CHAPTER 09-15.2
REVISED UNIFORM ATHLETE AGENTS ACT

9-15.2-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional sports services contract or endorsement contract.
2. "Athlete agent":
   a. Means an individual, whether or not registered under this chapter, who:
      (1) Directly or indirectly recruits or solicits a student-athlete to enter an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student-athlete as a professional athlete or member of a professional sports team or organization;
      (2) For compensation or in anticipation of compensation related to a student-athlete's participation in athletics:
         (a) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or
         (b) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or
      (3) In anticipation of representing a student-athlete for a purpose related to the athlete's participation in athletics:
         (a) Gives consideration to the student-athlete or another person;
         (b) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or
         (c) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; but
   b. Does not include an individual who:
      (1) Acts solely on behalf of a professional sports team or organization; or
      (2) Is a licensed, registered, or certified professional and offers or provides services to a student-athlete customarily provided by members of the profession, unless the individual:
         (a) Also recruits or solicits the athlete to enter into an agency contract;
         (b) Also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or
         (c) Receives consideration for providing the services calculated using a different method than for an individual who is not a student-athlete.
3. "Athletic director" means the individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.
4. "Educational institution" includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.
5. "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.
6. "Enrolled or enrolls" means registered for courses and attending athletic practice or class.

7. "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association that promotes or regulates collegiate athletics.
8. "Interscholastic sport" means a sport played between educational institutions that are not community colleges, colleges, or universities.
9. "Licensed, registered, or certified professional" means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing.
10. "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.
11. "Professional sports services contract" means an agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.
12. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
13. "Recruit or solicit" means an attempt to influence the choice of an athlete agent by a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.
14. "Registration" means registration as an athlete agent under this chapter.
15. "Sign" means, with present intent to authenticate or adopt a record:
    a. To execute or adopt a tangible symbol; or
    b. To attach to or logically associate with the record an electronic symbol, sound, or process.
16. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
17. "Student-athlete" means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, an interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

9-15.2-02. Secretary of state - Authority - Procedure.

1. Chapter 28-32 applies to this chapter. The secretary of state may adopt rules under chapter 28-32 to implement this chapter.
2. By acting as an athlete agent in this state, a nonresident individual appoints the secretary of state as the individual's agent for service of process in any civil action in this state related to the individual acting as an athlete agent in this state.
3. The secretary of state may issue a subpoena for material that is relevant to the administration of this chapter.

9-15.2-03. Athlete agent - Registration required - Void contract.

1. Except as provided in subsection 2, an individual may not act as an athlete agent in this state without holding a certificate of registration under this chapter.
2. Before being issued a certificate of registration under this chapter an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:
    a. A student-athlete or another person acting on behalf of the athlete initiates communication with the individual; and

b. Not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

3. An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

9-15.2-04. Registration as athlete agent - Application - Requirements - Reciprocal registration.

1. An applicant for registration as an athlete agent shall submit an application for registration to the secretary of state in a form prescribed by the secretary of state. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:
   a. The name and date and place of birth of the applicant and the following contact information for the applicant:
      (1) The address of the applicant's principal place of business;
      (2) Work and mobile telephone numbers; and
      (3) Any means of communicating electronically, including a facsimile number, electronic mail, and personal and business or employer websites;
   b. The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;
   c. Each social media account with which the applicant or the applicant's business or employer is affiliated;
   d. Each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;
   e. A description of the applicant's:
      (1) Formal training as an athlete agent;
      (2) Practical experience as an athlete agent; and
      (3) Educational background relating to the applicant's activities as an athlete agent;
   f. The name of each student-athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;
   g. The name and address of each person that:
      (1) Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation; and
      (2) Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;
   h. A description of the status of any application by the applicant, or any person named under subdivision g, for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;
   i. Whether the applicant, or any person named under subdivision g, has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state and, if so, identification of:
      (1) The crime;
      (2) The law enforcement agency involved; and
      (3) If applicable, the date of the conviction and the fine or penalty imposed;
   j. Whether, within fifteen years before the date of application, the applicant, or any person named under subdivision g, has been a defendant or respondent in a civil

proceeding, including a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full explanation of each proceeding;

k. Whether the applicant, or any person named under subdivision g, has an unsatisfied judgment or a judgment of continuing effect, including spousal support or a domestic order in the nature of child support, which is not current at the date of the application;

l. Whether, within ten years before the date of application, the applicant, or any person named under subdivision g, was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

m. Whether there has been any administrative or judicial determination that the applicant, or any person named under subdivision g, made a false, misleading, deceptive, or fraudulent representation;

n. Each instance in which conduct of the applicant, or any person named under subdivision g, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student-athlete or a sanction on an educational institution;

o. Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under subdivision g, arising out of occupational or professional conduct;

p. Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under subdivision g, as an athlete agent in any state;

q. Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

r. If the applicant is certified or registered by a professional league or players association:

