

DRAFT
FOR DISCUSSION ONLY

**AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT
(~~2000~~) ()**

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

November 7-8, 2014 Drafting Committee Meeting

WITH COMMENTS

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October 14, 2014

AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000)-()

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AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000) (____)

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1 **AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000) ()**

2 **SECTION 1. SHORT TITLE.** This [Act act] may be cited as the Uniform Athlete
3 Agents Act.

4 **Comment**

5 The title Uniform Athlete Agents Act was selected because a majority of the existing acts
6 regulating the activities of agents representing athletes have similar titles.

7
8 **SECTION 2. DEFINITIONS.** In this [Act act]:

9 (1) "Agency contract" means an agreement in which a ~~student-athlete~~ student athlete
10 authorizes a person to negotiate or solicit on behalf of the ~~student-athlete~~ athlete a professional-
11 sports-services contract or an endorsement contract.

12 ~~(2) "Athlete agent" means an individual who enters into an agency contract with a~~
13 ~~student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an~~
14 ~~agency contract. The term includes an individual who represents to the public that the individual~~
15 ~~is an athlete agent. The term does not include a spouse, parent, sibling, [or] grandparent [, or~~
16 ~~guardian] of the student-athlete or an individual acting solely on behalf of a professional sports~~
17 ~~team or professional sports organization.~~

18 (2) "Athlete agent":

19 (A) means an individual who:

20 (i) directly or indirectly recruits or solicits a student athlete to enter into an
21 agency contract or, for compensation, procures employment or offers, promises, attempts, or
22 negotiates to obtain employment for a student athlete as a professional athlete or as a member of
23 a professional sports team or organization;

24 (ii) for compensation or the anticipation of compensation:

25 (I) represents a student athlete for a purpose related to the athlete's

1 participation in athletics;

2 (II) serves a student athlete in an advisory capacity on a matter
3 related to finances, business pursuits or ventures, or career management decisions unless the
4 individual is an employee of an educational institution acting exclusively as an employee of the
5 institution for the benefit of the institution; or

6 (III) manages the business affairs of a student athlete by providing
7 assistance with bills, payments, contracts, or taxes; or

8 (iii) seeks to obtain financial gain or benefit from securing the enrollment
9 of a student athlete at an educational institution, unless the individual is an employee of the
10 institution acting exclusively as an employee of the institution for the benefit of the institution;
11 and

12 (B) does not include:

13 (i) an individual acting solely on behalf of a professional sports team or
14 organization; or

15 (ii) an individual licensed, registered, or certified as an attorney, dealer in
16 securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant,
17 accountant, or member of another licensed, registered, or certified profession, when the
18 individual offers or provides services to a student athlete customarily provided by members of
19 that profession, unless the individual:

20 (I) also recruits or solicits the student athlete to enter into an
21 agency contract;

22 (II) also for compensation, procures employment or offers,
23 promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or

1 as a member of a professional sports team or organization; or

2 (III) provides the service on a compensation basis different from
3 the compensation basis for an individual who is not a student athlete.

4 (3) “Athletic director” means ~~an~~ the individual responsible for administering the overall
5 athletic program of an educational institution or, if an educational institution has separately
6 administered athletic programs for male students and female students, the athletic program for
7 males or the athletic program for females, as appropriate.

8 [() “Commission” means the Commission on the Interstate Registration of Athlete
9 Agents.]

10 (4) “Contact” means a communication, direct or indirect, between an athlete agent and a
11 ~~student-athlete~~ student athlete; to recruit or solicit the ~~student-athlete~~ athlete to enter into an
12 agency contract.

13 (5) “Educational institution” includes a public or private elementary school, secondary
14 school, community college, college, university, or other educational institution.

15 ~~(5)~~ (6) “Endorsement contract” means an agreement under which a ~~student-athlete~~
16 student athlete is employed or receives consideration to use on behalf of the other party any
17 value that the ~~student-athlete~~ athlete may have because of publicity, reputation, following, or
18 fame obtained because of athletic ability or performance.

19 ~~(6)~~ (7) “Intercollegiate sport” means a sport played at the collegiate level for which
20 eligibility requirements for participation by a ~~student-athlete~~ student athlete are established by a
21 national association ~~for the promotion or regulation of~~ that promotes or regulates collegiate
22 athletics.

23 (8) “Interscholastic sport” means a sport played between educational institutions that are

1 not a community college, college, or university.

2 ~~(7)~~ (9) “Person” means an individual, ~~corporation, business trust, estate, trust,~~
3 ~~partnership, limited liability company, association, joint venture,~~ business or nonprofit entity,
4 public corporation, government; or governmental subdivision, agency, or instrumentality; ~~public~~
5 ~~corporation,~~ or any other legal ~~or commercial~~ entity.

6 ~~(8)~~ (10) “Professional-sports-services contract” means an agreement under which an
7 individual is employed as a professional athlete, or agrees to render services; as a player on a
8 professional sports team; or with a professional sports organization; ~~or as a professional athlete.~~

9 ~~(9)~~ (11) “Record” means information that is inscribed on a tangible medium or that is
10 stored in an electronic or other medium and is retrievable in perceivable form.

11 (12) “Recruit or solicit” means attempt to influence the choice of an athlete agent by a
12 student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not
13 include giving advice on the selection of a particular agent in a family, coaching, or social
14 situation unless the individual giving the advice does so because of the receipt or anticipated
15 receipt of economic benefit, directly or indirectly, from the agent.

16 ~~(40)~~ (13) “Registration” means registration as an athlete agent ~~pursuant to~~ under this [Act
17 act].

18 (14) “Sign” means, with present intent to authenticate or adopt a record:

19 (A) to execute or adopt a tangible symbol; or

20 (B) to attach to or logically associate with the record an electronic symbol, sound,
21 or process.

22 ~~(14)~~ (15) “State” means a ~~State~~ state of the United States, the District of Columbia,
23 Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the

1 jurisdiction of the United States.

2 ~~(12)~~ (16) “~~Student athlete~~ Student athlete” means an individual who is eligible to attend
3 an educational institution and ~~who~~ engages in, is eligible to engage in, or may be eligible in the
4 future to engage in, any interscholastic or intercollegiate sport. If an individual is permanently
5 ineligible to participate in a particular interscholastic or intercollegiate sport, the individual is not
6 a ~~student athlete~~ student athlete for purposes of that sport.

7 **Comment**

8 Only individuals are within the definition of “athlete agent” and therefore required to
9 register under Section 5. Corporations and other business entities do not come within the
10 definition of “athlete agent” and therefore are not required to register under the act, even though
11 individuals employed by the corporation or other business entity as athlete agents would be
12 required to register. The definition also includes other individuals or “runners” used by an agent
13 to recruit or solicit a student-athlete to enter into an agency contract. Attorneys are not excluded
14 from the definition. An attorney does not need to comply with the provisions of this act in order
15 to provide legal services to a student-athlete, but is required to register to perform the services of
16 an athlete agent.

17
18 Representatives of “professional sports teams or professional sports organizations,” such
19 as baseball teams, are excluded from the definition of “athlete agent” as long as they are acting
20 for their teams or organizations. If a representative should attempt to induce a student-athlete to
21 enter into an agency contract, rather than a contract with the team or organization, registration is
22 required. Also excluded from the definition are individuals who simply provide information to a
23 student-athlete, but who do not recruit or solicit the student-athlete to sign an agency contract.
24 For example, a professional athlete who gives a student-athlete information about the
25 qualifications of an athlete agent is not required to register unless the professional athlete also
26 attempts to recruit or solicit the student-athlete to sign an agency contract. In the exclusion of
27 certain family members from the definition of “athlete agent,” the phrase “or guardian” is
28 bracketed because some States may use another term to describe an individual who has legal
29 responsibility for the care of another.

