

UNIFORM ATHLETE AGENTS ACT

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act enacts the Uniform Athlete Agents Act. The act defines terms. The act requires registration of athlete agents and describes the form of the application for registration. The act creates requirements for agency contracts including warnings to student athletes. The act requires a student-athlete to notify the educational institution where the student is enrolled within 72 hours of signing an agency contract. The act allows a student-athlete to cancel an agency contract within 14 days after it is signed. The act requires an athlete agent to retain records. The act prohibits an athlete agent from engaging in certain conduct. The act provides criminal, civil, and administrative penalties.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

15-9-101, Utah Code Annotated 1953

15-9-102, Utah Code Annotated 1953

15-9-103, Utah Code Annotated 1953

15-9-104, Utah Code Annotated 1953

15-9-105, Utah Code Annotated 1953

15-9-106, Utah Code Annotated 1953

15-9-107, Utah Code Annotated 1953

15-9-108, Utah Code Annotated 1953

15-9-109, Utah Code Annotated 1953

15-9-110, Utah Code Annotated 1953

15-9-111, Utah Code Annotated 1953

15-9-112, Utah Code Annotated 1953

15-9-113, Utah Code Annotated 1953

- 28 **15-9-114**, Utah Code Annotated 1953
- 29 **15-9-115**, Utah Code Annotated 1953
- 30 **15-9-116**, Utah Code Annotated 1953
- 31 **15-9-117**, Utah Code Annotated 1953
- 32 **15-9-118**, Utah Code Annotated 1953
- 33 **15-9-119**, Utah Code Annotated 1953

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **15-9-101** is enacted to read:

36 **CHAPTER 9. UNIFORM ATHLETE AGENTS ACT**

37 **15-9-101. Title.**

38 This chapter is known as the "Uniform Athlete Agents Act."

39 Section 2. Section **15-9-102** is enacted to read:

40 **15-9-102. Definitions.**

41 As used in this chapter:

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

45 (2) "Athlete agent" means an individual who enters into an agency contract with a
46 student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency
47 contract. The term includes an individual who represents to the public that the individual is an
48 athlete agent. The term does not include a spouse, parent, sibling, or grandparent of the
49 student-athlete or an individual acting solely on behalf of a professional sports team or professional
50 sports organization.

51 (3) "Athletic director" means an individual responsible for administering the overall
52 athletic program of an educational institution or, if an educational institution has separately
53 administered athletic programs for male students and female students, the athletic program for
54 males or the athletic program for females, as appropriate.

55 (4) "Contact" means a communication, direct or indirect, between an athlete agent and a
56 student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

57 (5) "Endorsement contract" means an agreement under which a student-athlete is employed
58 or receives consideration to use on behalf of the other party any value that the student-athlete may

59 have because of publicity, reputation, following, or fame obtained because of athletic ability or
60 performance.

61 (6) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility
62 requirements for participation by a student-athlete are established by a national association for the
63 promotion or regulation of collegiate athletics.

64 (7) "Person" means an individual, corporation, business trust, estate, trust, partnership,
65 limited liability company, association, joint venture, government; governmental subdivision,
66 agency, or instrumentality; public corporation, or any other legal or commercial entity.

67 (8) "Professional-sports-services contract" means an agreement under which an individual
68 is employed or agrees to render services as a player on a professional sports team, with a
69 professional sports organization, or as a professional athlete.

70 (9) "Record" means information that is inscribed on a tangible medium or that is stored
71 in an electronic or other medium and is retrievable in perceivable form.

72 (10) "Registration" means registration as an athlete agent pursuant to this chapter.

73 (11) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
74 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the
75 United States.

76 (12) "Student-athlete" means an individual who engages in, is eligible to engage in, or may
77 be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently
78 ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete
79 for purposes of that sport.

80 Section 3. Section **15-9-103** is enacted to read:

81 **15-9-103. Service of process -- Subpoenas.**

82 By acting as an athlete agent in this state, a nonresident individual appoints the executive
83 director of the Department of Commerce as the individual's agent for service of process in any civil
84 action in this state related to the individual's acting as an athlete agent in this state.

85 Section 4. Section **15-9-104** is enacted to read:

86 **15-9-104. Athlete agents -- Registration required -- Void contracts.**

87 (1) Except as otherwise provided in Subsection (2), an individual may not act as an athlete
88 agent in this state without holding a certificate of registration under Section 15-9-106 or 15-9-108.

89 (2) Before being issued a certificate of registration, an individual may act as an athlete

90 agent in this state for all purposes except signing an agency contract, if:

91 (a) a student-athlete or another person acting on behalf of the student-athlete initiates
92 communication with the individual; and

93 (b) within seven days after an initial act as an athlete agent, the individual submits an
94 application for registration as an athlete agent in this state.

