate disciplinary action.

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SECTION 210. GROUNDS FOR REFUSAL TO REGISTER

(a) The [secretary of state] shall deny a certificate of registration to an applicant who has been convicted of a felony or of a misdemeanor involving moral turpitude. No person shall be registered if that person has made a material false, misleading, deceptive, untrue, or fraudulent representation as an athlete agent or in any document related to the business of the athlete agent or practiced fraud or deceit or made a false statement of a material nature in his or her application for

1 registration or made a false or deceptive statement of a material
2 nature on an application for registration renewal.

3 (b) The [secretary of state] may deny a registration to an
4 applicant or may revoke a registration already granted or may
5 discipline a person registered upon making a finding that the
6 applicant or registrant or his or her representative or employee:

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

10 (2) Has engaged in conduct which results in a violation of any
11 rule or regulation promulgated by an intercollegiate sports
12 governing body;

13 (3) has engaged in conduct which results in a violation of any
14 rule or regulation promulgated by an intercollegiate sports
15 governing body; or has engaged in conduct which results in a
16 student-athlete losing eligibility to participate in
17 intercollegiate or interscholastic sports contests as a member of
18 a sports team of an institution of higher education or high
19 school; or has engaged in conduct which results in an educational
20 institution receiving a sanction from its governing body.

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[SECTION 211. ATTORNEYS LICENSED IN STATE].

(The reporter was instructed to check on the prevalence of the rule that regulation of the practice of law is a function of the judiciary) I looked at statutes from Georgia, Texas, New Hampshire, Pennsylvania, and Iowa. All provided for judicial enforcement of the unauthorized practice of law.

(a) An attorney licensed to practice law in [state] who acts as an athlete agent in his practice of law shall be subject to the requirements and penalties of this Section except as provided in this Section.

(b) An attorney shall not be required to register with the

1 secretary of state or pay a registration fee as provided in this
2 Section. An attorney shall notify the [secretary or state bar
3 association], in writing, of his intention to act as an athlete
4 agent in his practice of law.

5 (c) An attorney shall retain records as provided for in this
6 Section and shall comply with all the requirements and
7 prohibitions of this Section except as specifically provided
8 otherwise in this Section.

9 (d) An attorney shall be subject to the penalties provided
10 in this Act for violations of this Act.

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14 **SECTION 212. JURISDICTION OVER AGENT.**

15 (a) Subject to service of process pursuant to [State Civil
16 Rule] a court may exercise personal jurisdiction over an athlete
17 agent who resides or engages in business outside this state and
18 contacts student-athletes who are residents of this state or who
19 are attending institutions in this state as to a cause of action
20 arising from the athlete agent entering into an agent contract
21 with a student athlete outside this state. (Ohio §4771.06)

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SECTION 214. AGENT FOR SERVICE OF PROCESS.

(a) Every athlete agent shall maintain an agent for service of process in this state.

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[ARTICLE] 3

AGENT CONTRACTS

SECTION 301. AGENT CONTRACTS

An agent contract which does not meet the requirements of this section is voidable.

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SECTION 302. FORM

(a) Any agent contract shall be in writing and shall include:

(1) The amount of the agent's fees and expenses and the percentages to be paid by the student-athlete and other compensation to be paid by any other source.

(2) A complete description of the agent's professional services.

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

(4) All contracts between the agent and student-athlete shall be filed with the [Secretary of State].

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SECTION 303. WARNING NOTICE TO STUDENT ATHLETES.

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

WARNING TO STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, IT IS LIKELY THAT YOU WILL IMMEDIATELY LOSE ANY REMAINING ELIGIBILITY TO COMPETE IN YOUR SPORT. IF YOU HAVE ANY REMAINING ELIGIBILITY, YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT TO THE [ATHLETIC DIRECTOR] OF YOUR EDUCATIONAL INSTITUTION WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT OR PRIOR TO PARTICIPATING IN YOUR NEXT ATHLETIC EVENT, WHICHEVER COMES FIRST.

DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT OR IF IT CONTAINS BLANK SPACES. DO NOT SIGN THIS CONTRACT IF IT DOES NOT SPECIFY ALL OF THE REPRESENTATIONS MADE TO YOU BY THE ATHLETE AGENT. IF YOU DECIDE THAT YOU DO NOT WISH TO PURCHASE THE SERVICES OF THE ATHLETE AGENT, YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL THE CONTRACT NOT LATER THAN 15 DAYS AFTER THE DATE ON WHICH YOU SIGN THIS CONTRACT. CANCELLATION

1 OF THIS CONTRACT WILL NOT MEAN REINSTATEMENT OF ELIGIBILITY.

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4 **SECTION 304. NOTICE TO INSTITUTION.**

5 (a) Within seventy-two hours after entering into an agent
6 contract, the student-athlete shall notify the athletic director
7 of the institution at which the student athlete is enrolled or
8 intends to enroll and provide a copy of the signed agent
9 contract.