30
31 The proposed amendment of the definition of athlete agent retains the language of the
32 UAAA which makes an individual who directly or indirectly recruits or solicits a student athlete
33 to enter an agency contract an athlete agent, but expands the definition to include an individual
34 who, for compensation:

35 (1) procures or attempts to procure employment for a student athlete as a
36 professional athlete;

37 (2) represents a student athlete as an athlete;

38 (3) advises a student athlete on finances, business ventures, or career management;

39 (4) manages the business affairs of a student athlete; or

40 (5) secures the enrollment of a student athlete at a particular institution.

1 The term does not include a licensed professional acting within the scope of his or her
2 license unless the individual also recruits or solicits a student athlete to enter an agency contract
3 or is an individual who, for compensation, procures or attempts to procure employment of a
4 student athlete as a professional athlete.

5
6 The definition of “contact” does not include communications which merely provide
7 information to the student-athlete. For example, a communication about the position a student-
8 athlete could reasonably expect to have in a professional draft does not constitute recruitment or
9 solicitation to enter into an agency contract.

10
11 Athlete agents are providing benefits to students as early as elementary school if the
12 student appears to have long-term professional sports capability. For example, agents have been
13 known to provide athletic shoes and other athletic equipment to student athletes at an early age.
14 This could cause the student athlete to lose his or her eligibility to participate in intercollegiate
15 sports. Accordingly, a definition of educational institution is added and the definition of student
16 athlete is revised to make clear that the act applies to a student athlete enrolled at any level of
17 public or private education.

18
19 Recruit or solicit, which is used in the definition of athlete agent, is defined to mean
20 attempting to influence the choice of an athlete agent by a student athlete or, if the athlete is a
21 minor, by a parent or guardian of the athlete. The UAAA excluded a spouse, parent, sibling,
22 grandparent, or guardian of a student athlete from the definition of athlete agent. The act was
23 also silent on the issue of coaches and student athletes. The definition of recruit or solicit
24 excludes advice to select a particular athlete agent given in a family, coaching, or social situation
25 unless the advice is given because of the receipt or anticipated receipt of compensation from the
26 agent. Thus, the parent of a student athlete who advises the athlete to select a particular agent is
27 not an athlete agent unless the advice is given in exchange for compensation or the expectation
28 of compensation from the agent. Similarly, a coach of a student athlete who advises the athlete to
29 select a particular agent is not an agent unless the advice is given for compensation or the
30 expectation of compensation from the agent.

31
32 The definition of “student-athlete” applies to a two-sport athlete who has eligibility
33 remaining in one sport. For example, an individual who has signed a contract to play
34 professional basketball is not a student-athlete in basketball, but is a student-athlete in baseball.
35 The definition of “student-athlete” also includes individuals who are not yet in college. It
36 includes high school students, high school dropouts and high school graduates who have delayed
37 matriculation to a college or university so long as the individual may have future eligibility for
38 intercollegiate sports.

39
40 **SECTION 3. SERVICE OF PROCESS; SUBPOENAS SUBPOENA.**

41 [(a)] By acting as an athlete agent in this ~~State~~ state, a nonresident individual appoints the
42 [Secretary of State] [commission] as the individual’s agent for service of process in any civil
43 action in this ~~State~~ state related to the ~~individual’s~~ individual acting as an athlete agent in this

1 ~~State~~ state.

2 [(b)] {The [Secretary of State] [commission] may issue ~~subpoenas~~ a subpoena for any
3 material that is relevant to the administration of this [~~Act~~ act].}

4 **Comment**

5 The office of Secretary of State has been designated as the administrator of existing acts
6 regulating the activities of athlete agents more frequently than any other office. The office of
7 Secretary of State is referred to in subsection (b) and throughout this act. It is recognized,
8 however, that the appropriate state office to administer this act may vary from State to State and,
9 therefore, references to the Secretary of State are in brackets.

10
11 Subsection (b) is in brackets because it may not be required under the administrative
12 procedure acts of some States. If subsection (b) is not used, the remainder of the section should
13 not be designated as (a).

14
15 **SECTION 4. ATHLETE AGENTS AGENT: REGISTRATION REQUIRED;**
16 **~~VOID CONTRACTS~~ CONTRACT.**

17 (a) Except as otherwise provided in subsection (b), an individual may not act as an athlete
18 agent in this ~~State~~ state without holding a certificate of registration under Section [5, 6, or 8] [6
19 or 7].

20 (b) Before being issued a certificate of registration under Section [5, 6, or 8] [6 or 7], an
21 individual may act as an athlete agent in this ~~State~~ state for all purposes except signing an agency
22 contract, if:

23 (1) a ~~student-athlete~~ student athlete or another person acting on behalf of the
24 ~~student-athlete~~ athlete initiates communication with the individual; and

25 (2) ~~within~~ not later than seven days after an initial act that requires the individual
26 to register as an athlete agent, the individual submits an application for registration as an athlete
27 agent in this ~~State~~ state.

28 (c) An agency contract resulting from conduct in violation of this section is void and the
29 athlete agent shall return any consideration received under the contract.

1 **Comment**

2 The intent of this section is to make the registration requirement as broad as
3 constitutionally permissible consistent with the minimum contacts theory of *International Shoe*
4 *Company v. Washington*, 326 U.S. 310 (1945). Agents must register in each State in which they
5 have established minimum contacts. For example, an individual in State A contacting a student-
6 athlete in State B is acting as an athlete agent in both States and is therefore required to register
7 in both States.

8
9 Subsection (b) provides a safe harbor for an unregistered individual with whom a student-
10 athlete initiates communications. The individual must apply for registration within seven days
11 from the beginning of any effort to recruit or solicit the student-athlete to enter into agency
12 contract. If the individual does not attempt to recruit or solicit the student-athlete to sign an
13 agency contract, registration is not required. References to “days” in this section and throughout
14 the act mean calendar days.

15
16 In addition to the penalties which may be imposed under Sections 15 and 17, subsection
17 (c) discourages contact with a student-athlete by an individual who has not registered as an
18 athlete agent. An agency contract resulting from that contract is void, not merely voidable.

19
20 **Alternative A**

21
22 ***Legislative Note:*** *There are two alternatives for Sections 5, 6, 7, 8, and 9. Alternative A*
23 *establishes a registration system in the enacting state that requires the enacting state to register*
24 *an individual who is registered in another state if the enacting state determines the law of the*
25 *other state is substantially similar to or more restrictive than the law of the enacting state and*
26 *the registration in the other state has not been revoked or suspended and no action involving the*
27 *agent’s conduct as an agent is pending. Alternative B creates a central registration agency, the*
28 *Commission on the Interstate Registration of Athlete Agents, and provides that states enacting*
29 *Alternative B will be entering into an interstate compact with other states that enact it. While the*
30 *numbering of the sections in the two Alternatives is different because Section 5 of Alternative B*
31 *creates the commission and the contents of Section 9 are folded into Section 5, the substantive*
32 *requirements for the initial registration and the basis for denial of registration or the suspension,*
33 *revocation, or failure to renew registration are identical in both Alternatives. Thus, the effect of*
34 *Alternative B is to delegate the responsibility for the registration of athlete agents in a state*
35 *adopting the compact and the civil enforcement of the act to a central entity created by the*
36 *compact. States adopting Alternative B will also have to amend Section 2 to include a definition*
37 *of commission for the new central registration agency, add a section containing language*
38 *formally creating the Interstate Compact, make conforming changes replacing [Secretary of*
39 *State] with the commission in Sections 3 and 17, and additional conforming changes in Section*
40 *4.*

41
42 **SECTION 5. REGISTRATION AS ATHLETE AGENT; FORM APPLICATION;**
43 **REQUIREMENTS.**

44 (a) An applicant for registration as an athlete agent shall submit an application for

1 registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. ~~An~~
2 ~~application filed under this section is a public record.~~ Information on the application which is a
3 trade secret or is personal information the disclosure of which would constitute an unwarranted
4 invasion of personal privacy is not a public record under the [state's public records act]. The
5 application must be in the name of an individual and, except as otherwise provided in subsection
6 (b), signed or otherwise authenticated by the applicant under penalty of perjury. ~~and~~ The
7 application must state or contain at least the following:

8 (1) the name, [last four digits of the applicant's] Social Security number,
9 birthdate, and birthplace of the applicant and the contact information for the applicant, including
10 the address of the applicant's principal place of business, work and mobile telephone numbers,
11 facsimile number, electronic-mail address, and personal and organization websites;

12 (2) the name of the applicant's business or employer, if applicable, including for
13 each business or employer, its mailing address, telephone number, organization form, and the
14 nature of the business;

15 (3) each social media account with which the applicant or the applicant's
16 organization is affiliated;

17 ~~(3)~~ (4) any each business or occupation ~~engaged in by~~ in which the applicant ~~for~~
18 engaged during the five years next preceding before the date of ~~submission~~ of the application,
19 including self-employment and employment by others, and any professional or occupational
20 license held by the applicant;

21 ~~(4)~~ (5) a description of the applicant's:

22 (A) formal training as an athlete agent;

23 (B) practical experience as an athlete agent; and

1 (C) educational background relating to the applicant's activities as an
2 athlete agent;

3 ~~(5) the names and addresses of three individuals not related to the applicant who~~
4 ~~are willing to serve as references;~~

5 (6) the name, sport, and last-known team for each individual for whom the
6 applicant acted as an athlete agent during the five years ~~next preceding~~ before the date of
7 ~~submission of the application;~~

8 (7) the names and addresses of ~~all persons who are~~ each person that is:

9 (A) with respect to the athlete agent's business if it is not a corporation,
10 ~~the partners, members, officers, managers, associates, or profit sharers~~ a partner, member,
11 officer, manager, associate, or profit sharer of the business; and

12 (B) with respect to a corporation employing the athlete agent, ~~the officers,~~
13 ~~directors,~~ an officer or director and any shareholder of the corporation having an interest of five
14 percent or greater;

15 (8) a description of the status of any application by the applicant, or any person
16 named under paragraph (7), for a business, professional, or occupational license, other than as an
17 athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension,
18 withdrawal, or termination of the license and any reprimand or censure related to the license;

19 ~~(8)~~ (9) whether the applicant, or any person named ~~pursuant to~~ under paragraph
20 (7), has pleaded guilty to or been convicted of, or has charges pending for, a crime that, if
21 committed in this ~~State~~ state, would be a crime involving moral turpitude or a felony; and, if so,
22 identify;

23 (A) the crime;

1 (B) the law enforcement agency involved; and

2 (C) if applicable, the date of the conviction and the fine or penalty

3 imposed;

4 (10) whether, within 15 years before the date of application, the applicant, or any
5 person named under paragraph (7), has been a defendant or respondent in a civil proceeding,
6 including a proceeding seeking an adjudication of legal incompetence, and, if so, identify the
7 date of each proceeding and explain each occurrence fully;

8 (11) whether the applicant, or any person named under paragraph (7), has an
9 unsatisfied judgment of continuing effect, including [alimony] or a domestic order in the nature
10 of child support;

11 (12) whether, within 10 years before the date of application, the applicant, or any
12 person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that
13 was adjudicated bankrupt;

14 ~~(9)~~ (13) whether there has been any administrative or judicial determination that
15 the applicant, or any person named ~~pursuant to~~ under paragraph (7), made a false, misleading,
16 deceptive, or fraudulent representation;

17 ~~(10)~~ (14) any instance in which ~~the~~ conduct of the applicant, or any person named
18 ~~pursuant to~~ under paragraph (7), resulted in the imposition of a sanction, suspension, or
19 declaration of ineligibility to participate in an interscholastic, ~~or~~ intercollegiate, or professional
20 athletic event on a ~~student-athlete~~ student athlete or a sanction on an educational institution;

21 ~~(11)~~ (15) any sanction, suspension, or disciplinary action taken against the
22 applicant, or any person named ~~pursuant to~~ under paragraph (7), arising out of occupational or
23 professional conduct; ~~and~~

1 ~~(12)~~ (16) whether there has been ~~any~~ a denial of an application for, suspension or
2 revocation of, ~~or~~ refusal to renew, abandonment of, or limitation for any reason of, the
3 registration ~~or licensure~~ of the applicant, or any person named ~~pursuant to~~ under paragraph (7),
4 as an athlete agent in any ~~State~~ state;

5 (17) each state in which the applicant currently is registered as an athlete agent or
6 has applied to be registered as an athlete agent; and

7 (18) if the applicant is certified or registered by any professional organization, the
8 name of the organization, the date of certification or registration, and the date of expiration of the
9 certification or registration, if any, and if applicable, the date of any denial of an application for,
10 refusal to renew, suspension or revocation of, withdrawal of, or termination of the certification or
11 registration or any reprimand or censure related to the certification or registration.

12 ~~(b) An individual who has submitted an application for, and holds a certificate of,~~
13 ~~registration or licensure as an athlete agent in another State, may submit a copy of the application~~
14 ~~and certificate in lieu of submitting an application in the form prescribed pursuant to subsection~~
15 ~~(a). The [Secretary of State] shall accept the application and the certificate from the other State~~
16 ~~as an application for registration in this State if the application to the other State:~~

17 ~~(1) was submitted in the other State within six months next preceding the~~
18 ~~submission of the application in this State and the applicant certifies that the information~~
19 ~~contained in the application is current;~~

20 ~~(2) contains information substantially similar to or more comprehensive than that~~
21 ~~required in an application submitted in this State; and~~

22 ~~(3) was signed by the applicant under penalty of perjury.~~

23 (b) Instead of proceeding under subsection (a), an individual registered as an athlete agent

1 in another state may apply for registration in this state by submitting to the [Secretary of State] a
2 copy of the application for registration and a statement identifying any change in the information
3 on the application, or that there is no material change in the information, signed under penalty of
4 perjury, the certificate of registration from the other state, and the applicable fee. The [Secretary
5 of State] shall issue a certificate of registration to the individual if the [Secretary of State]
6 determines:

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

9 (2) the registration has not been revoked or suspended and no action involving
10 the individual's conduct as an athlete agent is pending against the individual or a registration in
11 any state in which the individual is registered.

12 (c) For purposes of implementing subsection (b), the [Secretary of State] shall:

13 (1) cooperate with national organizations concerned with athlete agent issues and
14 agencies in other states that register athlete agents to develop a common registration form and
15 determine which states have laws that are substantially similar to or more restrictive than this
16 [act]; and

17 (2) exchange information, including information related to actions taken against
18 registered athlete agents, with those organizations and agencies.

19 **Comment**

20 Most of the requirements for disclosure in an application for registration found in
21 subsection (a) are similar to requirements imposed by existing acts. Subsection (a)(6) is not
22 intended to cause an athlete agent who is also an attorney to violate the attorney-client privilege.
23 If an attorney's role is limited to providing legal services to a student-athlete, the attorney is not
24 required to register as an athlete agent or comply with this act. An attorney's actions as an
25 athlete agent, however, are outside the scope of legal services, there is no privilege and the
26 attorney must comply with this act.