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

97 Section 5. Section **15-9-105** is enacted to read:

98 **15-9-105. Registration as an athlete agent -- Form -- Requirements.**

99 (1) An applicant for registration shall submit an application for registration to the
100 executive director of the Department of Commerce in a form prescribed by the executive director
101 of the Department of Commerce. An application filed under this section is a public record under
102 Title 63, Chapter 2, Government Records Access and Management Act. The application must be
103 in the name of an individual and, except as otherwise provided in Subsection (2), signed or
104 otherwise authenticated by the applicant under penalty of perjury and state or contain:

105 (a) the name of the applicant and the address of the applicant's principal place of business;

106 (b) the name of the applicant's business or employer, if applicable;

107 (c) any business or occupation engaged in by the applicant for the five years immediately
108 preceding the date of submission of the application;

109 (d) a description of the applicant's:

110 (i) formal training as an athlete agent;

111 (ii) practical experience as an athlete agent; and

112 (iii) educational background relating to the applicant's activities as an athlete agent;

113 (e) the names and addresses of three individuals not related to the applicant who are
114 willing to serve as references;

115 (f) the name, sport, and last-known team for each individual for whom the applicant acted
116 as an athlete agent during the five years next preceding the date of submission of the application;

117 (g) the names and addresses of all persons who are:

118 (i) with respect to the athlete agent's business if it is not a corporation, the partners,
119 members, officers, managers, associates, or profit-sharers of the business; and

120 (ii) with respect to a corporation employing the athlete agent, the officers, directors, and

121 any shareholder of the corporation having an interest of 5% or greater;

122 (h) whether the applicant or any person named pursuant to Subsection (1)(g) has been
123 convicted of a crime that, if committed in this state, would be a crime involving moral turpitude
124 or a felony, and identify the crime;

125 (i) whether there has been any administrative or judicial determination that the applicant
126 or any person named pursuant to Subsection (1)(g) has made a false, misleading, deceptive, or
127 fraudulent representation;

128 (j) any instance in which the conduct of the applicant or any person named pursuant to
129 Subsection (1)(g) resulted in the imposition of a sanction, suspension, or declaration of ineligibility
130 to participate in an interscholastic or intercollegiate athletic event on a student-athlete or
131 educational institution;

132 (k) any sanction, suspension, or disciplinary action taken against the applicant or any
133 person named pursuant to Subsection (1)(g) arising out of occupational or professional conduct;
134 and

135 (l) whether there has been any denial of an application for, suspension or revocation of,
136 or refusal to renew, the registration or licensure of the applicant or any person named pursuant to
137 Subsection (1)(g) as an athlete agent in any state.

138 (2) An individual who has submitted an application for, and holds a certificate of,
139 registration or licensure as an athlete agent in another state, may submit a copy of the application
140 and certificate in lieu of submitting an application in the form prescribed pursuant to Subsection
141 (1). The executive director of the Department of Commerce shall accept the application and the
142 certificate from the other state as an application for registration in this state if the application to
143 the other state:

144 (a) was submitted in the other state within six months immediately preceding the
145 submission of the application in this state and the applicant certifies that the information contained
146 in the application is current;

147 (b) contains information substantially similar to or more comprehensive than that required
148 in an application submitted in this state; and

149 (c) was signed by the applicant under penalty of perjury.

150 Section 6. Section **15-9-106** is enacted to read:

151 **15-9-106. Certificate of registration -- Issuance or denial -- Renewal.**

152 (1) Except as otherwise provided in Subsection (2), the executive director of the
153 Department of Commerce shall issue a certificate of registration to an individual who complies
154 with Subsection 15-9-105(1) or whose application has been accepted under Subsection
155 15-9-105(2).

156 (2) The executive director of the Department of Commerce may refuse to issue a certificate
157 of registration if the executive director of the Department of Commerce determines that the
158 applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to
159 act as an athlete agent. In making the determination, the executive director of the Department of
160 Commerce may consider whether the applicant has:

161 (a) been convicted of a crime that, if committed in this state, would be a crime involving
162 moral turpitude or a felony;

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

165 (c) engaged in conduct that would disqualify the applicant from serving in a fiduciary
166 capacity;

167 (d) engaged in conduct prohibited by Section 15-9-114;

168 (e) had a registration or licensure as an athlete agent suspended, revoked, or denied or been
169 refused renewal of registration or licensure as an athlete agent in any state;

170 (f) engaged in conduct the consequence of which was that a sanction, suspension, or
171 declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was
172 imposed on a student-athlete or educational institution; or

173 (g) engaged in conduct that significantly, adversely reflects on the applicant's credibility,
174 honesty, or integrity.

