

ATHLETE AGENT CONTRACTS: LEGISLATIVE REGULATION*

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• This is the sixth article in a six article series that details athlete agent regulation and liability. The first article, *Analysis of Civil and Criminal Penalties in Athlete Agent Statutes and Support for the Imposition of Civil and Criminal Liability Upon Athletes*, appeared in 8 SETON HALL J. SPORT L. 1 (1998). The second, *The Art of Being a Sports Agent in More Than One State: Analysis of Registration and Reporting Requirements and Development of a Model Strategy*, was published in 8 SETON HALL J. SPORT L. 419 (1998). Article three, *Escaping Athlete Agent Statutory Regulation: Loopholes and Constitutional Defectiveness Based on Tri-Parte Classification of Athletes*, appeared in 9 SETON HALL J. SPORT L. 1 (1999). The fourth and fifth articles, *Athlete Agent Solicitation of Athlete Clients: Statutory Authorization and Prohibition* and *Statutory Regulation of Agent Gifts to Athletes*, are printed in 10 SETON HALL J. SPORT L. 205 (2000), and 10 SETON HALL J. SPORT L. 265 (2000), respectively.

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I. INTRODUCTION

As the limo reached its final destination, the quarterback exited the vehicle with the supermodel companion, to whom he had just been introduced by the agent. She clung onto the quarterback's arm, executing her moves with the grace and skill of a receiver catching a touchdown pass from the fifty-yard line. The agent had exited first so as to not miss the expression on the quarterback's face when he first laid eyes on the magnificence. The magnificence of the BMW Z3 Roadster with the top already down. The agent told the quarterback "Happy Birthday," handed him the keys and told him to watch where he parked when he took the model to dinner so no idiots would dent it with their lesser quality car doors. The agent offered his apologies since he unfortunately would not be able to join them but that he would wait for them to return. As he prepared to turn the key, the quarterback turned to watch the model slowly climb into the passenger seat, one long leg at a time. When she finally completely entered the car, she smiled and told the quarterback how much he reminded her of Bond, James Bond, sitting in that bad driving machine. The quarterback awkwardly smiled back, in hopeful bewilderment, and drove off to Ruth's Chris Steak House for dinner for two on the agent's account.

Everything proceeded well as dinner superbly outperformed yesterday's peanut butter and jelly sandwich and the model said "yes" to another date next week when they arrived back at the agent's house. Upon entering the house, the agent asked the quarterback if he enjoyed dinner. The quarterback said "Yes, sir." The model said she could not believe he was only a quarterback because he ate like a big, strong, hungry linebacker. The model then smiled at the quarterback. The quarterback awkwardly smiled back, again in hopeful bewilderment. The agent smiled at the quarterback and then at the model who smiled back at the agent. Then the agent turned back to smile at the quarterback as the butler brought the quarterback and agent each a beer on a silver platter, with the butler smiling at the quarterback as he offered him the beer.

The agent then asked if the quarterback was happy. The quarterback replied, "I'm definitely happy, dude. Never knew college could be so

much fun." The agent handed the athlete an agent contract to sign while admonishing, "Tonight is only the beginning. Just sign here and I'll take care of you." The quarterback looked over at the model who was putting on more lipstick and smiling at him. The quarterback smiled back, this time nodding his head affirmatively, while simultaneously scribbling his name on the standard agent contract. This is assuming that was all it was, as he could not remove his eyes while watching the model pucker her lips to smooth out her recent application of Christian Dior.

"Expensive cars, supermodels and contracts . . . Ah! . . . The life of an athlete agent!" Even if this statement is not always true, the legislatures of twenty-eight states apparently believe it is usually true as they have enacted legislation regulating numerous aspects of an athlete agent's professional life, including the execution of contracts with student-athletes.² As the legislative declaration in Colorado's athlete agent statute demonstrates, the desire to avoid harm to student-athletes and universities served as the driving force behind legislative enactment of athlete agent legislation regulating agent contracts with athletes. Specifically, the Colorado athlete agent statute provides:

Legislative declaration. The general assembly hereby finds that dishonest or unscrupulous practices by athlete agents who solicit representation of student