27

28 It is the intent of this section to require that records concerning registration of athletes be

1 open to the public. The provision in subsection (a) about an application being a public record is
2 bracketed because it is not necessary in States which have other applicable law causing the
3 records to be open to the public.
4

5 Subsection (b) provides for reciprocal use of applications in States which have adopted
6 the Uniform Act. The need for an agent to comply with substantially different application
7 procedures in multiple jurisdictions is eliminated. It is the first of a number of reciprocity
8 provisions found in the act which are intended to ease the burden placed on agents by
9 substantially different registration requirements and to simplify enforcement of the act. Absence
10 of reciprocity provisions in existing acts is a primary reason why the Uniform Act is needed.
11

12 Section 5 of the UAAA was not a true reciprocal registration provision in that, while it
13 allowed for submission of the application for registration in one state to another state, the second
14 state was free to require additional information or refuse to issue the registration on various
15 grounds. The amended version is a true reciprocal registration provision in that if an individual
16 registered in state A applies for registration in state B, state B is required to grant the registration
17 if it determines the law in state A is the same or more restrictive than the law in state B, the
18 registration is in good standing, and no proceeding involving the individual's conduct as an
19 athlete agent is pending in any state in which the individual is registered.
20

21 A central registration point with a single form is the easiest way to facilitate the
22 reciprocal licensing provisions of subsection (b) and subsection (c) encourages the administrative
23 agencies to which the enforcement of the act is delegated to cooperate with agencies from other
24 states to that end. It is recognized there are substantial obstacles to a central registration office,
25 not the least of which is cost. If it is not possible or feasible to create a central registration point,
26 agencies are encouraged to adopt the following standard form:
27

28 REGISTRATION FORM

29 PART I. GENERAL INFORMATION

30 [Use additional sheets as necessary]

31 1. Registrant first name: _____

32 2. Registrant middle name: _____

33 3. Registrant last name: _____

34 4. If you have ever been known by any other name, surname, or maiden name, list
35 the name: _____

36 5. Name of your organization involved in providing services for athletes: _____
37 _____

1 6. Your position or title within the organization identified in Item 5: _____

2 _____

3 7. Mailing address, city, state, and zip code of organization identified in Item 5: _____

4 _____

5 8. Work phone: _____

6 9. Mobile phone: _____

7 10. Fax number: _____

8 11. Work and Personal Email and Website: _____

9 12. Birthplace and date of birth: _____

10 13. List all social media accounts with which you and the organization identified in Item

11 5 are affiliated: _____

12 14. Indicate if you are registered or certified by any professional organization, the date of
13 registration or certification and if applicable, the date of expiration, as of the date of the
14 completion of this form, with:

15 Major League Baseball Players Association _____

16 National Basketball Players Association _____

17 National Football Players Association _____

18 National Hockey League Players Association _____

19 Other _____

20 None _____

21 15. If "Other" was selected for Item 14, name the professional association(s): _____

22 _____

23 16. List all states in which you are currently registered or have applied to be registered

1 pursuant to any state statute regulating athlete agents: _____
2 _____

3 PART II. EDUCATION

4 For each item in this part, include: School name, city and state, degree conferred, and year the
5 degree was awarded.

6 17. Professional/Graduate School(s): _____

7 18. Undergraduate School(s): _____

8 19. High School(s): _____

9 PART III. CURRENT OCCUPATION/EMPLOYMENT

10 20. Are you self-employed? (Y/N) (If you are not self-employed, skip to Item 23.)

11 21. Provide the dates and duration of your self-employment: _____

12 22. Describe the nature of your current self-employment: _____
13 _____

14 23. If you are not self-employed, provide each item listed below for every organization
15 by which you are employed:

16 Name of employer: _____

17 Supervisor's name: _____

18 Supervisor's address and work phone: _____

19 Initial date of employment (including month and year): _____

20 Nature of your current employment: _____

21 24. Provide the following information for each firm or organization with which you are
22 currently affiliated: Name, mailing address, phone number, organizational form (for example, a
23 sole proprietorship, corporation, partnership, or other entity), and nature of business: _____

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25. If a firm or organization listed in Item 24 is a partnership, list the name of each partner below. If a firm or organization listed in Item 24, is a corporation, list the name of each officer and member of the board of directors. For each firm or organization, designate the partners, officers, shareholders, or members of the board of directors who customarily perform work for or on behalf of professional athletes: _____

26. List each individual not named in Item 25, who: (a) has an ownership interest of 5% or more in each firm or organization listed in Item 24 which is a corporation; (b) has wholly or partially financed your firm or organization (other than financing or credit extended in the ordinary course of business by lending institutions); or (c) directly or indirectly exercises or has the power to exercise a controlling influence over the management of your firm or organization. For each individual, provide their respective name, mailing address, phone number, and nature of involvement (for example, describe the individual's ownership interest, amount of financing provided, or basis of the individual's controlling influence: _____

27. Provide your employment history for the past five years or a resume that indicates that employment history: _____

PART IV. PROFESSIONAL BACKGROUND

28. List each membership you have in a business or professional organization that directly relates to your occupation or profession: _____

1 29. List each occupational or professional license or other similar credential (i.e.,
2 Certified Public Accountant, Chartered Life Underwriter, Registered Investment Advisor, etc.)
3 you have obtained, including the date and status of the license or credential obtained: _____
4 _____

5 30. Have you ever been denied an occupational or professional license from a state or
6 federal regulatory agency? (Y/N)

7 31. If you answered "Yes" to Item 30, explain each occurrence fully: _____
8 _____

9 32. Have you ever been denied a business license, franchise, or other similar credential
10 for which you applied? (Y/N)

11 33. If you answered "Yes" to Item 32, explain each occurrence fully: _____
12 _____

13 34. Describe and indicate the status of any application you currently have pending for an
14 occupational or professional license: _____

15 35. Describe and indicate the status of any application you currently have pending for a
16 business license, franchise, or other similar credential: _____

17 36. As part of your professional endeavors, have you ever been reprimanded or censured
18 or has your right to engage in any profession or occupation ever been disqualified, suspended,
19 withdrawn, or terminated? (Y/N)

20 37. If you answered "Yes" to Item 36, explain each occurrence fully: _____
21 _____

22 **PART V. COMPLIANCE BACKGROUND**

23 38. Have you ever been convicted, reprimanded, censured, disqualified, cited, or

1 otherwise disciplined for a violation of a state statute regulating athlete agents? (Y/N)

2 39. If you answered "Yes" to Item 38, for each occurrence specify: any associated

3 complaint or charge, the date of the alleged violation, the result or status of any related

4 investigation, and the name of any authority imposing a related sanction: _____

5 _____

6 40. Indicate the nature of any charge or complaint currently pending against you

7 regarding your conduct as a member of a profession. For each charge or complaint, specify the

8 name and address of the authority considering the charge or complaint. If no charge or

9 complaint is currently pending against you, enter "None." _____

10 _____

11 41. Have you ever been convicted of or pleaded guilty to a criminal charge or have a

12 criminal charge currently pending against you? (Y/N)

13 42. If you answered "Yes" to Item 41, provide the following information for each

14 occurrence: Offense, law enforcement agency involved, and, if applicable, the date of conviction

15 and the fine or penalty imposed: _____

16 _____

17 43. Within the 15 years before the date of this application, have you been a defendant in a

18 civil proceeding? (Y/N)

19 44. If you answered "Yes" to Item 43, specify the date of each proceeding and explain

20 each occurrence fully: _____

21 45. If you have been adjudicated legally incompetent by any court within the last 15 years

22 of the date of this application, specify the date and nature of the determination: _____

23 _____

1 46. Have you ever been suspended or expelled from an educational institution? (Y/N)

2 47. If you answered "Yes" to Item 46, specify the date of the suspension or expulsion, the
3 educational institution involved, and the reason for the suspension or expulsion:

4 _____
5 _____

6 48. Is there any unsatisfied judgment of continuing effect against you (including alimony
7 and child support)? (Y/N)

8 49. If you answered "Yes" to Item 48, explain the unsatisfied judgment fully: _____
9 _____

10 50. Within the 10 years before the date of this application, have you been declared
11 bankrupt or been an owner or part-owner of a business that was declared bankrupt? (Y/N)

12 51. If you answered "Yes" to Item 50, specify the date and fully explain each occurrence:
13 _____

14 52. Have you ever been involved in any action that resulted in the imposition of a
15 sanction against an educational institution or the imposition of a sanction against or suspension
16 or declaration of ineligibility of a student athlete from participating in an interscholastic,
17 intercollegiate, or professional athletic event? (Y/N)

18 53. If you answered "Yes" to Item 52, provide the following for each occurrence: the
19 complaint or charge, the date of alleged violation, the results or status of any related
20 investigation, and the name of the authority imposing any related sanction: _____
21 _____

22 54. For any organization listed in Item 14, list any denial, refusal to renew, withdrawal, or
23 termination of the certification or registration, or any reprimand or censure related to the

1 certification or license: _____

2 ACKNOWLEDGEMENT

3 By entering my name below, I attest under penalty of perjury that all statements,
4 affirmations, and representations made in this application and its attachments are accurate as of
5 my application date and are made for the benefit of the state and its student athletes, both present
6 and future, and that the information contained herein, except for information that is a trade secret
7 or personal information the disclosure of which would constitute an unwarranted invasion of
8 personal privacy, is public information and may be provided by the state to student athletes and
9 other individuals without restriction.