175 (3) In making a determination under Subsection (2), the executive director of the
176 Department of Commerce shall consider:

177 (a) how recently the conduct occurred;

178 (b) the nature of the conduct and the context in which it occurred; and

179 (c) any other relevant conduct of the applicant.

180 (4) An athlete agent may apply to renew a registration by submitting an application for
181 renewal in a form prescribed by the executive director of the Department of Commerce. An
182 application filed under this section is a public record under Title 63, Chapter 2, Government

183 Records Access and Management Act. The application for renewal must be signed by the
184 applicant under penalty of perjury and must contain current information on all matters required in
185 an original registration.

186 (5) An individual who has submitted an application for renewal of registration or licensure
187 in another state, in lieu of submitting an application for renewal in the form prescribed pursuant
188 to Subsection (4), may file a copy of the application for renewal and a valid certificate of
189 registration or licensure from the other state. The executive director of the Department of
190 Commerce shall accept the application for renewal from the other state as an application for
191 renewal in this state if the application to the other state:

192 (a) was submitted in the other state within six months immediately preceding the filing in
193 this state and the applicant certifies the information contained in the application for renewal is
194 current;

195 (b) contains information substantially similar to or more comprehensive than that required
196 in an application for renewal submitted in this state; and

197 (c) was signed by the applicant under penalty of perjury.

198 (6) A certificate of registration or a renewal of a registration is valid for two years.

199 Section 7. Section **15-9-107** is enacted to read:

200 **15-9-107. Suspension, revocation, or refusal to renew registration.**

201 (1) The executive director of the Department of Commerce may suspend, revoke, or refuse
202 to renew a registration for conduct that would have justified denial of registration under Subsection
203 15-9-106(2).

204 (2) The executive director of the Department of Commerce may deny, suspend, revoke,
205 or refuse to renew a certificate of registration or licensure only after proper notice and an
206 opportunity for a hearing. Title 63, Chapter 46b, Administrative Procedures Act, applies to this
207 chapter.

208 Section 8. Section **15-9-108** is enacted to read:

209 **15-9-108. Temporary registration.**

210 The executive director of the Department of Commerce may issue a temporary certificate
211 of registration while an application for registration or renewal of registration is pending.

212 Section 9. Section **15-9-109** is enacted to read:

213 **15-9-109. Registration and renewal fees.**

214 (1) An application for registration or renewal of registration must be accompanied by a fee
215 in an amount determined by the Department of Commerce in accordance with Section 63-38-3.2.

216 (2) The Department of Commerce shall establish fees for:

217 (a) an initial application for registration;

218 (b) an application for registration based upon a certificate of registration or licensure
219 issued by another state;

220 (c) an application for renewal of registration; and

221 (d) an application for renewal of registration based upon an application for renewal of
222 registration or licensure submitted in another state.

223 Section 10. Section **15-9-110** is enacted to read:

224 **15-9-110. Required form of contract.**

225 (1) An agency contract must be in a record, signed or otherwise authenticated by the
226 parties.

227 (2) An agency contract must state or contain:

228 (a) the amount and method of calculating the consideration to be paid by the
229 student-athlete for services to be provided by the athlete agent under the contract and any other
230 consideration the athlete agent has received or will receive from any other source for entering into
231 the contract or for providing the services;

232 (b) the name of any person not listed in the application for registration or renewal of
233 registration who will be compensated because the student-athlete signed the agency contract;

234 (c) a description of any expenses that the student-athlete agrees to reimburse;

235 (d) a description of the services to be provided to the student-athlete;

236 (e) the duration of the contract; and

237 (f) the date of execution.

238 (3) An agency contract must contain, in close proximity to the signature of the
239 student-athlete, a conspicuous notice in boldface type in capital letters stating:

240 **WARNING TO STUDENT-ATHLETE**

241 **IF YOU SIGN THIS CONTRACT:**

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

244 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**

245 ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST
246 NOTIFY YOUR ATHLETIC DIRECTOR; AND

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

249 (4) An agency contract that does not conform to this section is voidable by the
250 student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required
251 to pay any consideration under the contract or to return any consideration received from the athlete
252 agent to induce the student-athlete to enter into the contract.

253 (5) The athlete agent shall give a record of the signed or otherwise authenticated agency
254 contract to the student-athlete at the time of execution.

255 Section 11. Section **15-9-111** is enacted to read:

256 **15-9-111. Notice to educational institution.**

257 (1) Within 72 hours after entering into an agency contract or before the next scheduled
258 athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent
259 shall give notice in a record of the existence of the contract to the athletic director of the
260 educational institution at which the student-athlete is enrolled or the athlete agent has reasonable
261 grounds to believe the student-athlete intends to enroll.