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SECTION 305. POST-DATED CONTRACTS.

(a) An athlete agent may not enter into any postdated agent contract.

SECTION 306. ATHLETE'S RIGHT TO RESCIND.

(a) The student-athlete shall have the right to rescind the contract with the agent by giving written notice to the athlete agent of the student's recision of the contract within 15 days after the date on which the contract is signed.

(b) The student-athlete may not waive the student-athlete's right to rescind the agent contract.

[ARTICLE] 4

1 **PROHIBITED ACTS**

2 **SECTION 401. INTENTIONALLY PROVIDING FALSE INFORMATION.**

3 An athlete agent or any other individual acting on behalf of an
4 athlete agent may not intentionally give any false or misleading
5 information or intentionally make any false promises or
6 representations to any athlete or the athlete's parents, legal
7 guardians, or other advisors or fail to disclose that he is
8 employed by, or acting on behalf of someone else.

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25 **SECTION 402. PROHIBITED ACTS.**

26 The following acts shall be grounds for the disciplinary

1 actions provided for in section .

2 (a) A violation of any law relating to the occupation and
3 practice as an athlete agent .

4 (b) Accepting as a client a student-athlete referred by and
5 in exchange for any consideration made to an employee of or a
6 coach for a college, university, or high school located in this
7 state. Consideration shall include, but is not limited to, the
8 rendition of free or reduced price services.

9 (c) Offering or providing anything of value or benefit to a
10 student athlete. However, negotiations regarding an athlete
11 agent's fee shall not be considered a benefit.

12 (d) Offering or providing anything of value or benefit to
13 any person to induce or attempt to induce a student athlete to
14 enter into an agreement by which an athlete agent will represent
15 the student athlete.

16 (e) Violating or aiding and abetting another person to
17 violate the rules of the athletic conference, collegiate athletic
18 association, or high school association governing a student-
19 athlete or the student-athlete's college, university or high
20 school. (what about junior high school student athletes and
21 associations?)

22 (f) Violating or aiding and abetting another person to
23 violate the collective bargaining agreement which governs the
24 student athlete's prospective professional sports league.

25 (g) Publishing or causing to be published any false,
26 fraudulent, or misleading information, representation, notice or

1 advertisement concerning the business of an athlete agent.

2 (h) Giving any false information or making any false
3 promises or representations concerning the business of an athlete
4 agent.

5 (i) Giving false information or making false promises to a
6 student athlete concerning employment.

7 (j) Postdating any agent contract between an athlete agent
8 and a student athlete or any person who acts on behalf of the
9 student athlete.

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22 **SECTION 403. VIOLATING THE RULES OF THE ATHLETIC CONFERENCE**
23 **OR HIGH SCHOOL, JUNIOR COLLEGE OR COLLEGIATE ATHLETIC**
24 **ASSOCIATION.**

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26 (a) An athlete agent shall not violate or aid or abet another in

1 violating the rules of the athletic conference or high school,
2 junior college or collegiate athletic association governing
3 amateurism, eligibility, financial aid or awards, benefits and
4 expenses. (see NCAA manual articles 12, 15, 16)

5 **The reporter recommends the above language or a variation of it**
6 **in lieu of specific provisions from the NCAA manual. The**
7 **language below is subject to frequent revision and renumbering.**
8 **Moreover, there are many interrelated provisions in the NCAA**
9 **rules that would make the uniform law cumbersome.**

10 (b) An individual shall be ineligible for participation in an
11 intercollegiate sport if he or she ever has agreed (orally or in
12 writing) to be represented by an agent for the purpose of
13 marketing his or her athletics ability or reputation in that
14 sport. Further, an agency contract not specifically limited in
15 writing to a sport or particular sports shall be deemed
16 applicable to all sports, and the individual shall be ineligible
17 to participate in any sport. (NCCA Rule 12.3.1)

18 (c) An individual shall be ineligible per 12.3.1 if he or she
19 enters into a verbal or written agreement with an agent for
20 representation in future professional sports negotiations that
21 are to take place after the individual has completed his or her
22 eligibility in that sport. (NCAA Rule 12.3.1.1)

23 (d) An individual shall be ineligible per 12.3.1 if he or she
24 (or his or her relatives or friends) accepts transportation or
25 other benefits from:

26 (1) Any person who represents any individual in the

1 marketing of his or her athletics ability. The receipt of
2 such expenses constitutes compensation based on athletics
3 skill and is an extra benefit not available to the student
4 body in general; or

5 (2) An agent, even if the agent has indicated that he or
6 she has no interest in representing the student-athlete
7 in the marketing of his or her athletics ability or
8 reputation and does not represent individuals in the
9 student-athlete's sport.

10 (e) Securing advice from a lawyer concerning a proposed
11 professional sports contract shall not be considered contracting
12 for representation by an agent under this rule, unless the lawyer
13 also represents the student-athlete in negotiations for such a
14 contract. (NCAA Rule 12.3.2)

15 (f) A lawyer may not be present during discussions of a contract
16 offer with a professional organization or have any direct contact
17 (i.e., in person, by telephone or by mail) with a professional
18 sports organization on behalf of the student-athlete. A lawyer's
19 presence during such discussions is considered representation by
20 an agent.

21 (g) Any individual, agency or organization that represents a
22 prospective student-athlete for compensation in placing the
23 prospect in a collegiate institution as a recipient of
24 institutional financial aid shall be considered an agent or
25 organization marketing the individual's athletics ability or
26 reputation. (NCAA Rule 12.3.3)

1 (h) Receipt by a student-athlete of an award, benefit or expense
2 allowance not authorized by NCAA legislation renders the student-
3 athlete ineligible for athletics competition in the sport for
4 which the improper award, benefit or expense was received. If
5 the student-athlete receives an extra benefit not authorized by
6 NCAA legislation or an improper award or expense allowance in
7 conjunction with competition that involves the use of overall
8 athletics skill (e.g., "superstars" competition), the individual
9 is ineligible in all sports. (NCAA Rule 16.01.1)

10 (e) An extra benefit is any special arrangement by an
11 institutional employee or a representative of the institution's
12 athletics interests to provide a student-athlete or the student-
13 athlete's relative or friend a benefit not expressly authorized
14 by NCAA legislation. Receipt of a benefit by student-athletes or
15 their relatives or friends is not a violation of NCAA legislation
16 if it is demonstrated that the same benefit is generally
17 available to the institution's students or their relatives or
18 friends or to a particular segment of the student body (e.g.,
19 foreign students, minority students) determined on a basis
20 unrelated to athletics ability. (NCAA Rule 16.02.3)

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SECTION 404. PROHIBITED CONTACTS

(a) Unless an athlete agent is registered with the [Secretary of State] as provided in section , and has notified the student-athlete's institution's coach and athletic director prior to the first contact, an athlete agent shall not contact directly or indirectly whether in person, in writing, electronically, or in any other manner, a student-athlete, a student-athlete's spouse, parent, grandparent, child, sibling, aunt, uncle, first cousin, or any of the preceding persons for whom the relationship has been established by marriage, or any person who resides in the same place as the student athlete, or any representative of any of these persons, unless the student

1 athlete's eligibility to participate in the sport in which the
2 athlete agent seeks to represent the student athlete has expired.

3 (b) If a student athlete, or any of the other persons
4 described in subdivision (a), initiates contact with an athlete
5 agent or athlete agent's representative or employee, the athlete
6 agent, representative or employee, may continue the contact and
7 make new contacts with that person. No later than the first
8 regular business day after that person first initiates contact,
9 the athlete agent shall notify in writing the coach, athletic
10 director, principal, president, and other chief administrator of
11 the elementary or secondary school, college, junior college,
12 university, or other educational institution to which the student
13 athlete has been admitted or in which the student athlete is
14 enrolled, of that contact. The notification shall be in writing
15 and describe the nature of the contact.

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[ARTICLE] 5

RECORDKEEPING

SECTION 501. RECORDKEEPING REQUIREMENTS

(a) Every athlete agent shall maintain records which include the name and address of each person employing the athlete agent, the amount of any fee collected from those persons, the contract entered into between the athlete agent and the student athlete or professional athlete, any expenses paid by the athlete agent in the recruitment of student or professional athletes, including food, beverages, maintenance of a hospitality room, sporting events, musical and theatrical events, and any transportation, lodging, or admission expenses incurred in connection with the entertainment and any other information which the [Secretary of State] may from time to time require. No athlete agent, or his representatives or employees, shall make any false entry in any such records. The [Secretary of State] may exercise subpoena powers to obtain the records of the athlete agent.

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SECTION 502. RECORDS OPEN TO INSPECTION.

(a) All records required by this Act shall be maintained for a period of seven years, and shall be open to inspection by the [Secretary of State] during normal business hours.

(b) Refusal or failure of an athlete agent to provide the records requested shall result in suspension or revocation of the athlete agent's license.

