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FOR APPROVAL

**AMENDMENTS TO REVISED UNIFORM
ATHLETE AGENTS ACT (2015)**

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-TWENTY-EIGHTH YEAR
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AMENDMENTS TO REVISED UNIFORM ATHLETE AGENTS ACT (2015)

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1 **AMENDMENTS TO REVISED UNIFORM ATHLETE AGENTS ACT (2015)**

2 **Prefatory Note**

3 In September, 2017, the FBI arrested ten individuals related to a college basketball corruption
4 scandal, including four assistant college basketball coaches and the director of global marketing
5 for Adidas. At the heart of the scandal, the government has alleged conspiracy and bribery under
6 federal law that representatives from Adidas promised six-figure payments to players’ families in
7 exchange for their commitments to schools sponsored by the shoe company; and that coaches
8 steered players to financial advisors in anticipation that they would have lucrative careers in the
9 NBA. So far, two of the individuals have been convicted on some of the indictments against
10 them.

11
12 As a result of these indictments, the NCAA Board of Governors, Division I Board of Directors
13 and NCAA President established the Commission on College Basketball, chaired by Dr.
14 Condoleezza Rice, “to fully examine critical aspects of Division I men’s basketball.” In April,
15 2018 the Rice Commission made its recommendations to the NCAA which were implemented in
16 August, 2018.

17
18 The Rice Commission examined the effects of the “one-and-done rule” which required elite
19 basketball players coming out of high school to play one year of collegiate basketball before
20 being eligible for the NBA draft.

21
22 The Commission recommended “that high school and college players who declare for the draft
23 and are not drafted remain eligible for college basketball unless and until they sign a professional
24 contract. Specifically, players who are not drafted should be permitted to change their minds and
25 attend college or return to college, provided they remain academically and otherwise eligible.”
26

27 In making its recommendations, the Commission observed, “Elite high school and college
28 basketball players tend to misjudge their professional prospects. Players who think they are
29 surefire professionals are often mistaken. The numbers tell this story: Only a very small
30 percentage of NCAA men’s basketball players make it to the NBA (around 1.2%), let alone have
31 successful careers. Yet, an NCAA Survey we commissioned showed that 59% of Division I
32 players believe that they will play professionally, and NCAA research suggests that 76% of
33 Division I players, 48% of Division II players and 21% of Division III players believe that they
34 have a chance to play at the next level. Erroneously entering the NBA draft is not the kind of
35 misjudgment that should deprive student-athletes of the valuable opportunity to enter college or
36 to continue in college while playing basketball.”¹
37

38 As a result of the Commission’s recommendations, the NCAA made changes to its bylaws which
39 apply only to student-athletes playing basketball and providing them more freedom and
40 flexibility to decide about going pro and pay for scholarships for those who want to finish their
41 degree later. The changes minimize the leverage of harmful outside influences on high school
42 recruits and college student-athletes. In addition, these changes make the NCAA investigations

¹ Report and Recommendations to Address the Issues Facing Collegiate Basketball by the Commission on College Basketball, April 2018, pp 4-5.

1 and infractions process more efficient and binding and set stronger penalties for schools and
2 individuals who break the rules. The changes go into effect on August 1, 2019. In making these
3 changes to its bylaws the NCAA provided the following rationale:

4
5 Elite high school prospective student-athletes and college student-athletes need earlier
6 professional advice to determine whether it is in their best interests to declare for the
7 NBA draft or whether college basketball offers a superior pathway. Although current
8 NCAA rules allow the retention of lawyers and advisors to provide professional advice at
9 market value, such individuals are not permitted to engage in representational activities
10 without jeopardizing the athlete's eligibility. High school and college athletes and their
11 families are eager for knowledge about their professional options and the evidence
12 suggests they will find that information one way or another. Unfortunately, such athletes
13 and their families also often misunderstand the athlete's true professional potential. Many
14 stakeholders voiced their belief to the Commission on College Basketball that agents are
15 already interacting with elite high school prospective student-athletes and collegiate
16 student-athletes, often in violation of NCAA and institutional rules. They argue that a
17 prospective student-athlete or current student-athlete who is a legitimate candidate to
18 participate as a professional player should have the opportunity to meet with and be
19 represented by an NCAA-certified agent without losing eligibility. An NCAA
20 certification process for agents, with established standards of behavior and strict
21 consequences for violations of such standards, will ensure that the potential professionals
22 have access to important and necessary information in a more transparent environment.
23 Finally, the proposal, as it relates to elite senior high school prospective student-athletes,
24 is only necessary and applicable if the NBA and National Basketball Players Association
25 agree, as part of the collective bargaining process, to permit 18-year-olds to be eligible
26 for the NBA draft.²

