

DRAFT  
FOR DISCUSSION ONLY

**Uniform College Athlete Name, Image, ~~And~~and Likeness  
Issues Act**

**[Tentative new name: Uniform College Athlete Name,  
Image, or Likeness Act]**

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Uniform Law Commission

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~~May 13~~June 7, 2021 ~~Committee Video Meeting~~Informal Session

~~Clean Draft~~



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~~May 5~~June 1, 2021

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

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

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1 **Uniform College ~~Student~~ Athlete Name, Image, and Likeness Issues Act**

2 **Prefatory Note**

3 Intercollegiate sports have grown into a billion dollar industry, with massive television  
4 deals, multi-million dollar coaching contracts, extravagant facilities, and lucrative commercial  
5 licensing agreements. At the same time, there has been massive growth over the last several  
6 years in the opportunities for individuals to monetize the use of their name, image, or likeness.  
7 Although the traditional models of licensing name, image, or likeness through broadcast and  
8 media are still lucrative options for high-end celebrities and athletes, social media channels have  
9 created potential opportunities for a much broader set of individuals and created “social  
10 influencers” who are able to effectively reach mobile and social media audiences. Many of these  
11 influencers are college or high school students. Studies estimate that within five years—as key  
12 demographics continue to consume more of their content through social media channels rather  
13 than television—brands will spend between \$5 and \$10 billion globally on social influencer  
14 marketing per year.<sup>1</sup>

15  
16 Despite the rapid escalation of the commercialization of intercollegiate sports and the  
17 increased opportunities for monetization of celebrity name, image, or likeness, the benefits  
18 provided to college athletes remain relatively limited and restricted by National College Athletic  
19 Association and other governing body rules. In an attempt to modernize the rules and provide  
20 greater rights for college athletes, 37 states have introduced or enacted legislation that would  
21 permit college athletes to received compensation from third parties for the use of their name,  
22 image, or likeness. Several members of Congress have also introduced federal name, image or  
23 likeness legislation. As of June 1, 2021, 18 states have enacted name, image, or likeness laws  
24 and 6 of those laws will take effect July 1, 2021, or sooner. Several additional states are expected  
25 to enact similar laws that will take effect in 2021. In April 2020, the National College Athletic  
26 Association (NCAA) Board of Governors approved a framework that would permit college  
27 athletes to receive compensation for their name, image, or likeness from third parties.

28  
29 The lack of uniformity in the state laws presents significant challenges for the NCAA and  
30 other athletic associations. The importance of having a uniform set of rules governing  
31 intercollegiate athletic competitions is well established, as is the notion that intercollegiate  
32 athletic associations cannot effectively function as a national association of college sports if it is  
33 required to adopt conflicting or inconsistent rules from different states. The proliferation of  
34 inconsistent state laws also highlighted the risk of instability for the NCAA and other  
35 intercollegiate governing bodies. Even if the NCAA were to modify its rules to conform with the  
36 most permissive state law, a modification to an existing state law or the enactment of a new state  
37 law could dramatically change the name, image, or likeness rules by which institutions can  
38 compete and operate. Given the interdependence of the institutions across the country, the impact  
39 of a change in one state’s laws could have a ripple effect on schools in other states and the entire  
40 NCAA or intercollegiate athletic association. A uniform law across all states would prevent this  
41 instability and ensure that schools in each state are playing under the same general rules.

42 The ULC agreed to draft a uniform act regarding college athlete name, image, or likeness  
43 compensation issues. The Drafting Committee met several times over a period of a years and

1 received valuable input from athlete agents, current and former college athletes, coaches, college  
2 athletic department administrators, representatives of the players associations of the National  
3 Football League, the National Hockey League, the NCAA, the National Federation of High  
4 Schools, the NAIA, and other stakeholders.

5 Many of the provisions in the Uniform College Athlete Name, Image, or Likeness Act  
6 are similar to provisions found in existing state name, image, or likeness laws. Like many of the  
7 individual state laws, the act creates a set of rules and restrictions to ensure that college athletes  
8 can benefit from the use of their name, image, or likeness without hurting their eligibility to  
9 compete as a college athlete and strikes a balance between providing more rights to college  
10 athletes while maintaining the integrity of intercollegiate sports. The Uniform Act provides (1) a  
11 mechanism for permitting college athletes to receive compensation for their NIL rights; (2)  
12 parameters on the types of activity athletes can engage in to protect institutions; (3) parameters  
13 on the compensation athletes can receive to protect college athletes and institutions from misuse  
14 or abuse of NIL deals; (4) limitations on institution, conference, and athletic association  
15 involvement; (5) a disclosure requirement for college athletes; (6) a mechanism for certifying  
16 and regulating agents; (7) a mechanism for certifying and regulating third parties who provide  
17 compensation to college athletes for the use of their name, image, or likeness; (8) a right of  
18 action for college athletes if their NIL rights are violated; (9) civil penalties for violations of the  
19 act.

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

2 **Section 1. Title**

3 This [act] may be cited as the Uniform College ~~Student~~-Athlete Name, Image, ~~and/or~~  
4 Likeness Act.

**Commented [LK1]:** What happened to “college student athlete”? From our early discussions, I thought it was important to continue the concept of the “student” athlete. When did we decide to delete the term in the title and throughout the act, and why?

5 **Section 2. Definitions**

6 In this [act]:

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

9 (A) conducts athletic competition among its member institutions;

10 (B) sets playing rules for the competition; and

11 (C) regulates the eligibility of players and institutions to compete; ~~and,~~

12 ~~——(2) “Booster” means a representative of an institution’s athletic program,~~  
13 ~~including a person that:~~

14 (A) provides a donation to obtain a season ticket for a sport at the  
15 ~~institution;~~

16 (B) participates in, is a member of, or makes a financial contribution to the  
17 ~~institution’s athletic program or to an organization promoting the institution’s athletic program;~~

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

19 (D) assists in providing a benefit, other than name, image and likeness  
20 compensation, to an athlete or the athlete’s family;

21 (E) arranged for or provided employment for enrolled student athletes; or

22 (F) is otherwise involved in promoting the institution’s athletic program.

23 ~~The term includes a person that has engaged in any of these activities in~~

1 ~~the past.~~

2 ~~(3) “College student~~(2) “College athlete” means an individual who is eligible to  
3 ~~attend~~be or is a student at an institution and engages in, is eligible to engage in, or may be

4 eligible in the future to engage in an intercollegiate sport. The term does not include an

5 individual in ~~elementary or secondary~~ school from kindergarten to grade ~~twelve~~12 or, ~~for a~~

6 ~~particular sport,~~ an individual permanently ineligible to participate in ~~a particular intercollegiate~~  
7 ~~sport for that~~ sport.

8 (43) “Conference” means a person, other than an ~~athletic~~ association, that governs

9 the ~~athletic~~intercollegiate sports programs of more than one institution.

10 (54) “Group license” means ~~an a name, image, or likeness~~ agreement ~~in which that~~  
11 ~~includes~~ the name, image, ~~and/or~~ likeness of more than one college ~~student-athlete is used.~~

12 (65) “Inducement” means ~~an any~~ attempt to influence the decision of a college  
13 ~~student~~ athlete to attend, continue attending, or transfer to an institution or conference.

14 (76) “Institution” means a public or private institution of higher education  
15 ~~within~~ this state, including a community college, ~~junior college,~~ college, and university.

16 (87) “Intercollegiate sport” means a sport played at the ~~collegiate institutional~~  
17 level for which eligibility requirements for participation by a college ~~student~~ athlete are  
18 established by an athletic association. The term does not include ~~a recreational,~~ intramural, or  
19 club ~~sports~~sport.

20 (98) “Name, image, ~~and likeness” means the name, image,~~ or likeness ~~or any~~  
21 ~~combination thereof of a college student athlete. The term-~~ ~~means a word, phrase, symbol,~~  
22 ~~representation, or design, or any combination of the foregoing, that reasonably identifies a~~

23 ~~college athlete and~~ includes the ~~college~~ athlete’s nickname, signature, ~~and~~ social media account,

**Commented [LK2]:** See definition of “student”. Use of the term here avoids the need to define “attend” (or, later, enrolled”).

**Commented [LK3]:** The proposed language seems clearer than the current language.

**Commented [LK4]:** “Athletic” programs could include intramural sports, etc.

**Commented [LK5]:** “Collegiate” is a new term. Use of “institutional” here makes it clear that the sport is one played at the higher education level and does not introduce a new term.

**Commented [LK6]:** What “NIL” means, not just what it “includes”, should be identified.

1 ~~and any other symbol, name, or design that readily identifies the college athlete.~~

2 (109) “Name, image ~~and~~ or likeness activity” means licensing or other  
3 commercial use of a name, image, ~~and~~ or likeness.

**Commented [LK7]:** I thought we agreed to delete “commercial” because of NIL use by nonprofits as well as for- profits.

4 (110) “Name, image, ~~and~~ or likeness agent” means an individual who a person,  
5 other than a college athlete but including a marketing company or the like, that:

**Commented [LK8]:** This addresses a problem that recently was raised by another Commissioner.

6 (A) directly or indirectly recruits or solicits a college ~~student~~ athlete or  
7 other person with the athlete’s consent, or, if the athlete is a minor, recruits or solicits the  
8 ~~college student~~ athlete’s parent or [guardian], to enter into an agency contract ~~for~~ for the agent  
9 to obtain name, image, or likeness compensation or a name, image, ~~and~~ or likeness  
10 ~~compensation agreement;~~

**Commented [LK9]:** This covers the family member or other person whom the athlete might permit, for example, to obtain part or all of the compensation the athlete could obtain.

11 (B) enters into an agency contract with ~~a college student~~ an athlete for  
12 ~~name, image, and likeness compensation, or, if the athlete is a minor, the athlete’s parent or~~  
13 [guardian] a person included in paragraph (a); or

**Commented [LK10]:** “Obtaining” emphasizes that this is an agency contract in which the agent agrees to try to obtain something for the person. In addition, obtaining “compensation” is a separate concept from obtaining an NIL “agreement”.