10 _____
11 Name

12 **SECTION 6. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL;**
13 **RENEWAL.**

14 (a) Except as otherwise provided in subsection (b), the [Secretary of State] shall issue a
15 certificate of registration to an individual who complies with Section 5(a) ~~or whose application~~
16 ~~has been accepted under Section 5(b).~~

17 (b) The [Secretary of State] may refuse to issue a certificate of registration to an applicant
18 for registration under Section 5(a) if the [Secretary of State] determines that the applicant has
19 engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an
20 athlete agent. In making the determination, the [Secretary of State] may consider whether the
21 applicant has:

22 (1) been convicted of a crime that, if committed in this ~~State~~ state, would be a
23 crime involving moral turpitude or a felony;

24 (2) made a materially false, misleading, deceptive, or fraudulent representation in

1 the application or as an athlete agent;

2 (3) engaged in conduct that would disqualify the applicant from serving in a
3 fiduciary capacity;

4 (4) engaged in conduct prohibited by Section 14;

5 (5) had a registration ~~or licensure~~ as an athlete agent suspended, revoked, or
6 denied or been refused renewal of registration ~~or licensure~~ as an athlete agent in any ~~State~~ state;

7 (6) engaged in conduct the consequence of which was that a sanction, suspension,
8 or declaration of ineligibility to participate in an interscholastic, ~~or intercollegiate,~~ or
9 professional athletic event was imposed on a ~~student-athlete~~ student athlete or a sanction was
10 imposed on an educational institution; or

11 (7) engaged in conduct that significantly adversely reflects on the applicant's
12 credibility, honesty, or integrity.

13 (c) In making a determination under subsection (b), the [Secretary of State] shall
14 consider:

15 (1) how recently the conduct occurred;

16 (2) the nature of the conduct and the context in which it occurred; and

17 (3) any other relevant conduct of the applicant.

18 (d) An athlete agent registered under subsection (a) may apply to renew a the registration
19 by submitting an application for renewal in a form prescribed by the [Secretary of State]. ~~[An~~
20 ~~application filed under this section is a public record.]~~ The application for renewal must be
21 signed by the applicant under penalty of perjury and must contain current information on all
22 matters required in an original application for registration.

23 ~~(e) An individual who has submitted an application for renewal of registration or~~

1 licensure in another State, in lieu of submitting an application for renewal in the form prescribed
2 pursuant to subsection (d), may file a copy of the application for renewal and a valid certificate
3 of registration or licensure from the other State. The [Secretary of State] shall accept the
4 application for renewal from the other State as an application for renewal in this State if the
5 application to the other State:

6 (1) was submitted in the other State within six months next preceding the filing in
7 this State and the applicant certifies the information contained in the application for renewal is
8 current;

9 (2) contains information substantially similar to or more comprehensive than that
10 required in an application for renewal submitted in this State; and

11 (3) was signed by the applicant under penalty of perjury.

12 (e) An athlete agent who is registered under Section 5(b) may renew the registration by
13 proceeding under subsection (d) or, if the registration in the other state has been renewed, by
14 submitting to the [Secretary of State] a copy of the application for renewal in the other state and
15 the renewal registration from the other state and paying the applicable fee. The [Secretary of
16 State] shall renew the registration if the [Secretary of State] determines:

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

19 (2) the renewed registration has not been revoked or suspended and no action
20 involving the individual's conduct as an athlete agent is pending against the individual or a
21 registration in any state in which the individual is registered.

22 (f) A certificate of registration or a renewal of a registration under this [act] is valid for
23 [two] years.

1 “Administrative Procedures Act” is bracketed because some States may refer to laws
2 relating to due process in administrative procedures by another name.

3
4 **SECTION 8. TEMPORARY REGISTRATION.** The [Secretary of State] may issue a
5 temporary certificate of registration as an athlete agent while an application for registration or
6 renewal of registration is pending.

7 **Comment**

8 The discretion to issue a temporary certificate of registration is broad enough to include
9 issuance of such a certificate even where the registration may be contested. It is not necessary to
10 issue a temporary certificate to protect an individual with whom a student-athlete initiated
11 communications. Under Section 4(b), that individual is only required to file an application for
12 registration within seven days after commencement of efforts to recruit or solicit the student-
13 athlete to sign an agency contract.

14
15 **SECTION 9. REGISTRATION AND RENEWAL FEES.** An application for
16 registration or renewal of registration as an athlete agent must be accompanied by a fee in the
17 following amount:

18 (1) ~~{ \$ } \$ []~~ for an initial application for registration;

19 (2) ~~{ \$ } \$ []~~ for ~~an application for~~ registration based ~~upon~~ on a certificate of registration ~~or~~
20 ~~license~~ issued by another ~~State~~ state;

21 (3) ~~{ \$ } \$ []~~ for an application for renewal of registration; or

22 (4) ~~{ \$ } \$ []~~ for ~~an application for~~ renewal of registration based ~~upon an application for~~ on
23 a renewal of registration or license submitted in another ~~State~~ state.

24 **Comment**

25 The amount of fees is left for each State to determine. Some States with existing acts
26 have set fees in amounts sufficient to recover the cost of administration. If that approach is
27 taken, a fee for registration or renewal based on registration or renewal of registration in another
28 State should be less than when a complete evaluation and review of an application is necessary.

29
30 Athlete agent registration is the cornerstone of this act. High registration fees imposed by
31 some States with existing acts have probably contributed to seemingly small numbers of
32 registrants under existing acts. The success of this act may be contingent on the implementation
33 of a reasonable fee structure which does not motivate non-compliance.

1 Alternative B

2 SECTION 5. COMMISSION ON INTERSTATE REGISTRATION OF ATHLETE

3 AGENTS.

4 (a) The Commission on Interstate Registration of Athlete Agents is hereby created. The
5 commission is a body corporate and joint agency of the states that enact this [act]. The
6 commission consists of one member from each state enacting this [act] appointed by the
7 Governor of that state.

8 (b) The first meeting of the commission shall be held within [90] days after the [5th] state
9 enacts this [act]. A majority of the states enacting this [act] constitutes a quorum for the conduct
10 of business.

11 (c) At the first meeting of the commission, the commission shall adopt bylaws for the
12 operation of the commission that provide for:

13 (1) an executive committee to manage day-to-day affairs of the commission;

14 (2) the operation of the commission, including provision for the employment of
15 necessary staff;

16 (3) maintaining a site for the registration of athlete agents in the states that enact
17 this [act], including establishing the registration fee and the apportionment of the fee among the
18 states enacting this [act]; and

19 (4) any other matter necessary for the efficient operation of the commission.

20 (d) The commission:

21 (1) shall pay or provide for the payment of the reasonable expenses of the
22 establishment, organization, and ongoing activities of the commission;

23 (2) may accept any appropriate revenue source, donation, and grant of money,

1 equipment, supplies, materials, and services;

2 (3) may assess each member state annually on a basis determined by the
3 commission to cover the cost of operation of the commission not funded by registration fees
4 imposed under subsection (b)(3);

5 (4) may not incur obligation of any kind prior to securing the funds adequate to
6 meet the obligation or pledge the credit of a member state, except with the authority of the
7 member state; and

8 (5) shall keep accurate accounts of all receipts and disbursements, subject to audit
9 and accounting procedures established under its bylaws.

10 (e) The receipts and disbursements of funds by the commission shall be audited yearly by
11 a certified or licensed public accountant and the report of the audit shall be included in the
12 annual report of the commission.

13 **SECTION 6. REGISTRATION AS ATHLETE AGENT; APPLICATION;**
14 **REQUIREMENTS.** An applicant for registration as an athlete agent shall submit an application
15 for registration to the commission in a form prescribed by the commission. Information on the
16 application which is a trade secret or is personal information the disclosure of which would
17 constitute an unwarranted invasion of personal privacy is not a public record. The application
18 must be in the name of an individual and signed or otherwise authenticated by the applicant
19 under penalty of perjury. The application must state or contain at least the following:

20 (1) the name, [last four digits of the applicant's] Social Security number, birth date, and
21 birthplace of the applicant and the contact information for the applicant, including the address of
22 the applicant's principal place of business, work and mobile telephone numbers, facsimile
23 number, electronic-mail address, and personal and organization websites;

1 (2) the name of the applicant’s business or employer, if applicable, including for each
2 business or employer, its mailing address, telephone number, organization form, and the nature
3 of the business;

4 (3) each social media account with which the applicant or the applicant’s organization is
5 affiliated;

6 (4) each business or occupation in which the applicant engaged during the five years
7 before the date of the application, including self-employment and employment by others, and
8 any professional or occupational license held by the applicant;

9 (5) a description of the applicant’s:

10 (A) formal training as an athlete agent;

11 (B) practical experience as an athlete agent; and

12 (C) educational background relating to the applicant’s activities as an athlete
13 agent;

14 (6) the name, sport, and last-known team for each individual for whom the applicant
15 acted as an athlete agent during the five years before the date of the application;

16 (7) the names and addresses of each person that is:

17 (A) with respect to the athlete agent’s business if it is not a corporation, a partner,
18 member, officer, manager, associate, or profit sharer of the business; and

19 (B) with respect to a corporation employing the athlete agent, an officer or
20 director and any shareholder of the corporation having an interest of five percent or greater;

21 (8) a description of the status of any application by the applicant, or any person named
22 under paragraph (7), for a business, professional, or occupational license, other than as an athlete
23 agent, from a state or federal agency, including any denial, refusal to renew, suspension,

1 withdrawal, or termination of the license and any reprimand or censure related to the license;

2 (9) whether the applicant, or any person named under paragraph (7), has pleaded guilty to
3 or been convicted of, or has charges pending for, a crime that, if committed in this state,
4 involving moral turpitude or a felony and, if so, identify:

5 (A) the crime;

6 (B) the law enforcement agency involved; and

7 (C) if applicable, the date of the conviction and the fine or penalty imposed;

8 (10) whether, within 15 years before the date of application, the applicant, or any person
9 named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a
10 proceeding seeking an adjudication of legal incompetence, and, if so, identify the date of each
11 proceeding and explain each occurrence fully;

12 (11) whether the applicant, or any person named under paragraph (7), has an unsatisfied
13 judgment of continuing effect, including [alimony] or a domestic order in the nature of child
14 support;

15 (12) whether, within 10 years before the date of application, the applicant, or any person
16 named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was
17 adjudicated bankrupt;

18 (13) whether there has been any administrative or judicial determination that the
19 applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or
20 fraudulent representation;

21 (14) any instance in which conduct of the applicant, or any person named under
22 paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility
23 to participate in an interscholastic, intercollegiate, or professional athletic event on a student

1 athlete or a sanction on an educational institution;

2 (15) any sanction, suspension, or disciplinary action taken against the applicant, or any
3 person named under paragraph (7), arising out of occupational or professional conduct;

4 (16) whether there has been a denial of an application for, suspension or revocation of, or
5 refusal to renew, abandonment of, or limitation for any reason of, the registration of the
6 applicant, or any person named under paragraph (7), as an athlete agent in any state;

7 (17) each state in which the applicant currently is registered as an athlete agent or has
8 applied to be registered as an athlete agent;

9 (18) if the applicant is certified or registered by any professional organization, the name
10 of the organization, the date of certification or registration, and the date of expiration of the
11 certification or registration, if any, and if applicable, the date of any denial of an application for,
12 refusal to renew, suspension or revocation of, withdrawal of, or termination of the certification or
13 registration or any reprimand or censure related to the certification or registration; and

14 (19) any additional information required by the commission.

15 **SECTION 7. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL;**

16 **RENEWAL.**

17 (a) Except as otherwise provided in subsection (b), the commission shall issue a
18 certificate of registration to an individual who complies with Section 6.

19 (b) The commission may refuse to issue a certificate of registration to an applicant for
20 registration under Section 6 if the commission determines that the applicant has engaged in
21 conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent.

22 In making the determination, the commission may consider whether the applicant has:

23 (1) been convicted of a crime involving moral turpitude or a felony;

1 (2) made a materially false, misleading, deceptive, or fraudulent representation in
2 the application or as an athlete agent;

3 (3) engaged in conduct that would disqualify the applicant from serving in a
4 fiduciary capacity;

5 (4) engaged in conduct prohibited by Section 14;

6 (5) had a registration as an athlete agent suspended, revoked, or denied or been
7 refused renewal of registration as an athlete agent in any state;

8 (6) engaged in conduct the consequence of which was that a sanction, suspension,
9 or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional
10 athletic event was imposed on a student athlete or a sanction was imposed on an educational
11 institution; or

12 (7) engaged in conduct that significantly adversely reflects on the applicant's
13 credibility, honesty, or integrity.

14 (c) In making a determination under subsection (b), the commission shall consider:

15 (1) how recently the conduct occurred;

16 (2) the nature of the conduct and the context in which it occurred; and

17 (3) any other relevant conduct of the applicant.

18 (d) An athlete agent registered under subsection (a) may apply to renew the registration
19 by submitting an application for renewal in a form prescribed by the commission. The
20 application for renewal must be signed by the applicant under penalty of perjury and must
21 contain current information on all matters required in an original application for registration.

22 (e) The commission may refuse to issue a certificate of registration under subsection (b)
23 only after proper notice and an opportunity for a hearing. The [Administrative Procedures Act]

1 of the state in which the commission is located applies to this [act].

2 **SECTION 8. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW**

3 **REGISTRATION.** The commission may suspend, revoke, or refuse to renew a registration for
4 conduct that would have justified denial of registration under Section 7(b).

5 **SECTION 9. TEMPORARY REGISTRATION.** The commission may issue a
6 temporary certificate of registration as an athlete agent while an application for registration or
7 renewal of registration is pending.

8 **End of Alternatives**

9 **SECTION 10. REQUIRED FORM OF AGENCY CONTRACT.**

10 (a) An agency contract must be in a record, signed or otherwise authenticated by the
11 parties.

12 (b) An agency contract must state or contain:

13 (1) the amount and method of calculating the consideration to be paid by the
14 ~~student-athlete~~ student athlete for services to be provided by the athlete agent under the contract
15 and any other consideration the ~~athlete~~ agent has received or will receive from any other source
16 for entering into the contract or ~~for~~ providing the services;

17 (2) the name of any person not listed in the application for registration or renewal
18 of registration ~~who~~ which will be compensated because the ~~student-athlete~~ athlete signed the
19 ~~agency~~ contract;

20 (3) a description of any expenses ~~that~~ the ~~student-athlete~~ athlete agrees to
21 reimburse;

22 (4) a description of the services to be provided to the ~~student-athlete~~ athlete;

23 (5) the duration of the contract; and

1 (6) the date of execution.