27
28 A subcommittee of the NCAA consulted with the Chairman and Reporter of this Committee
29 before the changes were adopted. The subcommittee members were concerned that the
30 allowance of payments by sports agents to student-athletes and their parents for meals, hotel, and
31 travel in connection with recruiting and signing the student-athlete as a client would violate
32 UAAA and RUAAA. The Chairman and Reporter confirmed that these payments would indeed
33 violate the criminal provisions found in Section 14 of both acts in the 42 states that had adopted
34 UAAA and the 12 states that have adopted RUAAA. Under either act, any benefit given to a
35 student-athlete prior to signing an agency contract is prohibited as long as the student-athlete is
36 still eligible to play in his/her collegiate sport and acceptance of those benefits may cause the
37 student athlete to lose his/her eligibility.

38
39 The bylaws amendments were approved by the NCAA on August 8, 2018. The NCAA asked
40 the ULC to amend RUAAA, and to the extent necessary, UAAA, to accommodate the changes
41 adopted by the NCAA. The Committee drafted this proposed amendment which the Committee
42 believes will solve the NCAA's problem. The Committee made the amendment generic so that it
43 is not limited to basketball or for particular expenses because this may not be the only step that
44 the NCAA or other associations of educational institutions governing interscholastic or
45 intercollegiate sports may take to broaden the benefits sports agents can provide student-athletes.

² NCAA Bylaws Amendments adopted August 8, 2018.

1 As the Committee was drafting changes, it learned that the NCAA was considering allowing a
2 student-athlete to receive benefits for the use of his/her name, image and likeness and the Power
3 Five Conferences were considering changing their rules to allow certain payments in all sports.
4 The Committee believes that the version presented for consideration will eliminate the need to
5 amend RUAAA every time an association of educational institutions governing interscholastic or
6 intercollegiate sports changes its rules or bylaws governing student-athletes.

1 **AMENDMENTS TO REVISED UNIFORM ATHLETE AGENTS ACT (2015)**

2 **SECTION 14. PROHIBITED CONDUCT.**

3 (a) An athlete agent, ~~with the intent to influence a student athlete or, if the athlete is a~~
4 ~~minor, a parent or guardian of the athlete to enter into an agency contract,~~ may not take
5 intentionally do any of the following ~~actions~~ or encourage any other individual to ~~take~~ do or
6 assist any other individual in ~~taking~~ doing any of the following ~~actions~~ on behalf of the agent:

7 (1) give a student athlete or, if the athlete is a minor, a parent or [guardian] of the athlete
8 materially false or misleading information or make a materially false promise or representation
9 with the intent to influence the athlete, parent, or [guardian] to enter into an agency contract; or

10 (2) furnish anything a thing of value to the athlete or any other individual, if to do so may
11 result in the loss of the athlete's eligibility to participate in the athlete's sport, unless: before the
12 athlete enters into the contract; or

13 (3) ~~furnish anything of value to an individual other than the athlete or another registered~~
14 ~~athlete agent.~~

15 (A) the agent notifies the athletic director of the educational institution at which
16 the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends
17 to enroll, not later than 72 hours after giving the thing of value; and

18 (B) the athlete or, if the athlete is a minor, a parent or [guardian] of the athlete
19 acknowledges to the agent in a record that receipt of the thing of value may result in the loss of
20 the athlete's eligibility to participate in the athlete's sport.

21 (b) An athlete agent may not intentionally do any of the following or encourage any other
22 individual to do or assist any other individual in doing any of the following on behalf of the
23 agent:

- 1 (1) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a
2 minor, a parent or [guardian] of the athlete, to recruit or solicit the athlete, parent, or [guardian]
3 to enter an agency contract unless registered under this [act];
- 4 (2) fail to create or retain or to permit inspection of the records required by Section 13;
- 5 (3) fail to register when required by Section 4;
- 6 (4) provide materially false or misleading information in an application for registration or
7 renewal of registration;
- 8 (5) predate or postdate an agency contract; or
- 9 (6) fail to notify a student athlete or, if the athlete is a minor, a parent or [guardian] of the
10 athlete, before the athlete, parent, or [guardian] signs an agency contract for a particular sport
11 that the signing may ~~make the athlete ineligible~~ result in the loss of the athlete's eligibility to
12 participate as a student athlete in that in the athlete's sport.

13 ***Legislative Note:*** *If a state uses different terminology to describe the relationship, the bracketed*
14 *“guardian” which appears in this section as well as Section 2(15), Section 5 (a)(6), Section 10*
15 *(d), (e), (f), and (g), Section 11 (f)(1) and (2), and Section 12(a), (b), and (c), should be changed*
16 *to the appropriate term or terms.*

17 18 **Comment**

19
20 This section describes the conduct which gives rise to criminal penalties and civil
21 liabilities under Sections 15 and 16.

22
23 The RUAAA revises subsection (a) to prohibit an athlete agent from encouraging any
24 other individual to take or assist another individual in taking any of the prohibited actions on
25 behalf of the agent.

26
27 Subsection ~~(a)(3)~~ (a)(2) prohibits an athlete agent from making any payment or providing
28 anything of value to an individual who is in a position to influence a student athlete to enter into
29 an agency contract unless that individual is registered as an athlete agent. There have been
30 numerous instances in which an athlete agent has made payment to or provided something of
31 value to family members, friends or roommates of student athletes to enlist their services in
32 inducing a student athlete to sign an agency contract usually without disclosure to the student
33 athlete.

1 If a student athlete signs an agency contract in the form required by Section 10, there is
2 no failure to notify under subsection (b)(6) because the agency contract includes the warning to
3 student athlete required by Section 10(c).
4

5 The 2019 revision of Section 14 is intended to deal with changes made to NCAA
6 eligibility rules following the indictment of certain agents, representatives of shoe companies,
7 and basketball coaches in 2018. The new rules are limited to a limited number of student athletes
8 whose sport is basketball. They allow an agent certified by the NCAA to make certain limited
9 expenditures related to selecting an agent before signing an agency contract for those student
10 athletes and, contingent upon a change in the NBA “one and done” rule negotiated between the
11 NBA and the NBA Players Association as a part of the collective bargaining agreement, allow a
12 limited number of “elite” student athletes whose sport is basketball to sign an agency contract
13 with a certified agent and retain their eligibility if, before the commencement of the next season,
14 the athlete subsequently decides not to sign a professional contract and terminates the agency
15 contract.
16

17 The revision does not prohibit the giving of a thing of value but requires all of the
18 following:
19

- 20 (1) The agent to notify the athlete or, if the athlete is a minor, the parent or guardian of the
21 athlete, that receipt of the thing of value may cause the athlete to lose eligibility to
22 participate in the athlete’s sport.
- 23 (2) The athlete, parent, or guardian to acknowledge that fact to the agent in a record.
- 24 (3) The agent, not later than 72 hours after giving the thing of value, to notify the athletic
25 director of the educational institution the athlete is attending or the agent has reasonably
26 grounds to believe intends to enroll.
27

28 The revisions are not basketball specific or type of expense specific so that potential
29 future revisions of eligibility rules by the NCAA or any other association of educational
30 institutions governing interscholastic or intercollegiate sports will not necessarily require further
31 amendment of the section.