(1) The name of the league or association;

(2) The date of certification or registration, and the date of expiration of the certification or registration, if any; and

(3) If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

s. Any additional information required by the secretary of state.

2. Instead of proceeding under subsection 1, an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the secretary of state:

a. A copy of the application for registration in the other state;

b. A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and

c. A copy of the certificate of registration from the other state.

3. The secretary of state shall issue a certificate of registration to an individual who applies for registration under subsection 2 if the secretary of state determines:

a. The application and registration requirements of the other state are substantially similar to or more restrictive than this chapter; and

b. The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

4. For purposes of implementing subsection 3, the secretary of state may:

a. Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this chapter; and

b. Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

9-15.2-05. Certificate of registration - Issuance or denial - Renewal.

1. Except as otherwise provided in subsection 2, the secretary of state shall issue a certificate of registration to an applicant for registration who complies with subsection 1 of section 9-15.2-04.
2. The secretary of state may refuse to issue a certificate of registration to an applicant for registration under subsection 1 of section 9-15.2-04 if the secretary of state determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the secretary of state may consider whether the applicant has:
   a. Pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state;
   b. Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
   c. Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
   d. Engaged in conduct prohibited by section 9-15.2-13;
   e. Had a registration as an athlete agent suspended, revoked, or denied in any state;
   f. Been refused renewal of registration as an athlete agent in any state;
   g. Engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or
   h. Engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.
3. In making a determination under subsection 2, the secretary of state shall consider:
   a. How recently the conduct occurred;
   b. The nature of the conduct and the context in which it occurred; and
   c. Other relevant conduct of the applicant.
4. An athlete agent registered under subsection 1 may apply to renew the registration by submitting an application for renewal in a form prescribed by the secretary of state. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.
5. An athlete agent registered under subsection 3 of section 9-15.2-04 may renew the registration by proceeding under subsection 4 or, if the registration in the other state has been renewed, by submitting to the secretary of state copies of the application for renewal in the other state and the renewed registration from the other state. The secretary of state shall renew the registration if the secretary of state determines:
   a. The registration requirements of the other state are substantially similar to or more restrictive than this chapter; and
   b. The renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.
6. A certificate of registration or renewal of registration under this chapter is valid for two years.

9-15.2-06. Suspension, revocation, or refusal to renew registration.

1. The secretary of state may limit, suspend, revoke, or refuse to renew a registration of an individual registered under subsection 1 of section 9-15.2-05 for conduct that would

have justified refusal to issue a certificate of registration under subsection 2 of section 9-15.2-05.

2. The secretary of state may suspend or revoke the registration of an individual registered under subsection 3 of section 9-15.2-04 or renewed under subsection 5 of section 9-15.2-05 for any reason for which the secretary of state could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under subsection 2 of section 9-15.2-05.

9-15.2-07. Temporary registration.

The secretary of state may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

9-15.2-08. Registration and renewal fees.

An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

1. Two hundred fifty dollars for an initial application for registration;
2. Two hundred fifty dollars for registration based on a certificate of registration issued by another state;
3. One hundred fifty dollars for an application for renewal of registration; or
4. One hundred fifty dollars for renewal of registration based on a renewal of registration in another state.

9-15.2-09. Required form of agency contract.

1. An agency contract must be in a record signed by the parties.
2. An agency contract must contain:
   a. A statement that the athlete agent is registered as an athlete agent in this state and a list of any other states in which the agent is registered as an athlete agent;
   b. The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the agent under the contract and any other consideration the agent has received or will receive from any other source for entering into the contract or providing the services;
   c. The name of any person not listed in the agent's application for registration or renewal of registration which will be compensated because the athlete signed the contract;
   d. A description of any expenses the athlete agrees to reimburse;
   e. A description of the services to be provided to the athlete;
   f. The duration of the contract; and
   g. The date of execution.
3. Subject to subsection 7, an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

WARNING TO STUDENT-ATHLETE,

IF YOU SIGN THIS CONTRACT:

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

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT-ATHLETE IN YOUR SPORT.