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[ARTICLE] 6

SANCTIONS FOR VIOLATIONS

SECTION 601. CIVIL REMEDY

(a) Any person including a professional athlete, or any student athlete, or any elementary or secondary school, college, university, or other educational institution, or any league, conference, association, or federation of the preceding educational institutions, adversely affected by the acts of the athlete agent or of the athlete agent's representative or employee may bring a civil action for recovery of damages from an athlete agent. A student athlete is presumed to be adversely affected by the acts of an athlete agent, representative, or employee in violation of this act if, because of those acts, the student athlete is suspended or disqualified from participation in one or more interscholastic or intercollegiate sports events by or pursuant to the rules of a state or national federation or association for the promotion and regulation of intercollegiate or interscholastic sports, or suffers financial damage, or suffers both suspension or disqualification and financial damage. An educational institution is presumed to be adversely affected

1 by the acts of an athlete agent or of an athlete agent's
2 representative or employee in violation of this act if, because
3 of those acts, the educational institution, or one or more
4 student athletes admitted to or enrolled in the educational
5 institution, is suspended or disqualified from participation in
6 one or more interscholastic or intercollegiate athletic events by
7 or pursuant to the rules of a state or national federation or
8 association for the promotion and regulation of interscholastic
9 or intercollegiate sports, or suffers financial damage, or
10 suffers both suspension or disqualification and financial damage.

11 (b) It is the intent of the drafters of this act to
12 encourage enforcement of this chapter through private civil
13 actions.

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SECTION 602. ADMINISTRATIVE REMEDIES

(a) If the [Secretary of State] determines that a person regulated under this Act has violated this Act or a rule adopted under this Act in a manner that constitutes a ground for disciplinary action under Section of this Act, the Secretary of State may assess a civil fine against that person as provided by this section.

(b) The [Secretary of State] may assess the civil fine in an amount not to exceed [\$25,000]. In determining the amount of the fine, the [Secretary of State] shall consider the seriousness of the violation.

(c) If after examination of a possible violation and the facts relating to that possible violation the [Secretary of State] concludes that a violation has occurred, the [Secretary] shall issue a preliminary report that states the facts on which the conclusion is based, the fact that a civil fine is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the [Secretary] issues the preliminary report, the [Secretary] shall send a copy of the report to the person charged with the violation together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the fine.

1 (d) Not later than the 20th day after the date on which the
2 report is sent, the person charged either may make a written
3 request for a hearing or may remit the amount of the civil fine
4 to the [Secretary of State]. Failure either to request a hearing
5 or to remit the amount of the civil fine within the time provided
6 by this subsection results in a waiver of the right to a hearing
7 under this Act. If the person charged requests a hearing, the
8 hearing shall be conducted in the manner provided for a contested
9 case hearing under the [State Administrative Procedure Act]. If
10 it is determined after hearing that the person has committed the
11 alleged violation, the [Secretary] shall give written notice to
12 the person of the findings established by the hearing and the
13 amount of the fine and shall enter an order requiring the person
14 to pay the fine.

15 (e) Not later than the 30th day after the date of which the
16 notice is received, the person charged shall pay the civil fine
17 in full or, if the person wishes to contest either the amount of
18 the fine or the fact of the violation, forward the assessed
19 amount to the [Secretary of State] for deposit in an escrow
20 account. If, after judicial review, it is determined that no
21 violation occurred or that the amount of the fine should be
22 reduced, the [Secretary of State] shall remit the appropriate
23 amount to the person charged with the violation not later than
24 the 30th day after the date on which the judicial determination
25 becomes final.

26 (f) Failure to remit the amount of the civil fine to the

1 [Secretary of State] within the time provided by Subsection (e)
2 of this section results in a waiver of all legal rights to
3 contest the violation or the amount of the fine.

4 (g) A civil fine owed under this section may be recovered
5 in a civil action brought by the attorney general at the request
6 of the [Secretary of State].

7 (h) A fine collected under this section shall be deposited
8 in the State Treasury to the credit of the General Revenue Fund.

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10 (Add comment that the State APA may be applicable to decisions of
11 the Agency or Secretary of State)

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1 must be given to the need to promote uniformity of the law with
2 respect to the subject matter of this [Act] among States enacting
3 it.

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24 **SECTION 703. SEVERABILITY CLAUSE.**

25 If any provision of this [Act] or its application to any
26 person or circumstance is held invalid, the invalidity does not

1 affect other provisions or applications of this [Act] which can
2 be given effect without the invalid provision or application, and
3 to this end the provisions of this [Act] are severable.

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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_____.