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Brian Weiss

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PROFESSIONS AND BUSINESSES

Athlete Agents: Expand Protection for Student Athletes from Athlete Agents

CODE SECTION: O.C.G.A. § 43-4A-2 (amended)
BILL NUMBER: HB 462
ACT NUMBER: 440
SUMMARY: The Act changes the definition of the term "athlete" to protect student athletes while still enrolled in college even if they have completed their eligibility in a particular sport.
EFFECTIVE DATE: April 9, 1993

History

The General Assembly passed the "Georgia Athletes Agents Regulatory Act of 1988" which became effective January 1, 1989.¹ This Act authorized the creation of the Georgia Athlete Agent Regulatory Commission (Commission) and the promulgation of rules and standards to regulate the actions of athlete agents conducting business in Georgia.²

Under that Act, athlete agents must comply with certain regulatory requirements prior to engaging in or carrying on the occupation of an athlete agent in Georgia. Athlete agents are required to be registered³ and to post a surety bond with the Commission.⁴

When an athlete agent intends to sign an athlete to an agency contract prior to the termination of the athlete's eligibility to participate in intercollegiate athletics, the agent must meet these two requirements and must notify the Commission of this intention.⁵ Recently, there had been some uncertainty concerning the requirement of when an athlete has completed his college eligibility. Several athlete agents did not consider it necessary to register with the Commission or to post a surety bond when dealing with student athletes who had finished their last college football season.⁶ The agents contended they were not

1. 1988 Ga. Laws 651 (formerly found at O.C.G.A. § 43-4A-1 (1989)).

2. 1988 Ga. Laws 651 (formerly found at O.C.G.A. § 43-4A-3(a), (g) (1989)).

3. 1988 Ga. Laws 651 (formerly found at O.C.G.A. § 43-4A-4 (1989)).

4. 1988 Ga. Laws 651 (formerly found at O.C.G.A. § 43-4A-13 (1989)).

5. 1988 Ga. Laws 651 (formerly found at O.C.G.A. § 43-4A-16(a)(1) (1989)).

6. Telephone Interview with Jerry Blackstock, Commissioner, Georgia Athlete Agency Regulatory Commission (Apr. 5, 1993) [hereinafter Blackstock Interview]. Mr. Blackstock has been in that position since the Commission was created. Mr. Blackstock drafted HB 462 and spoke on behalf of the Commission's relation to the Act. *Id.*

regulated by the Act because the athletes were no longer eligible to compete in their chosen sport.⁷ The Commission disagreed with the agents' contentions, stating that the original Act is quite broad, and is intended to apply to all athletes who are still enrolled in an institute of higher education and have eligibility remaining in any sport.⁸

Although the Commission stated that the original Act intended to protect all student athletes from agents, the Commission asked that HB 462 be introduced to clarify this intent and resolve any possible ambiguity.⁹ In addition, the amendment of the Act more aptly covers the recent development of the multi-sport athletes.¹⁰

HB 462

The Act amends Code section 43-4A-2 by changing the definition of the term "athlete."¹¹ This change is an effort to insure the broadest protection to student athletes from the solicitation of athlete agents.¹²

The term "athlete" is defined under the Act as "an individual who is eligible to participate in any intercollegiate sport and who is currently enrolled as a student at an institute of higher education or has signed a national grant-in-aid with an institution of higher education."¹³ The new definition sets forth a two-prong test for one to be considered an "athlete." The first prong defines an "athlete" as one who has college eligibility available in "any" sport even if it is one in which an individual does not intend to participate.¹⁴ This protects athletes from being contacted by unregistered athlete agents even if they have completed all their eligibility in one sport, yet still have remained students.¹⁵ The second prong requires the athlete to be either currently enrolled as a student or the recipient of an athletic scholarship and has promised to enroll as soon as he or she finishes high school.¹⁶

The Act also amends Code section 43-4A-4(a) relating to the procedures under which an athlete agent can contact a student athlete. Under the Act, "no athlete agent shall contact an athlete, either directly

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.* A multi-sport athlete is one who participates in more than one intercollegiate varsity sport, such as football and baseball. Examples of such athletes include Bo Jackson, Deion Sanders, and Charlie Ward.

11. O.C.G.A. § 43-4A-2(2) (Supp. 1993).

12. Blackstock Interview, *supra* note 6.

13. O.C.G.A. § 43-4A-2(2) (Supp. 1993).

14. *Id.*

15. Blackstock Interview, *supra* note 6.

16. O.C.G.A. § 48-4A-2(2) (Supp. 1993).

or indirectly . . . without first registering with the Commission.”¹⁷ Therefore, the Act will make athlete agents more careful in dealing with student athletes.¹⁸ If an athlete agent violates any of the Act’s procedures, he will forfeit the surety bond he has posted with the Commission and be subject to criminal prosecution for a felony.¹⁹

The Act was passed by the General Assembly as introduced,²⁰ thereby resolving any possible ambiguity that may have remained in the statute. Athlete agents cannot contact any student athletes if they have any potential eligibility without first registering with the Commission.²¹

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17. *Id.* § 43-4A-4(a) (Supp. 1993).

18. Telephone Interview with Rep. Louise McBee, House District No. 88 (Mar. 26, 1993). Rep. McBee was one of the sponsors of HB 462. *Id.*

19. Blackstock Interview, *supra* note 6.

20. Final Composite Status Sheet, Mar. 23, 1993.

21. O.C.G.A. § 43-4A-4 (Supp. 1993).