

Registration of Athlete Agents

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New York State
DEPARTMENT OF STATE
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Uniform Athlete Agents Act

Article 39-E, General Business Law

Section

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Uniform Athlete Agents Act

§ 899. Short title.

This article shall be known and may be cited as the “Uniform Athlete Agents Act”.

§ 899-a. Definitions.

As used in this article the following terms shall have the following meanings:

1. “Agency contract” means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional sports-services contract or an endorsement contract.

2. “Athlete agent” means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. Such term includes an individual who represents to the public that the individual is an athlete agent. This term shall not include a spouse, parent, sibling, grandparent or guardian of the student-athlete, or an individual acting solely on behalf of a professional sports team or professional sports organization.

3. “Athletic director” means an 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. “Contact” means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

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 student-athlete may have because of publicity, reputation, following or fame obtained because of athletic ability or performance.

6. “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 which promotes or regulates such sport and is recognized by the educational institution that said student-athlete attends.

7. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity.

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

9. “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.

10. “Registration” means registration as an athlete agent pursuant to this article.

11. “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.

12. “Student-athlete” means an individual who engages in, is eligible to engage in, may be eligible in the future to engage in or was eligible in the past 30 days to engage in any intercollegiate or interscholastic sport. If an individual is permanently ineligible to participate in a particular inter-

collegiate sport, such individual shall not be considered a student-athlete 30 days after losing his or her eligibility for purposes of that sport.

§ 899-b. Service of process; subpoenas.

1. 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’s acting as an athlete agent in this state.

2. The Secretary of State may issue subpoenas for any material that is relevant to the administration of this article.

§ 899-c. Athlete agents; registration required; void contracts.

1. Except as otherwise provided in subdivision two of this section, an individual shall not act as an athlete agent in this state without holding a certificate of registration issued pursuant to §899-e of this article.

2. Before being issued a certificate of registration, 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 student-athlete initiates communication with such individual; and
- (b) within seven days after an initial act as an athlete agent, such 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 shall be void. In the event a student-athlete voids an agency contract, the student-athlete shall not be required to pay any consideration under such contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract, and the athlete agent shall be required to return any consideration received pursuant to such voided agency contract.

4. An agency contract shall be void and unenforceable unless it is in writing.

§ 899-d. Registration as athlete agent; form; requirements.

1. An applicant for registration shall submit an application therefor to the secretary of state in such form as shall be prescribed by the secretary of state. An application filed pursuant to this section shall be a public record. The application shall be in the name of an individual and, except as otherwise provided in subdivision two of this section, signed or otherwise authenticated by the applicant under penalty of perjury, and state or contain:

- (a) the name of the applicant and the address of the applicant’s principal place of business;
- (b) the name of the applicant’s business or employer, if applicable;
- (c) any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;
- (d) a description of the applicant’s: (i) formal training as an athlete agent; (ii) practical experience as an athlete agent; and (iii) educational background relating to the applicant’s activities as an athlete agent;
- (e) the names and addresses of three individuals not related to the applicant who are willing to serve as references;

- (f) the name, sport and last known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding the date of submission of the application;
- (g) the names and addresses of all persons who are: (i) with respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates or profit-sharers having an interest of five percent or greater of the business; and (ii) with respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation having an interest of five percent or greater;
- (h) whether the applicant or any person named pursuant to paragraph (g) of this subdivision has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;
- (i) whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subdivision has made a false, misleading, deceptive or fraudulent representation;
- (j) any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subdivision resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;
- (k) any sanction, suspension or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subdivision by a governmental or quasi-governmental licensing entity or adjudicatory process arising out of occupational or professional conduct; and
- (l) whether there has been any denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subdivision as an athlete agent in any state.

2. An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subdivision one of this section. The Secretary of State shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

- (a) was submitted in the other state within six months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;
- (b) contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and
- (c) was signed by the applicant under penalty of perjury.

§ 899-e. Certificate of registration; issuance or denial; renewal.

1. Except as otherwise provided in subdivision two of this section, the Secretary of State shall issue a certificate of registration to an individual who complies with subdivision one of §899-d of this article or whose application has been accepted under subdivision two of §899-d of this article.

2. The Secretary of State may refuse to issue a certificate of registration if the Secretary of State determines that the applicant has engaged in conduct that has a significant adverse effect 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) been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;
- (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 §899-l of this article;
- (e) had a registration or licensure as an athlete agent suspended, revoked or denied, or been refused renewal of registration or licensure as an athlete agent in any state;
- (f) engaged in conduct the consequence of which was that a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or
- (g) engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty or integrity.

3. In making a determination under subdivision two of this section, the Secretary of State shall consider the factors set forth in article 23 of the Correction Law.

4. An athlete agent may apply to renew a registration by submitting an application for renewal in such form as shall be prescribed by the Secretary of State. An application filed pursuant to this section shall be a public record. The application for renewal shall be signed by the applicant under penalty of perjury and shall contain current information on all matters required in an original registration.

5. An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subdivision four of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The Secretary of State shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

- (a) was submitted in the other state within six months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;
- (b) contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
- (c) was signed by the applicant under penalty of perjury.

6. A certificate of registration or a renewal of a registration shall be valid for two years.

§ 899-f. Suspension, revocation or refusal to renew registration.

1. The Secretary of State may suspend, revoke or refuse to renew a registration for conduct that would have justified denial of registration under subdivision two of §899-e of this article.

2. The Secretary of State may deny, suspend, revoke or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing as provided pursuant to provisions of the State Administrative Procedure Act.

§ 899-g. Registration and renewal fees.

An application for registration or renewal of registration shall be accompanied by a fee in the following amount:

1. \$100 for an initial application for registration; or
2. \$50 for an application for renewal of registration.

§ 899-h. Required form of contract.

1. An agency contract shall be in a record, signed or otherwise authenticated by the parties.

2. An agency contract shall state or contain:

- (a) the amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;
- (b) the name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;
- (c) a description of any expenses that the student-athlete agrees to reimburse;
- (d) a description of the services to be provided to the student-athlete;
- (e) the duration of the contract; and
- (f) the date of execution.

3. An agency contract shall contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

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

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 5 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

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

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

§ 899-i. Notice to educational institution.

1. Within 72 hours after entering into 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 student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

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

§ 899-j. Student-athlete's right to cancel.

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

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

3. If a student-athlete cancels an agency contract, the student-athlete shall not be required to pay any consideration under such contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

§ 899-k. Required records.

1. An athlete agent shall retain the following records for a period of five years:

- (a) the name and address of each individual represented by the athlete agent;
- (b) any agency contract entered into by the athlete agent; and
- (c) any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

2. The records required to be retained pursuant to subdivision one of this section shall be open to inspection by the Secretary of State during normal business hours.

§ 899-l. Prohibited conduct.

1. An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, shall not:

- (a) give any materially false or misleading information or make a materially false promise or representation;
- (b) furnish anything of value to a student-athlete before the student-athlete enters into the agency contract;
- (c) furnish anything of value to any other individual or another registered athlete agent before the student-athlete enters into the agency contract; or
- (d) fail to notify the student-athlete before he or she signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate in that sport.

The prohibitions contained within this subdivision shall not prohibit an athlete agent from sponsoring or furnishing equipment to an amateur athletic team through a government or not-for-profit entity registered with the Secretary of State pursuant to §172 of the Executive Law or entities exempt from article 7-A of the Executive Law pursuant to §172-a of the Executive Law, provided that sponsorship or equipment will not result in a student-athlete being rendered ineligible to participate in intercollegiate athletics.

2. An athlete agent shall not willfully:

- (a) initiate contact with a student-athlete unless registered pursuant to this article;
- (b) refuse or fail to retain or permit inspection of the records required to be retained by §899-k of this article;
- (c) fail to register when required by §899-c of this article;
- (d) provide materially false or misleading information in an application for registration or renewal of registration; or
- (e) predate or postdate an agency contract.

§ 899-m. Criminal sanctions.

1. Except as provided in subdivision two of this section, an athlete agent who violates the provisions of §899-l of this article shall be guilty of a class A misdemeanor.

2. An athlete agent who violates: (a) the provisions of §899-l of this article, while such athlete agent's certificate of registration is suspended, after the Secretary of State has revoked or refused to renew such certificate of registration pursuant to §899-f of this article, or after the Secretary of State has refused to issue a certificate of registration pursuant to §899-e of this article shall be guilty of a class E felony; or (b) paragraph (c) of subdivision two of §899-l, when he or she has been previously convicted within the last five years of having violated such paragraph shall be guilty of a class E felony.

§ 899-n. Civil remedies.

1. An educational institution shall have a right of action against an athlete agent for damages caused by any violation of this article. In an action brought pursuant to this section, the court may award reasonable attorney's fees to a prevailing plaintiff.

2. The damages of an educational institution pursuant to subdivision one of this section shall include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this article or was penalized, disqualified or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

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

4. This article shall not be deemed to restrict rights, remedies or defenses of any person under law or equity.

§ 899-o. Administrative penalty.

The Secretary of State may assess a civil penalty against an athlete agent not to exceed \$25,000 for a violation of §899-l of this article.

§ 899-p. Uniformity of application and construction.

In applying and construing this article in this state, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.