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

16 (121) “Name, image, ~~and~~ or likeness agreement” means an agreement under  
17 which a third party provides name, image, ~~and~~ or likeness compensation.

18 (1312) “Name, image, ~~and~~ or likeness compensation” means money or other thing  
19 of value provided by a third party in exchange for use of a college ~~student~~ athlete’s name, image,  
20 ~~and~~ or likeness.

21 (1413) “Person” means an individual, estate, business or nonprofit entity, public  
22 corporation, government or governmental subdivision, agency, or instrumentality, or other legal  
23 entity.

1 (1514) “Record” means information:

2 (A) inscribed on a tangible medium; or

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

5 (1615) “State” means a state of the United States, the District of Columbia, Puerto  
6 Rico, the United States Virgin Islands, or any other territory or possession subject to the  
7 jurisdiction of the United States.

8 (1716) “Student” means an individual ~~who is~~ enrolled at an institution under the  
9 rules of ~~that~~the institution.

10 (1817) “Third party” means a person, other than ~~the~~an institution ~~attended by the~~  
11 ~~college student athlete~~, that offers, solicits, or enters into a name, image, ~~and~~or likeness  
12 agreement ~~agreement~~ or offers or provides name, image, ~~and~~or likeness compensation. ~~The~~

13 *Legislative Note: If a state uses a different term includes an employee, agent, or independent*  
14 *contractor to describe the relationship of guardian, the person. The bracketed term does not*  
15 *include an entity designated by “guardian” in paragraph (10) should be changed to the*  
16 *institution, conference, or association under Section 8(a)-term used.*

17  
18 **Comment**

19 The definition of name, image, ~~and~~or likeness compensation does not include a  
20 scholarship, grant, fellowship, tuition assistance, or other forms of financial aid related to  
21 educational expenses.

22  
23 **Section 3. Scope**

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

25 (b) This [act] does not apply to an individual participating in ~~athletics at the sport in~~  
26 ~~grades~~ kindergarten to grade ~~twelve~~12 or at a youth preparatory school, recreation, intramural,  
27 club, or similar level.

28 [(c) This [act] does not apply to a United States service academy or ~~another~~other

1 institution subject to federal regulation that conflicts with this [act].]

2 (d) This [act] does not create an employment relationship between a college ~~student~~  
3 athlete and the athlete’s institution with respect to the athlete’s participation in an intercollegiate  
4 sport, ~~nor can it. This [act] may not~~ be used as a factor in determining whether ~~such an~~  
5 employment relationship exists.

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

9 **Section 4. Rulemaking Authority**

10 The [agency responsible for implementing and administering the Uniform Athlete Agents  
11 Act, Revised Uniform Athlete Agents Act, or ~~other~~ comparable law, or other appropriate agency]  
12 ~~shall implement and administer this [act] and shall administer this [ac] and~~ may adopt rules  
13 under [cite to state administrative procedure act] to ~~do so. implement and administer this [act] do~~  
14 ~~so.~~

**Commented [LK11]:** There should be should be an explicit grant of authority to the agency, rather than relying indirectly on the authority for the agency to adopt regulations.

15 **Section 5. Name, Image, ~~and~~ Likeness Compensation; Limit on Institution,**  
16 **Conference, and Athletic Association and Institution**

17 ~~(a) Except as provided in Sections 6 and 7 or otherwise proscribed by [state] law, Section~~  
18 ~~6, a college student athlete may receive name, image, and/or likeness compensation to the extent~~  
19 ~~permitted under other law of this state. This [act] does not diminish, enlarge, or modify the right~~  
20 ~~of publicity or related rights provided by other law of this state.~~

21 ~~(b) Except as provided in Section 6, an institution, conference, or athletic association,~~  
22 ~~conference, or institution~~ may not:

**Commented [LK12]:** We I have tried several versions of this subsection, and each time, at least from my perspective, it has led to more confusion than clarity. I think it is inevitable that our Act may diminish, enlarge, or modify, the right of publicity, and we therefore should delete this subsection.

23 (1) ~~adopt or enforce a rule, requirement, standard, or other limitation that prevents~~  
24 ~~or restricts prevent or restrict~~ within this state;

**Commented [LK13]:** Will this help avoid a dormant Commerce Clause constitutional argument?

25 (A) a college ~~student~~ athlete from receiving name, image, ~~and~~ likeness

1 compensation, entering into a name, image ~~and, or~~ likeness agreement, engaging in name, image  
2 ~~and, or~~ likeness activity, or ~~from~~ obtaining the services of a name, image ~~and, or~~ likeness agent,  
3 ~~or~~;

4 ~~(B) a college athlete from creating or participating in a group license or~~  
5 ~~interfere with the formation or recognition of a collective representative to facilitate or provide~~  
6 ~~representation to negotiate a group license; or~~

7 ~~(C) an institution or a college student-athlete from participating in an~~  
8 intercollegiate sport because ~~an~~ athlete receives name, image, ~~and/or~~ likeness compensation,  
9 enters into a name, image ~~and/or~~ likeness agreement, engages in name, image, ~~and/or~~ likeness  
10 activity, or obtains the services of a name, image ~~and, or~~ likeness agent;