4. An agency contract must be accompanied by a separate record signed by the student-athlete or, if the athlete is a minor, the parent or guardian of the athlete

acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

5. A student-athlete or, if the athlete is a minor, the parent or guardian of the athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.
6. At the time an agency contract is executed, the athlete agent shall give the student-athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the contract and the separate acknowledgment required by subsection 4.
7. If a student-athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection 3 must be revised accordingly.

9-15.2-10. Notice to educational institution.

1. In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.
2. Not later than seventy-two hours after entering an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.
3. Not later than seventy-two hours after entering an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered an agency contract and the name and contact information of the athlete agent.
4. If an athlete agent enters an agency contract with a student-athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than seventy-two hours after the agent knew or should have known the athlete enrolled.
5. If an athlete agent has a relationship with a student-athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the institution of the relationship not later than ten days after the enrollment if the agent knows or should have known of the enrollment and:
   a. The relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or
   b. The agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.
6. An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student-athlete is enrolled before the agent communicates or attempts to communicate with:
   a. The athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or
   b. Another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.
7. If a communication or attempt to communicate with an athlete agent is initiated by a student-athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than ten days after the communication or attempt.
8. An educational institution that becomes aware of a violation of this chapter by an athlete agent shall notify the secretary of state and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

9-15.2-11. Student-athlete's right to cancel.

1. A student-athlete or, if the athlete is a minor, the parent or guardian of the athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than fourteen days after the contract is signed.
2. A student-athlete or, if the athlete is a minor, the parent or guardian of the athlete may not waive the right to cancel an agency contract.
3. If a student-athlete or parent or guardian cancels an agency contract, the athlete or parent or guardian is not required to pay any consideration under the contract or return any consideration received from the athlete agent to influence the athlete to enter into the contract.

9-15.2-12. Required records.

1. An athlete agent shall create and retain for five years records of the following:
   a. The name and address of each individual represented by the agent;
   b. Each agency contract entered by the agent; and
   c. The direct costs incurred by the agent in the recruitment or solicitation of each student-athlete to enter an agency contract.
2. Records described in subsection 1 are open to inspection by the secretary of state during normal business hours.

9-15.2-13. Prohibited conduct.

An athlete agent may not intentionally:

1. Give a student-athlete or, if the athlete is a minor, give a parent or guardian of the athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the athlete, parent, or guardian to enter an agency contract;
2. Furnish anything of value to a student-athlete or another individual, if to do so may result in loss of the athlete's eligibility to participate in the athlete's sport, unless:
   a. The agent notifies the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll, not later than seventy-two hours after giving the thing of value; and
   b. The athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledges to the agent in a record that receipt of the thing of value may result in loss of the athlete's eligibility to participate in the athlete's sport;
3. Initiate contact, directly or indirectly, with a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency contract unless registered under this chapter;
4. Fail to create, retain, or permit inspection of the records required by section 9-15.2-12;
5. Fail to register when required by section 9-15.2-03;
6. Provide materially false or misleading information in an application for registration or renewal of registration;
7. Predate or postdate an agency contract;
8. Fail to notify a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may result in loss of the athlete's eligibility to participate in the athlete's sport;
9. Encourage another individual to do any of the acts described in subsections 1 through 8 on behalf of the agent; or
10. Encourage another individual to assist any other individual in doing any of the acts described in subsections 1 through 8 on behalf of the agent.

9-15.2-14. Criminal penalty.

An athlete agent who violates section 9-15.2-13 is guilty of a class A misdemeanor.

9-15.2-15. Civil remedy.

1. An educational institution or student-athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this chapter. An educational institution or student-athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student-athlete at the time of the act or omission and enrolled in the institution:
   a. Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or
   b. Suffers financial damage.
2. A plaintiff that prevails in an action under this section may recover damages, costs, and reasonable attorney's fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student-athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

9-15.2-16. Civil penalty.

The secretary of state may assess a civil penalty against an athlete agent not to exceed fifty thousand dollars for a violation of this chapter.

9-15.2-17. Uniformity of application and construction.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

9-15.2-18. Relation to the Electronic Signatures in Global and National Commerce Act.

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