262 (2) Within 72 hours after entering into an agency contract or before the next athletic event
263 in which the student-athlete may participate, whichever occurs first, the student-athlete shall
264 inform the athletic director of the educational institution at which the student-athlete is enrolled
265 that he or she has entered into an agency contract.

266 Section 12. Section **15-9-112** is enacted to read:

267 **15-9-112. Student-athlete's right to cancel.**

268 (1) A student-athlete may cancel an agency contract by giving notice of the cancellation
269 to the athlete agent in a record within 14 days after the contract is signed.

270 (2) A student-athlete may not waive the right to cancel an agency contract.

271 (3) If a student-athlete cancels an agency contract, the student-athlete is not required to pay
272 any consideration under the contract or to return any consideration received from the athlete agent
273 to induce the student-athlete to enter into the contract.

274 Section 13. Section **15-9-113** is enacted to read:

275 **15-9-113. Required records.**

276 (1) An athlete agent shall retain the following records for a period of five years:
277 (a) the name and address of each individual represented by the athlete agent;
278 (b) any agency contract entered into by the athlete agent; and
279 (c) any direct costs incurred by the athlete agent in the recruitment or solicitation of a
280 student-athlete to enter into an agency contract.

281 (2) Records required by Subsection (1) to be retained are open to inspection by the
282 executive director of the Department of Commerce during normal business hours.

283 Section 14. Section **15-9-114** is enacted to read:

284 **15-9-114. Prohibited conduct.**

285 (1) An athlete agent, with the intent to induce a student-athlete to enter into an agency
286 contract, may not:

287 (a) give any materially false or misleading information or make a materially false promise
288 or representation;

289 (b) furnish anything of value to a student-athlete before the student-athlete enters into the
290 agency contract; or

291 (c) furnish anything of value to any individual other than the student-athlete or another
292 registered athlete agent.

293 (2) An athlete agent may not intentionally:

294 (a) initiate contact with a student-athlete unless registered under this chapter;

295 (b) refuse or fail to retain or permit inspection of the records required to be retained by
296 Section 15-9-113;

297 (c) fail to register when required by Section 15-9-104;

298 (d) provide materially false or misleading information in an application for registration or
299 renewal of registration;

300 (e) predate or postdate an agency contract; or

301 (f) fail to notify a student-athlete before the student-athlete signs or otherwise authenticates
302 an agency contract for a particular sport that the signing or authentication may make the
303 student-athlete ineligible to participate as a student-athlete in that sport.

304 Section 15. Section **15-9-115** is enacted to read:

305 **15-9-115. Criminal penalties.**

306 An athlete agent who violates Section 15-9-114 is guilty of a class A misdemeanor.

307 Section 16. Section **15-9-116** is enacted to read:

308 **15-9-116. Civil remedies.**

309 (1) An educational institution has a right of action against an athlete agent or a former
310 student-athlete for damages caused by a violation of this chapter. In an action under this section,
311 the court may award to the prevailing party costs and reasonable attorney's fees.

312 (2) Damages of an educational institution under Subsection (1) include losses and
313 expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete,
314 the educational institution was injured by a violation of this chapter or was penalized, disqualified,
315 or suspended from participation in athletics by a national association for the promotion and
316 regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action
317 taken to mitigate sanctions likely to be imposed by such an organization.

318 (3) A right of action under this section does not accrue until the educational institution
319 discovers or by the exercise of reasonable diligence would have discovered the violation by the
320 athlete agent or former student-athlete.

321 (4) Any liability of the athlete agent or the former student-athlete under this section is
322 several and not joint.

323 (5) This chapter does not restrict rights, remedies, or defenses of any person under law or
324 equity.

325 Section 17. Section **15-9-117** is enacted to read:

326 **15-9-117. Civil and administrative penalty.**

327 (1) The executive director of the Department of Commerce may assess a civil penalty
328 against an athlete agent not to exceed \$25,000 for a violation of this chapter.

329 (2) An administrative penalty collected under Subsection (1) shall be deposited into the
330 General Fund.

331 Section 18. Section **15-9-118** is enacted to read:

332 **15-9-118. Uniformity of application and construction.**

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

335 Section 19. Section **15-9-119** is enacted to read:

336 **15-9-119. Electronic Signatures in Global and National Commerce Act.**

337 The provisions of this chapter governing the legal effect, validity, or enforceability of

338 electronic records or signatures, and of contracts formed or performed with the use of such records
339 or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global
340 and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify,
341 and limit the Electronic Signatures in Global and National Commerce Act.

Legislative Review Note
as of 1-12-01 9:11 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel