

IC 25-5.2-2

Chapter 2. Athlete Agent Registration

IC 25-5.2-2-1

Service of process

Sec. 1. (a) By acting as an athlete agent in Indiana, a nonresident individual appoints the attorney general as the individual's agent for service of process in any civil action in Indiana related to the individual's acting as an athlete agent in Indiana.

(b) The attorney general may issue subpoenas for any material that is relevant to the administration of this article.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-2

Certificate of registration

Sec. 2. (a) Except as otherwise provided in subsection (b), an individual may not act as an athlete agent in Indiana without holding a certificate of registration under section 4 or 6 of this chapter.

(b) Before being issued a certificate of registration, an individual may act as an athlete agent in Indiana for all purposes except signing an agency contract, if:

- (1) a student athlete or another person acting on behalf of the student athlete initiates contact with the individual; and
- (2) within seven (7) days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in Indiana.

(c) 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.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-3

Application for registration; agents licensed in other states

Sec. 3. (a) An applicant for registration shall submit an application for registration to the attorney general in a form prescribed by the attorney general. An application filed under this section is a public record under IC 5-14-3. The application must be in the name of an individual and, except as otherwise provided in subsection (b), signed or otherwise authenticated by the applicant under penalty of perjury and contain the following information:

- (1) The name of the applicant and the address of the applicant's principal place of business.
- (2) The name of the applicant's business or employer, if applicable.
- (3) Any business or occupation engaged in by the applicant for the five (5) years immediately preceding the date of submission of the application.
- (4) A description of the applicant's:
 - (A) formal training as an athlete agent;
 - (B) practical experience as an athlete agent; and

- (C) educational background relating to the applicant's activities as an athlete agent.
 - (5) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references.
 - (6) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years immediately preceding the date of submission of the application.
 - (7) The names and addresses of all persons who are:
 - (A) with respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit sharers of the business; and
 - (B) with respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater.
 - (8) Whether the applicant or any person named in subdivision (7) has been convicted of a crime that, if committed in Indiana, would be a crime involving moral turpitude or a felony, and identify the crime.
 - (9) Whether there has been any administrative or judicial determination that the applicant or any person named in subdivision (7) has made a false, misleading, deceptive, or fraudulent representation.
 - (10) A description of any instance in which the conduct of the applicant or any person named in subdivision (7) 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.
 - (11) A description of any sanction, suspension, or disciplinary action taken against the applicant or any person named in subdivision (7) arising out of occupational or professional conduct.
 - (12) 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 in subdivision (7) as an athlete agent in any state.
- (b) 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 instead of submitting an application in the form prescribed under subsection (a). The attorney general shall accept the application and the certificate from the other state as an application for registration in Indiana if the application to the other state:
- (1) was submitted in the other state within six (6) months immediately preceding the submission of the application in Indiana and the applicant certifies that the information contained in the application is current;
 - (2) contains information substantially similar to or more comprehensive than that required in an application submitted in

Indiana; and
(3) was signed by the applicant under penalty of perjury.
As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-4

Issuance of certificate of registration; renewal of registration

Sec. 4. (a) Except as otherwise provided in subsection (b), the attorney general shall issue a certificate of registration to an individual who complies with the requirements of section 3(a) of this chapter or whose application has been accepted under section 3(b) of this chapter.

(b) The attorney general may refuse to issue a certificate of registration if the attorney general 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 attorney general may consider whether any of the following apply to the applicant:

- (1) The applicant has been convicted of a crime that, if committed in Indiana, would be a crime involving moral turpitude or a felony.
- (2) The applicant made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent.
- (3) The applicant has engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity.
- (4) The applicant has engaged in conduct prohibited by section 12 of this chapter.
- (5) The applicant has had a registration or a license as an athlete agent suspended, revoked, or denied or been refused renewal of a registration or a license as an athlete agent in any state.
- (6) The applicant has engaged in conduct the consequences of which were 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.
- (7) The applicant has engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b), the attorney general shall consider the following:

- (1) How recently the conduct occurred.
- (2) The nature of the conduct and the context in which it occurred.
- (3) Any other relevant conduct of the applicant.

(d) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the attorney general. An application filed under this subsection is a public record under IC 5-14-3. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required by section 3(a) of this

chapter for an original registration.

(e) An individual who has submitted an application for renewal of a registration or a license in another state, instead of submitting an application for renewal in the form prescribed under subsection (d), may file a copy of the application for renewal and a valid certificate of registration or a valid license from the other state. The attorney general shall accept the application for renewal from the other state as an application for renewal in Indiana if the application to the other state:

(1) was submitted in the other state within six (6) months immediately preceding the filing in Indiana and the applicant certifies that the information contained in the application for renewal is current;

(2) contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in Indiana; and

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

(f) A certificate of registration or a renewal of a registration is valid for two (2) years.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-5

Suspension, revocation, or refusal to renew certificate of registration

Sec. 5. (a) The attorney general may suspend, revoke, or refuse to renew a certificate of registration for conduct that would have justified denial of registration under section 4(b) of this chapter.

(b) The attorney general may deny, suspend, revoke, or refuse to renew a certificate of registration only after proper notice and an opportunity for a hearing under IC 4-21.5.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-6

Temporary certificate of registration

Sec. 6. The attorney general may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-7

Fee for renewal of registration

Sec. 7. A fee established by the attorney general in accordance with IC 25-1-8-2 must accompany an application for registration or renewal of registration.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-8

Agency contracts

Sec. 8. (a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must contain the following:

- (1) 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.
- (2) 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.
- (3) A description of any expenses that the student athlete agrees to reimburse.
- (4) A description of the services to be provided to the student athlete.
- (5) The duration of the contract.
- (6) The date of execution.

(c) An agency contract must 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, BOTH YOU AND YOUR ATHLETE AGENT MUST GIVE TO YOUR ATHLETIC DIRECTOR THE TEN (10) DAY NOTICE REQUIRED BY IC 25-5.2-2-9 AND IC 35-46-4-4 BEFORE EXECUTING THIS CONTRACT; AND
- (3) YOU MAY CANCEL THIS CONTRACT WITHIN FOURTEEN (14) DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) 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 is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

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

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-9

Agency contracts; student athletes

Sec. 9. (a) At least ten (10) days before a student athlete enters into an agency contract, the athlete agent shall give in a record the notice required by IC 35-46-4-4 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.

(b) At least ten (10) days before entering into an agency contract,

the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled or intends to enroll that the student athlete intends to enter into an agency contract.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-10

Cancellation of agency contract by student athlete

Sec. 10. (a) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.

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

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

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-11

Retention of records by athlete agents

Sec. 11. (a) An athlete agent shall retain the following records for a period of five (5) years:

- (1) The name and address of each individual represented by the athlete agent.
- (2) A copy of any agency contract entered into by the athlete agent.
- (3) A record of any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

(b) Records required by subsection (a) to be retained are open to inspection by the attorney general during normal business hours.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-12

Misconduct by athlete agent

Sec. 12. (a) An athlete agent who, with the intent to induce a student athlete to enter into an agency contract:

- (1) gives any materially false or misleading information or makes a materially false promise or representation;
- (2) furnishes anything of value to a student athlete before the student athlete enters into the agency contract; or
- (3) furnishes anything of value to any individual other than the student athlete or another registered athlete agent;

commits a Class D felony.

(b) An athlete agent who intentionally:

- (1) initiates contact with a student athlete unless registered under this article;
- (2) refuses or fails to retain or permit inspection of the records required to be retained by section 11 of this chapter;

- (3) fails to register when required by section 2 of this chapter;
- (4) provides materially false or misleading information in an application for registration or renewal of registration;
- (5) predates or postdates an agency contract; or
- (6) fails to notify a student athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport;

commits a Class D felony.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-13

Rights of action

Sec. 13. (a) An educational institution has a right of action against an athlete agent or a former student athlete for damages caused by a violation of this article. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

(b) Damages of an educational institution under subsection (a) 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.

(c) A right of action under this section does 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.

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

(e) This article does not restrict rights, remedies, or defenses of any person under law or equity.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-14

Violations and penalties

Sec. 14. (a) A person who violates this article is subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation, as determined by the court. All civil penalties recovered under this chapter shall be deposited in the state general fund.

(b) In addition to the civil penalty imposed under subsection (a), the attorney general may restrict, suspend, or revoke a certificate of registration of an athlete agent for violation of this article.

(c) The attorney general may institute and conduct an action in the name of the state of Indiana for any of the following:

- (1) An injunction in any circuit or superior court of Indiana for

injunctive relief to restrain a person from continuing any activity that violates this article.

(2) The assessment and recovery of the civil penalty provided in subsection (a).

(d) The attorney general may present any evidence of a crime under section 12 of this chapter to any prosecuting attorney for initiation of criminal proceedings against the offender. The attorney general shall cooperate with the prosecuting attorney in the prosecution of the offense.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-15

Uniform act

Sec. 15. 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 the states that enact it.

As added by P.L.54-2001, SEC.5.

IC 25-5.2-2-16

Electronic records or signatures

Sec. 16. The provisions of this article governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

As added by P.L.54-2001, SEC.5.