2 (c) An agency contract must contain, in close proximity to the signature of the ~~student-~~
3 ~~athlete~~ student athlete, a conspicuous notice ~~in boldface type in capital letters~~ in substantially the
4 following form stating:

5 **WARNING TO ~~STUDENT-ATHLETE~~ STUDENT ATHLETE**

6 **IF YOU SIGN THIS CONTRACT:**

7 **(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A ~~STUDENT-~~**
8 **~~ATHLETE~~ STUDENT ATHLETE IN YOUR SPORT;**

9 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**
10 **ENTERING INTO THIS CONTRACT OR BEFORE THE NEXT SCHEDULED**
11 **ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST,**
12 **BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC**
13 **DIRECTOR; AND**

14 **(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**
15 **SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE**
16 **YOUR ELIGIBILITY.**

17 (d) An agency contract that does not conform to this section is voidable by the ~~student-~~
18 ~~athlete~~ student athlete. If a ~~student-athlete~~ the athlete voids an ~~agency~~ the contract, the ~~student-~~
19 ~~athlete~~ athlete is not required to pay any consideration under the contract or ~~to~~ return any
20 consideration received from the athlete agent to induce the ~~student-athlete~~ athlete to enter into
21 the contract.

22 (e) ~~The~~ An athlete agent shall give a record of ~~the~~ a signed or otherwise authenticated
23 agency contract to the ~~student-athlete~~ student athlete at the time of execution.

1 **Comment**

2 This section is intended to provide protection to the student-athlete by requiring a form of
3 agency contract similar to those required in some consumer transactions. The Drafting
4 Committee preferred to require that agency contracts be in traditional written form. However,
5 the adoption of the Electronic Signatures in Global and National Commerce Act (see Section 19)
6 eliminated that option.

7
8 A student-athlete who opts to void an agency contract under this section because it does
9 not comply with the specified form is not required to return any consideration received to induce
10 the signing of the agency contract because such inducement is prohibited conduct under Section
11 14.

12
13 The compensation referred to in subsection (b)(2) is compensation for services intended
14 to induce the student-athlete to sign an agency contract. It does not include compensation
15 individuals may receive because an athlete agent has been successful in securing an agency
16 contract. For example, the compensation paid employees of an athlete agent who did not
17 participate in inducing the student-athlete to sign an agency contract is not compensation under
18 subsection (b)(2) even though their compensation may be made possible by the income resulting
19 from the agency contract.

20
21 Subsection (b) contains references to a student-athlete in a time context in which the
22 individual may be a former student-athlete. This is done for simplicity in drafting. It should be
23 noted that violation of eligibility rules adopted by an educational institution or a national
24 association is not automatic and does not occur until a determination has been made by the
25 educational institution or the national association

26
27 **SECTION 11. NOTICE TO EDUCATIONAL INSTITUTION.**

28 (a) ~~Within~~ Not later than 72 hours after entering into an agency contract or before the
29 next scheduled athletic event in which the ~~student-athlete~~ student athlete may participate,
30 whichever occurs first, the athlete agent shall give notice in a record of the existence of the
31 contract to the athletic director of the educational institution at which the ~~student-athlete~~ athlete
32 is enrolled or the ~~athlete~~ agent has reasonable grounds to believe the ~~student-athlete~~ athlete
33 intends to enroll.

34 (b) ~~Within~~ Not later than 72 hours after entering into an agency contract or before the
35 next scheduled athletic event in which the ~~student-athlete~~ student athlete may participate,
36 whichever occurs first, the ~~student-athlete~~ athlete shall inform the athletic director of the

1 educational institution at which the ~~student-athlete~~ athlete is enrolled that ~~he or she~~ the athlete
2 has entered into an agency contract.

3 (c) Not later than 72 hours after a student athlete enrolls at an educational institution, an
4 athlete agent who previously entered into an agency contract with the athlete shall notify the
5 athletic director of the institution of the existence of the contract.

6 **Comment**

7 The purpose of this section is to prevent an educational institution from being sanctioned
8 or penalized by allowing an ineligible player to participate in intercollegiate sports. The
9 penalties may be severe. In addition to non-monetary penalties mentioned in the prefatory note,
10 penalties may include loss of very substantial revenues received for participation in a football
11 bowl game or a post-season basketball tournament.

12 13 **SECTION 12. ~~STUDENT-ATHLETE'S~~ STUDENT ATHLETE'S RIGHT TO** 14 **CANCEL.**

15 (a) A ~~student-athlete~~ student athlete may cancel an agency contract by giving notice in a
16 record of ~~the~~ cancellation to the athlete agent ~~in a record within~~ not later than 14 days after the
17 contract is signed or otherwise authenticated.

18 (b) A ~~student-athlete~~ student athlete may not waive the right to cancel an agency contract.

19 (c) If a ~~student-athlete~~ student athlete cancels an agency contract, the ~~student-athlete~~
20 athlete is not required to pay any consideration under the contract or ~~to~~ return any consideration
21 received from the athlete agent to induce the ~~student-athlete~~ athlete to enter into the contract.

22 **Comment**

23 Because of the disparity in the sophistication of the parties, this section gives the student-
24 athlete or former student-athlete the right to cancel an agency contract within 14 days even if the
25 athlete agent has complied with the provisions of Section 10 regarding the form of the contract.
26 The section provides relief to the student-athlete who has entered into an ill-considered agency
27 contract, but does not provide any assurance that the student-athlete will be eligible to compete
28 in a sport.

1 **SECTION 13. REQUIRED RECORDS.**

2 (a) An athlete agent shall retain ~~the following~~ records of the following for a period of five
3 years:

4 (1) the name and address of each individual represented by the ~~athlete~~ agent;

5 (2) ~~any~~ each agency contract entered into by the ~~athlete~~ agent; and

6 (3) ~~any~~ direct costs incurred by the ~~athlete~~ agent in the recruitment or solicitation
7 of a ~~each student-athlete~~ student athlete to enter into an agency contract.

8 (b) Records ~~required by~~ described in subsection (a) ~~to be retained~~ are open to inspection
9 by the [Secretary of State] [commission] during normal business hours.

10 **SECTION 14. PROHIBITED CONDUCT.**

11 (a) In this section, “communicating or attempting to communicate” means contacting or
12 attempting to contact by an in-person meeting, a record, or any other method that conveys or
13 attempts to convey a message.

14 ~~(a)~~ (b) An athlete agent, with the intent to induce a ~~student-athlete~~ student athlete to enter
15 into an agency contract, may not:

16 (1) give any materially false or misleading information or make a materially false
17 promise or representation;

18 (2) furnish anything of value to a ~~student-athlete~~ the athlete before the ~~student-~~
19 ~~athlete~~ athlete enters into the ~~agency~~ contract; or

20 (3) furnish anything of value to ~~any~~ an individual other than the ~~student-athlete~~
21 athlete or another registered athlete agent.

22 ~~(b)~~ (c) An athlete agent may not intentionally:

23 (1) initiate contact with a ~~student-athlete~~ student athlete unless registered under

1 this [~~Act~~ act];

2 (2) refuse or fail to retain or permit inspection of the records required by Section
3 13 to be retained ~~by Section 13~~;

4 (3) fail to register when required by Section 4;

5 (4) provide materially false or misleading information in an application for
6 registration or renewal of registration;

7 (5) predate or postdate an agency contract; or

8 (6) fail to notify a ~~student-athlete~~ student athlete before the ~~student-athlete~~ athlete
9 signs or otherwise authenticates an agency contract for a particular sport that the signing or
10 authentication may make the ~~student-athlete~~ athlete ineligible to participate as a ~~student-athlete~~
11 student athlete in that sport.

12 (d) Before communicating or attempting to communicate with a student athlete to
13 influence the athlete to enter into an agency contract or before communicating or attempting to
14 communicate with another individual to have that individual influence a student athlete to enter
15 into an agency contract, an athlete agent shall notify in a record the athletic director of the
16 educational institution at which the athlete is enrolled. If the communication or attempt to
17 communicate is initiated by the athlete or another individual on behalf of an athlete, the agent
18 shall notify in a record the athletic director of the institution not later than 10 days after the
19 communication or attempt.