11 (2) consider name, image, ~~and/or~~ likeness compensation in determining a college  
12 ~~student-athlete's~~ eligibility for ~~or amount of~~ an athletic scholarship ~~or the amount of the athlete's~~  
13 ~~athletic scholarship~~;

14 ~~———— (3) enact or enforce a rule, requirement, standard, or other limitation, or engage in~~  
15 ~~conduct that prevents or restricts college student athlete from creating or participating in a group~~  
16 ~~license or interferes with the formation or recognition of, a collective representative to facilitate a~~  
17 ~~group license or provide representation for an athlete to negotiate a group license.~~

#### 18 ~~Comment~~

19 ~~———— Section 5(a) is not intended to diminish, enlarge, or otherwise modify the right of~~  
20 ~~publicity or related rights provided by individual states.~~

### 21 **Section 6. ~~Restrictions~~ Limit on Name, Image, and/or Likeness Compensation and**

#### 22 **Activity**

23 (a) A college ~~student-athlete~~ only may only include in name, image, ~~and/or~~ likeness  
24 activity an institution, conference, or ~~associations~~ athletic association name, trademark, service  
25

**Commented [LK14]:** “Any” college athlete at the institution, or this (“the”) athlete?

**Commented [LK15]:** Moved back here for emphasis, so the reader realizes at the outset that this use is limited.

1 mark, logo, uniform design, or other identifier of athletic performance depicted or included in  
2 ~~any form of a~~ media broadcast or related game footage only if the use is ~~not likely to cause~~  
3 ~~confusion about the affiliation, connection, or association of the institution, conference, or~~  
4 ~~association to the activity or otherwise imply sponsorship or endorsement by the institution,~~  
5 ~~conference or association,~~ not likely to cause confusion about the affiliation, connection, or  
6 relationship with the activity, or imply sponsorship or endorsement of the activity by, the  
7 institution, conference or association, and is otherwise consistent with ~~permitted under~~  
8 intellectual property law.

**Commented [LK16]:** Why was this deleted? It would seem to be helpful to the reader to have several common examples available.

9 (b) Name, image, ~~and/or~~ likeness compensation, ~~or offers, promises, or solicitations~~  
10 ~~offer, promise, or solicitation~~ of compensation, ~~must~~:  
11 (1) ~~may~~ not be an inducement;  
12 (2) must represent only consideration for use of name, image, ~~and/or~~ likeness;  
13 ~~and~~  
14 (3) ~~may~~ not include compensation for performance, participation, or service in an  
15 intercollegiate sport.

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

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

21 ~~(e)~~ An institution may adopt and enforce a policy, or otherwise determine after  
22 reasonable notice to the affected college athlete or athletes, to prohibit name, image, ~~and/or~~  
23 likeness activity by a college athlete or athletes that is illegal or that ~~is determined by~~ the

**Commented [LK17]:** To be parallel with the next subsection.

**Commented [LK18]:** The earlier version did not require a "policy", simply a "determination". I am concerned about game-playing here – namely, if the activity is not specifically included in the policy, then it is not prohibited. On the other hand, I can understand the concern about a determination being made without reasonable notice to the affected athlete or athletes. The proposed language therefore includes a "reasonable notice" requirement before a determination may be made outside a policy.

1 institution ~~to be immoral, in conflict with the institution's values, unsafe, or determines~~ is  
2 immoral, in conflict with its values, unsafe, or has or will ~~adversely affect~~ have an adverse  
3 impact on the reputation of the institution, if the institution does not engage in the same  
4 ~~commercial~~ activity. An institution ~~making such a determination~~ that prohibits name, image, and  
5 likeness activity either through a policy adopted under this subsection or by a separate  
6 determination shall disclose in a record to the ~~college student~~ athlete ~~or~~ and, if the athlete has one,  
7 to the athlete's name, image, ~~and~~ or likeness agent the prohibition and the underlying  
8 basis for ~~that determination~~ the prohibition.

Commented [LK19]: Why what's this deleted?

Commented [LK20]: Added so the institution won't simply say the basis for the determination was the policy, although that was not the "underlying" basis.

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

14 (g) An institution, conference, or athletic association may require a college ~~student~~  
15 athlete to waive ~~any~~ a name, image, or likeness ~~rights~~ right associated with ~~the~~ promotion, display,  
16 broadcast, or rebroadcast of an intercollegiate sport.

#### 17 Comment

18  
19 ~~Section~~ Sections 6(a) and 6(c) are intended to be consistent with ~~federal~~ intellectual  
20 property law.

21  
22 Section 6(ed) is intended to prevent an institution from prohibiting a college athlete from  
23 engaging in name, image, or likeness activity with a third party or a category of third parties  
24 (e.g., sports gambling) if the institution engages in any sponsorship or endorsement activity with  
25 that third party or category of third parties.

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

27  
28 (a) An institution ~~shall adopt a policy describing permissible and impermissible name,~~

1 ~~image, and likeness activity.~~

2 ~~(b) An institution,~~ conference or athletic association may:

3 (1) assist a college ~~student~~-athlete:

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

7 (B) with the disclosure requirements of Section ~~118~~; and

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

10 (2) ~~provide education to educate~~ a college ~~student~~-athlete about name, image,  
11 ~~and~~or likeness compensation, agreements, and activity; and

12 (3) permit a college ~~student~~-athlete to use the institution's facilities for name,  
13 image, ~~and~~or likeness activity under the same terms and conditions as other students at the  
14 institution.

15 (b) Except as provided in subsection (a), an institution or conference ~~or~~and its respective  
16 employees, agents, and independent contractors ~~shall~~may not:

17 (1) provide ~~name, image, and likeness~~ compensation to a college ~~student~~-athlete  
18 for the athlete's name, image, or likeness;

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

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

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

1 (5) except as provided in Section 6(a), permit a college ~~student~~-athlete to use the  
2 intellectual property of the institution, conference or athletic association in name, image, and  
3 likeness activity; or

4 (6) use, license, or otherwise convey ~~a~~ name, image, and likeness for a  
5 commercial purpose except as provided in Section ~~5(e)(6)(f)~~ or ~~otherwise~~ permitted by law other  
6 ~~than this [act]]law~~.

### 7 Section 8. Required Disclosures

8 (a) A college ~~student~~-athlete shall ~~disclose~~provide to the official individual or office person  
9 designated under subsection (b) ~~by the institution at which the athlete is enrolled~~);

**Commented [LK21]:** Could be a person outside the institution, or a person who is not an individual.

10 (1) a copy in a record of ~~any~~ name, image, and likeness ~~agreements~~agreement  
11 that provides name, image, and likeness compensation ~~is greater~~to the athlete in an amount  
12 ~~more~~greater than \$[300], or, if ~~no such copy exists~~a record of the agreement does not exist or  
13 there was no agreement, the amount of name, image, and likeness compensation provided or to  
14 be provided if ~~greater~~the amount is more than ~~-\$[300]~~];

15 (2) ~~a copy~~the amount of ~~all~~ name, image, and likeness ~~agreements~~compensation  
16 provided ~~if to the athlete after~~ and when the aggregate amount ~~of name, image, and likeness~~  
17 ~~compensation exceeds~~ provided is more than \$[2,000] in a calendar year, ~~or, if no such copies~~  
18 ~~exist, the amount and a copy in a record of each~~ name, image, and likeness ~~compensation~~  
19 ~~provided in excess~~agreement providing all or any part of that compensation if a record of  
20 ~~[\$2,000] in a calendar year~~the agreement exists;

**Commented [LK22]:** We do you mean "after", don't we?

21 (3) for each agreement or amount that must be ~~disclosed~~provided;

22 (A) ~~the each~~ arrangementsarrangement for providing compensation;

**Commented [LK23]:** There maybe more than one arrangement.

23 (B) the amount of compensation;

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

3 (D) ~~activities~~ the activity required ~~by the agreement or~~ authorized; and

4 (E) if the athlete is represented by a name, image, ~~and~~ or likeness agent  
5 ~~was used to arrange the agreement~~, the name of and a description of the ~~relationship~~ agreement  
6 with the agent.

7 (4) each offer, solicitation, or promise made to the athlete by a third party that has  
8 not previously been disclosed under this Section;

9 (5) a copy of each agreement entered into by the athlete with a name, image,  
10 ~~and~~ or likeness agent that has not previously been disclosed under this Section; and

11 (6) other information ~~deemed~~ required by regulation by the [agency designated in  
12 ~~section~~ Section 4] ~~to be relevant to the athlete's name, image, and likeness activity.~~]

13 (b) An institution ~~at which college student athletes are enrolled~~ shall designate ~~an~~  
14 ~~official~~ individual or office a person to receive the information required by subsection (a).

15 (c) A college ~~student~~ athlete shall provide:

16 (1) the information required by subsection (a) before:

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

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

21 (2) an update after a change in the information not later than [10] days after the  
22 earlier of the change or the next scheduled ~~athletic~~ intercollegiate sport event in which the  
23 student athlete may participate.

**Commented [LK24]:** Do we mean to require the submission of something that was submitted previously?

**Commented [LK25]:** See prior comment.

**Commented [LK26]:** Will require the agency to go through a formal APA process to require more information.

1 (d) If an institution, conference, or athletic association, either voluntarily or as required  
2 by this [act], adopts a ~~policy, rule, requirement, standard, or other~~ limitation affecting a college  
3 ~~student~~ athlete's ability to engage in ~~conduct affecting the athlete's~~ name, image, andor likeness  
4 activity, the institution shall provide in a record a copy of ~~each such policy, rule, requirement,~~  
5 ~~standard, or other~~the limitation to each ~~of its athletes~~athlete by the time an offer of admission or  
6 financial aid is made, whichever is earlier, or, if the ~~policy, rule, requirement, standard, or other~~  
7 limitation is not adopted until after the athlete is a student at the institution, ~~then~~ as soon as  
8 practicable after adoption.

9 (e) When a name, image, andor likeness agreement is entered into, ~~the college student~~  
10 athlete, or, if the athlete is a minor, the parent or [guardian] of the minor entity, third partyeach  
11 party to the agreement, and, if one or more name, image, andor likeness agents assisted with the  
12 agreement, theeach agent shall certify to the ~~official individual or office~~person designated ~~in~~under  
13 subsection (b) ~~at by the institution at which the athlete is enrolled~~ that the agreement contains the  
14 sole, complete, and final agreement between the parties.

Commented [LK27]: Added in the event there is more than one agent.

#### 15 **Comment**

16  
17 A college ~~student~~ athlete would be required to disclose to a designated third party under  
18 Section 8(a) if a third party is designated under subsection (b) by the institution, conference,  
19 association, or pursuant to federal law. Disclosures made under this section must be made  
20 available to the ~~Secretary of State or designated~~[agency designated in Section 4] or other state  
21 agency or representative for inspection or review.  
22

#### 23 **Section 9. Name, Image, andor Likeness Agent; Duties;and Registration**

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

27 (b) An institution, conference, or athletic association may not prevent or ~~deter~~restrict a

1 college ~~student~~-athlete from obtaining ~~representation by the services of~~ a name, image, ~~and~~  
2 likeness agent.

3 ~~(c) [A~~An agreement between a college athlete and a name, image, ~~and~~  
4 ~~agreement agent~~ must have a fee arrangement ~~that is~~ consistent with ~~norms for the customary~~  
5 ~~practice of~~ the agent's industry and otherwise ~~comply~~ be in compliance with [cite to Uniform  
6 Athlete Agents Act, ~~or~~ Revised Uniform Athlete Agents Act, ~~or other comparable law~~].

**Commented [LK28]:** I thought we agreed not to include this. That may be why the subsection is bracketed. But we do want to include the "in compliance" language, don't we?

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

9  
10 **[Section 10. Third Party; Registration and Disclosure; Voidable Contract**

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

13 (1) to a college athlete in this state more than \$[300] in name, image, or  
14 compensation in or separate from a for an individual a name, image, ~~and~~  
15 ~~or~~;

**Commented [LK29]:** Do been anywhere or in the state?

16 (2) to college athletes in this state more than \$[2,000] in the aggregate ~~in a~~  
17 ~~calendar year to college athletes~~ in name, image, or likeness compensation in or separate from  
18 ~~for~~ name, image, and ~~(a)~~ likeness agreements ~~is required to register under this act as a third party.~~

**Commented [LK30]:** See prior comment.

19 (b) A third party shall ~~disclose~~ provide to the ~~official individual or office~~ person designated  
20 ~~in~~ under section 8(b) the name, image, ~~and~~ or likeness compensation and a record of each  
21 agreements as specified described in subsection ~~(a)~~ for which a record exists.

22 (c) A college ~~student~~-athlete or, if the athlete is a minor, the parent or [guardian] of the  
23 athlete, may void a name image ~~and~~ or likeness agreement ~~that was required to be registered or~~  
24 ~~disclosed by with~~ a third party ~~under this section but was if the party failed to comply with~~  
25 subsection (a) or (b).]

1 Legislative Note: A state should omit Sections 10 through 15 if it decides not properly registered  
2 or disclosed to require registration of third parties.

3  
4 **[Section 11. Application for Registration as Third partyParty; Application**

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

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

12 ~~\_\_\_\_\_ (2) the address of the applicant's principal place of business;~~

13 ~~\_\_\_\_\_ (2) if registered in another state, the state of registration;~~

14 ~~\_\_\_\_\_ (3) the name and contact information of the applicant seeking registration;~~

15 ~~\_\_\_\_\_ (4) telephone number;~~

16 ~~\_\_\_\_\_ (5) means of communicating electronically, including an email address and, if~~  
17 ~~available, a website related to the entity;~~

18 ~~\_\_\_\_\_ (6) (3) each social-media account with which the applicant is~~  
19 ~~affiliated;~~

20 ~~(7) a brief description of the~~type of business and business activity of the  
21 applicant;

22 ~~(8) the~~name and address of each person that is a partner, member, officer,  
23 manager, associate, or profit shareerentitled to share profits, or directly or indirectly holds an  
24 equity interest of at least [five] percent in the ~~entity~~applicant;

25 ~~(9) whether the applicant or a person named under paragraph (8) has been a~~

1 defendant ~~or respondent in a criminal proceeding~~ or ~~respondent in a~~ civil ~~or criminal~~ proceeding

2 and, if so, the date and a brief explanation of each proceeding;

3 ~~(107)~~ whether the applicant or a person named under paragraph ~~(86)~~ has been  
4 adjudicated as bankrupt or has declared bankruptcy;

5 ~~(118)~~ whether conduct of the applicant or a person named under paragraph ~~(86)~~  
6 has caused a college ~~student~~ athlete to be sanctioned, suspended, or declared ineligible to  
7 participate in an intercollegiate sport or an institution to be sanctioned;

8 ~~(129)~~ whether an application ~~to be a third party or its equivalent~~ by the applicant  
9 or ~~any~~ person named under paragraph ~~(8) to be a third party in a state~~ ~~(6)~~ has been denied,  
10 suspended, abandoned, or not renewed ~~in another state~~; ~~and~~

11 ~~(1310)~~ each state in which the applicant is currently registered or has applied to be  
12 registered as a third party ~~or its equivalent~~; ~~and~~

13 ~~(14) any~~ ~~(11)~~ other information ~~deemed~~ ~~required~~ ~~by regulation promulgated~~ by ~~the~~  
14 ~~the~~ ~~insert name of~~ agency designated in Section 4 ~~to be relevant to applications by~~.

15 ~~(b) Instead of proceeding under subsection (a), a~~ ~~person registered as a third party~~; ~~or~~  
16 ~~its equivalent in another state may apply for registration as a third party in this state by~~  
17 ~~submitting under penalty of perjury to the~~ ~~insert name of~~ ~~agency designated in Section 4~~:

18 ~~(b1) a copy of the application for registration in the other state and any other~~  
19 ~~information required by subsection (a) not required to be included in the other state's application;~~

20 ~~(2) a statement that identifies any material change in the information on the other~~  
21 ~~state's application or verifies there is no material change in the~~ ~~that~~ ~~information~~; ~~signed under~~  
22 ~~penalty of perjury~~; ~~and~~

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

1 (c) The ~~[insert name of agency designated in section~~under Section 4] ~~may require a~~  
2 ~~booster~~shall issue a certificate of registration to ~~comply with additional disclosure~~an individual  
3 who applies for registration under subsection (b) if ~~the~~that ~~[insert name of agency designated~~  
4 ~~under Section 4]~~ determines:

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

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

10 (d) For purposes of implementing subsection (c), the ~~[insert name of agency designated in~~  
11 ~~Section 4]~~ shall:

12 (1) cooperate with agencies in other states ~~which that register third parties or their~~  
13 ~~equivalent~~ to develop a common registration form and determine which states have laws that are  
14 substantially similar or more restrictive than this [act]; and

15 (2) exchange information, including information related to actions taken against  
16 ~~third parties or their equivalent or against their registrations, with those agencies.]~~

17 **Section 12. Third-Party Certificate of Registration**

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

21 (b) The ~~[insert name of~~agency designated in ~~section~~Section 4] may refuse to issue a  
22 certificate of registration to an applicant ~~for registration~~under Section 11 if ~~the~~that ~~[insert name~~  
23 ~~of agency designated in Section 4]~~ determines that the applicant has engaged in conduct that

1 ~~significantly adversely impacts~~has a significant adverse impact on the reputation of ~~the~~a college  
2 ~~student~~ athlete or the athlete's institution, conference, or athletic association. In making ~~this~~the  
3 determination, the [~~agency~~ may insert name of agency designated in Section 4] ~~shall~~ consider  
4 whether the applicant has:

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

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

10 (3) engaged in conduct prohibited by Section ~~1516~~;

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

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

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

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

23 The [~~insert name of~~ agency designated in ~~section~~Section 4] may ~~limit~~, suspend, revoke,

1 or refuse to renew ~~a the~~ registration of a third ~~person entity party registered under Section 12(a)~~  
2 for a reason that would ~~have justified~~ justify refusal to issue a certificate of registration under  
3 Section 12(b-).]

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

5 The [~~insert name of~~ agency designated in ~~section~~Section 4] may issue a temporary  
6 certificate of registration as a third party ~~while~~ for the period an application for registration or  
7 renewal of registration is pending-.]

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

9 ~~An application for registration or renewal of registration as a third party must be~~  
10 ~~accompanied by a fee of established by regulation promulgated by the [agency designated in~~  
11 ~~Section 4]:~~

12 ~~(1) \$[200] for an initial application for registration;~~

13 ~~(2) \$[100] for registration based on a certificate of registration issued by another state;~~

14 ~~(3) \$[50] for an application for renewal of registration; or~~

15 ~~(4) \$[25] for renewal of registration based on a renewal of registration in another state. ]~~

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

17 A third party may not intentionally:

18 (1) give materially false or misleading information or make a materially false  
19 promise or representation with the intent to influence ~~the a college student athlete, parent, or~~  
20 ~~[guardian] or another any person to exercise or transfer a college athlete's non-exclusive use of~~  
21 ~~the athlete's person to enter into a name, image, and/or likeness, or the exclusive such authority~~  
22 ~~that has not already been transferred agreement, receive name, image, and/or likeness~~  
23 ~~compensation, or engage in name, image, and/or likeness activity;~~

**Commented [LK31]:** This clarifies that the temporary license may be issued, not when the application is pending, but for the period it is pending.

**Commented [LK32]:** This Section probably should be relocated as Section 13, with Sections 13 and 14 being renumbered as 14 and 15.

**Commented [LK33]:** This probably will be more palatable to the agency designated to administer our Act.

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

4 (3) ~~{unless registered under this [act],,}]~~ initiate contact, directly or indirectly,  
5 with ~~a any person college student athlete or, if the athlete is a minor, a parent or [guardian] of the~~  
6 ~~athlete,~~ to recruit or solicit ~~the athlete, parent, or [guardian]~~ that person to exercise or transfer a  
7 college athlete's non-exclusive use of the athlete's name, image, or likeness, or the exclusive  
8 such authority that has not already been transferred ~~enter a name, image, and or likeness~~  
9 ~~agreement, receive name, image, and or likeness compensation, or engage in name, image, and or~~  
10 ~~likeness activity];; or~~

11 (4) ~~{predate or postdate a name, image, or likeness agreement.;~~

12 ~~\_\_\_\_\_ [(5) fail to register apply for registration register or disclose under Section 11];; or~~

13 (5) ~~provide materially false or misleading information in an application for~~  
14 registration or renewal of registration ~~{or disclosure}; or or in a disclosure.]~~

15 ~~\_\_\_\_\_ (6) predate or postdate a name, image, and likeness agreement.~~

16 *Legislative Note: If a state used a different term to describe the relationship of guardian, should*  
17 *include the bracketed term "guardian" should be changed to the term used language in the*  
18 *state paragraph (3) and paragraphs (5) and (6) only if they include the optional Sections 11*  
19 *through 15 that provide for third-party registration.*

#### 20 21 **Section ~~16~~17. Civil Remedies**

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

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

2 (2) suffers financial damage.

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

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

8 (d) In addition to any other civil remedy authorized by this [act] or law other than this  
9 [act], the [Attorney General] [and] [the agency designated in Section 4] may, pursuant to the  
10 [cite to the state administrative procedures act, assess a civil penalty against a name, image, or  
11 likeness agent or third party not to exceed \$[50,000] for a violation of this [act], and may seek  
12 injunctive or other appropriate relief.

13 ~~[(d)]~~ A violation of this [act] is a violation of and enforceable under the [cite to state  
14 consumer protection, ~~or~~ unfair trade ~~or deceptive practice law~~] ~~and the enforcement provisions of~~  
15 ~~those laws] apply to a violation of this [act].]~~

16 **Legislative Note:** ~~If a~~ A state may authorize the Attorney General or the agency designated in  
17 Section 4, or both, to enforce subsection (d).

18  
19 *A state that permits amendment by reference and has an unfair trade ~~practices~~practice or  
20 consumer protection law that provides for civil enforcement by a state agency or person,  
21 including a competitor, ~~the appropriate name for the practice and statutory citation to the~~  
22 ~~applicable law~~ should replace the bracketed language in subsection (d). ~~Some states~~  
23 ~~prohibit~~ with the name of the state agency or person. A state that has an amendment by reference  
24 and may require the unfair trade ~~practices~~practice or consumer protection law to be amended.  
25 In that case, the bill should contain an appropriate-but does not permit amendment of the  
26 specific law and by reference should delete subsection (d) should be deleted. If a and make  
27 appropriate amendments to its unfair trade practice or consumer protection law. A state that  
28 does not have an unfair trade ~~practices~~practice or consumer protection law; should delete  
29 subsection (d) should be deleted or amended to provide and substitute language providing for  
30 civil enforcement by a state agency, ~~an~~ affected member of the public, ~~and/or~~ a competitor.  
31*

**Commented [LK34]:** Why was this deleted? Don't we need a formal process for imposing this civil penalty?

**Commented [LK35]:** This subsection has been moved from Section 18 and placed here because this is another civil remedy. In addition, the authority to seek injunctive or other appropriate relief has been added.

**Commented [LK36]:** Moved from the Comment to Section 18.

1 A state may authorize the Attorney General or another state official to enforce this  
2 Section, or the agency designated in Section 4, or both.

3  
4 **Section 1718. Civil Penalty**

5 The ~~[Attorney General or]~~ ~~[and]~~ ~~[insert name of the agency designated in section~~Section  
6 ~~4, or both]~~ may, pursuant to ~~[cite to the state administrative procedures act]~~ assess a civil penalty  
7 against a name, image, and/or likeness agent or third party not to exceed \$[50,000] for a violation  
8 of this ~~[act]~~.

9 ~~Section 18.~~ Legislative Note: A state may authorize the Attorney General or another state  
10 official to enforce this Section, or the agency designated in Section 4, or both.

11  
12 **Section 19. Uniformity of Application and Construction**

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

15 **Section 1920. Relation to Electronic Signatures in Global and National Commerce**

16 **Act**

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

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

26  
27 **[Section 2021. Severability**

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

1 invalid provision.]

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

4  
5 ~~— [Section 21. Repeals; Conforming Amendments~~

6 ~~(a) . . .~~

7 ~~(b) . . .]~~

8 ~~**Legislative Note:** *A state should examine its statutes to determine whether conforming*~~  
9 ~~*revisions are required by provisions of this act relating to (—). See Section (—).*~~

10  
11 **Section 22. Effective Date**

12 This [act] takes effect . . . -

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<sup>1</sup> <https://mediakix.com/blog/influencer-marketing-industry-ad-spend-chart/>