20 (e) Not later than 10 days after a student athlete enrolls at an educational institution, an
21 athlete agent who has a pre-existing social relationship with the athlete shall notify in a record
22 the athletic director of the institution of the relationship.

23 (f) An educational institution that becomes aware of a violation of this section must

1 notify the [Secretary of State] [commission] of the violation.

2 **Comment**

3 This section describes the conduct which gives rise to criminal penalties and civil
4 liabilities under Sections 15 and 16.

5
6 Subsection (a)(3) prohibits an athlete agent from making any payment or providing
7 anything of value to an individual who is in a position to influence a student-athlete to enter into
8 an agency contract unless that individual is registered as an athlete agent. There have been
9 numerous instances in which an athlete agent has made payment to or provided something of
10 value to family members, friends or roommates of student-athletes to enlist their services in
11 inducing a student-athlete to sign an agency contract usually without disclosure to the student-
12 athlete.

13
14 If a student-athlete signs an agency contract in the form required by Section 10, there is
15 no failure to notify under subsection (b)(6) because the agency contract includes the warning to
16 student-athlete required by Section 10(c).

17
18 Subdivision (d) imposes a requirement an athlete agent notify the educational institution
19 in a record before attempting to communicate with a student athlete enrolled at the institution.
20 This provision is one the institutions feel is crucial to trying to control the excesses in the
21 process.

22
23 **SECTION 15. CRIMINAL PENALTIES.** An athlete agent who violates Section 14 is
24 guilty of a [misdemeanor] [felony] and, ~~upon~~ on conviction, is punishable by [].

25 *Legislative Note: Each state should determine the penalties to be imposed for a violation of the*
26 *act. A state may wish to include a suspension or revocation of the registration as a part of the*
27 *penalty and may also wish to dedicate all or a part of any fine to the enforcement of the act (see,*
28 *for example, Section 18897.93, California Business and Professions Code).*

29
30 **Comment**

31 The extent of the criminal penalties which may be imposed for violation of the act are left
32 to the States adopting the act because of a wide variation in the criminal penalties provided for
33 by existing acts. Variations in the criminal penalties which may be imposed would not detract
34 from the otherwise uniform and reciprocal provisions of the act. Some potential criminal penalty
35 is necessary to discourage those individuals who are willing to engage in improper or illegal
36 conduct because of the size of the monetary stakes in the contemporary professional sports
37 world.

38
39 **SECTION 16. CIVIL REMEDIES.**

40 ~~(a) An educational institution has a right of action against an athlete agent or a former~~
41 ~~student athlete for damages caused by a violation of this [Act]. In an action under this section,~~

1 ~~the court may award to the prevailing party costs and reasonable attorney's fees.~~

2 ~~(b) Damages of an educational institution under subsection (a) include losses and~~
3 ~~expenses incurred because, as a result of the conduct of an athlete agent or former student~~
4 ~~athlete, the educational institution was injured by a violation of this [Act] or was penalized,~~
5 ~~disqualified, or suspended from participation in athletics by a national association for the~~
6 ~~promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed~~
7 ~~disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.~~

8 ~~(c) A right of action under this section does not accrue until the educational institution~~
9 ~~discovers or by the exercise of reasonable diligence would have discovered the violation by the~~
10 ~~athlete agent or former student athlete.~~

11 ~~(d) Any liability of the athlete agent or the former student athlete under this section is~~
12 ~~several and not joint.~~

13 ~~(e) This [Act] does not restrict rights, remedies, or defenses of any person under law or~~
14 ~~equity.~~

15 (a) An educational institution or student athlete has a right of action for damages against
16 an athlete agent if the institution or student athlete is adversely affected by an act or omission of
17 the agent in violation of this [act]. An educational institution or a student athlete is adversely
18 affected by an act or omission of the agent only if, because of the act or omission, the institution
19 or an individual who was a student athlete at the time of the act and admitted to or enrolled in the
20 institution:

21 (1) is suspended or disqualified from participation in one or more interscholastic
22 or intercollegiate sports events by or under the rules of a state or national federation or
23 association for the promotion or regulation of interscholastic or intercollegiate sports;

1 (2) suffers financial damage; or

2 (3) suffers both suspension or disqualification and financial damage.

3 (b) A plaintiff that prevails in an action under this section may recover actual damages or
4 [\$50,000], whichever is greater, [and] costs [, and reasonable attorney's fees]. An athlete agent
5 found liable under this section shall forfeit any right of payment for anything of benefit or value
6 provided to the student athlete and shall refund any consideration paid to the agent by or on
7 behalf of the athlete.

8 **Comment**

9 It is assumed that educational institutions will be very reluctant to bring an action against
10 a former student-athlete. Public opinion and the desire to be successful in future recruiting of
11 athletes should cause educational institutions to carefully consider whether to exercise the right
12 established by subsection (a) in most situations. There are, however, known instances of
13 extremely egregious conduct by student-athletes who received lucrative professional contracts
14 which caused serious damage to educational institutions. Subsection (a) keeps open the
15 possibility of a civil action against those individuals.

16
17 Section 16 does not specifically authorize an action by a student-athlete against an athlete
18 agent because the student-athlete can bring an action against an athlete agent under existing law.
19 Subsection (e) preserves the rights of the student-athlete under existing law.
20

21 The UAAA provided a cause of action for an educational institution against an athlete
22 agent or a student athlete for damages caused by a violation of the act. The amended section,
23 which is based on Section 18897.8 of the California Business and Professions Code, removes the
24 cause of action against a student athlete and gives the student athlete a cause of action against the
25 athlete agent.

26
27 **SECTION 17. ADMINISTRATIVE PENALTY.** The [Secretary of State]
28 [commission] may assess a civil penalty against an athlete agent not to exceed \$[25,000] for a
29 violation of this [~~Act~~ act].

30 **Comment**

31 The procedure for imposing an administrative penalty and complying with due process
32 requirements are left to the adopting State's administrative procedures law.
33

34 **[SECTION _____]** . In enacting Sections 5 through 9 of this [act], the state adopts the

1 Interstate Compact for the Registration of Athlete Agents and agrees to participate with other
2 states enacting those provisions in maintaining the Commission on the Interstate Registration of
3 Athlete Agents.]

4 **SECTION 18. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
5 applying and construing this ~~Uniform Act~~ uniform act, consideration must be given to the need
6 to promote uniformity of the law with respect to its subject matter among ~~States~~ states that enact
7 it.

8 **SECTION 19. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
9 **NATIONAL COMMERCE ACT.** ~~The provisions of this [Act act] governing the legal effect,~~
10 ~~validity, or enforceability of electronic records or signatures, and of contracts formed or~~
11 ~~performed with the use of such records or signatures conform to the requirements of Section 102~~
12 ~~of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114~~
13 ~~Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and~~
14 ~~National Commerce Act.~~

15 This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National
16 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section
17 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the
18 notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

19 **Comment**

20 The Electronic Signatures in Global and National Commerce Act (ESGNCA) contains
21 provisions governing the legal effect, validity, or enforceability of electronic records and
22 electronic signatures. The act recognizes contracts which have been formed with the use of
23 electronic records or electronic signatures even though the Drafting Committee recommends that
24 agency contracts be in the traditional written form.

25
26 **[SECTION 20. SEVERABILITY.** If any provision of this ~~[Act act]~~ or its application
27 to any person or circumstance is held invalid, the invalidity does not affect other provisions or

1 applications of this [~~Aet~~ act] which can be given effect without the invalid provision or
2 application, and to this end the provisions of this [~~Aet~~ act] are severable.]

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

5
6 **SECTION 21. REPEALS; CONFORMING AMENDMENTS.** ~~The following acts~~
7 ~~and parts of acts are hereby repealed:~~

8 (a)

9 (b)

10 (c)

11 **SECTION 22. EFFECTIVE DATE.** This [~~Aet~~ act] takes effect _____