2. The following statutes currently regulate athlete agents: Alabama: ALA. CODE §§ 8-26-1 to -41 (WESTLAW through 1999 Reg. Sess.); Arizona: ARIZ. REV. STAT. ANN. §§ 15-1761 to -1765 (West, WESTLAW through 1999 Reg. Sess. and 2d Spec. Sess.); Arkansas: ARK. CODE ANN. §§ 17-16-101 to -207 (Michie, WESTLAW through 1999 Reg. Sess.); California: CAL. BUS. & PROF. CODE §§ 6106.7, 18895-18897.93 (West 1990); Colorado: COLO. REV. STAT. ANN. §§ 23-16-101 to -108 (West 1998); Connecticut: CONN. GEN. STAT. ANN. §§ 20-553 to -569 (West 1999); Florida: FLA. STAT. ANN. §§ 468.451-4571 (West 1994); Georgia: GA. CODE ANN. §§ 43-4A-1 to -19 (WESTLAW through 1999 Gen. Ass.); Indiana: IND. CODE ANN. §§ 35-46-4-1 to -4 (West 1998); Iowa: IOWA CODE ANN. §§ 9A.1-12 (West 1995); Kansas: KAN. STAT. ANN. §§ 44-1501 to -1515 (WESTLAW through 1998 Reg. Sess.); Kentucky: KY. REV. STAT. ANN. §§ 518.010-.080, 164.680-.689 (Michie, WESTLAW through 1998 Reg. Sess.); Louisiana: LA. REV. STAT. ANN. §§ 4:420-433 (West, WESTLAW through 1999 Reg. Sess.); Maryland: MD. CODE ANN. BUS. REG. §§ 4-401 to -426 (WESTLAW through 1999 Reg. Sess.); Michigan: MICH. COMP. LAWS ANN. § 750.411e (West 1991); Minnesota: MINN. STAT. ANN. § 325E.33 (West 1995); Mississippi: MISS. CODE ANN. §§ 73-41-1 to -23 (1999); Missouri: MO. ANN. STAT. §§ 317.018, 436.200-212 (West, WESTLAW through 1999 1st Ext. Sess.); Nevada: NEV. REV. STAT. ANN. §§ 398.015-255, 597.920 (Michie, WESTLAW through 1997 Reg. Sess.); North Carolina: N.C. GEN. STAT. §§ 78C-71 to -81 (Michie, WESTLAW through 1998 Cum. Supp.); North Dakota: N.D. CENT. CODE §§ 9-15-01 to -05 (WESTLAW through 1999 Reg. Sess.); Ohio: OHIO REV. CODE ANN. §§ 4771.01-99 (Anderson, WESTLAW through portion of 123rd Gen. Ass.); Oklahoma: OKLA. STAT. ANN. tit. 70, §§ 821.61-71 (West 1997); Oregon: H.B. No. 3628, 70th Leg., Reg. Sess. §§ 1-12 (Or. 1999); Pennsylvania: 5 PA CONS. STAT. ANN. §§ 3101-3312, 18 PA. CONS. STAT. ANN. § 7107 (West, WESTLAW through Act of 1999-47); South Carolina: S.C. CODE ANN. §§ 16-1-90, -100, 59-102-10 to -50 (Law. Co-op., WESTLAW through 1999 Reg. Sess.); Tennessee: TENN. CODE ANN. §§ 49-7-2111 to -2121 (West, WESTLAW through 1999 Reg. Sess.); Texas: TEX. OCC. CODE ANN. §§ 2051.001-.553 (West, WESTLAW through 1999 Reg. Sess.).

athletes can cause significant harm to student athletes and to the institutions of higher education for which they play. It is the general assembly's intent to protect the interests of student athletes and institutions of higher education by limiting the contacts between athlete agents and student athletes and by setting requirements for contracts entered into between athlete agents and student athletes.³

One might even feel sorry for an athlete agent considering that these twenty-eight states have made it virtually impossible for the agent to determine exactly which of his typical daily activities he may legally engage in without fear of jail or civil lawsuits.⁴ An athlete agent also faces the dilemma of determining which of his daily activities statutorily require a written record in case the state ever wants to "read his diary" during an investigation of his conduct over a period of several years.⁵

The absurdity of some athlete agent legislation demonstrates that the agent might not even be able to call or otherwise approach any supermodel that crosses his path since she might also be a star member of a university volleyball, track or other sports program.⁶ If she is such a member, he might have to give written notice to the state and university that he talked to her.⁷ Providing notice to the state and university could prove embarrassing if that notice ever gets into the wrong hands, especially if the agent is a married man and his wife finds out he approached a supermodel and talked to her. If the supermodel is not a student-athlete, the agent should still not give the supermodel his phone number and ask her to call him because she might technically have eligibility remaining under rules promulgated by the National Collegiate Athletic Association (NCAA), especially if she never commenced college yet.⁸ Beyond contacting her,

3. CO. REV. STAT. ANN. § 23-16-101.

4. Various civil, administrative and criminal remedies and penalties may be imposed on athlete agents for numerous activities. See generally Rob Remis, *Analysis of Civil and Criminal Penalties in Athlete Agent Statutes and Support for the Imposition of Civil and Criminal Liability Upon Athletes*, 8 SETON HALL J. SPORT L. 1 (1998) (hereinafter Remis, *Remedies and Penalties*).

5. Athlete agents are subjected to numerous registration and reporting requirements. See generally Rob Remis, *The Art of Being a Sports Agent in More Than One State: Analysis of Registration and Reporting Requirements and Development of a Model Strategy*, 8 SETON HALL J. SPORT L. 419 (1998) [hereinafter Remis, *Registration and Reporting*].

6. Numerous limitations on the ability of an athlete agent to solicit or otherwise contact student-athletes abound. See generally Diane Sudia and Rob Remis, *Athlete Agent Solicitation of Athlete Clients: Statutory Authorization and Prohibition*, 10 SETON HALL J. SPORT L. 205 (2000) [hereinafter Sudia and Remis, *Agent Solicitation*].

7. See *id.*

8. An agent may find abundant loopholes and constitutional defects within the athlete agent statutes, predicated upon a tri-parte statutory classification of athletes. See generally Rob Remis and Diane Sudia, *Escaping Athlete Agent Statutory Regulation: Loopholes and Constitutional Defectiveness Based on Tri-Parte Classification of Athletes*, 9 SETON HALL J. SPORT L. 1 (1999) [hereinafter Remis and Sudia, *Escaping Athlete Agent Regulation*]. See also *infra* Part II. (regarding

the agent surely better not buy her roses if he likes life outside the court system.⁹ If the agent ever tries to get her to sign a sports-related, prenuptial-type agreement, whereby he gets a percentage of her income for representing her if she becomes a professional or obtains endorsement deals, the agent may be in court for a long time.¹⁰

It apparently does not matter to several states that the NCAA does not prohibit a student-athlete from merely talking to an athlete agent.¹¹ Some states still choose to prohibit this type of conduct even though the NCAA does not regulate it.¹² It is true that the NCAA possesses no jurisdiction over an athlete agent, explaining why it does not regulate their activities.¹³ Nevertheless, the NCAA does establish certain rules that student-athletes must follow such as not signing a contract with an agent or taking gifts from an agent.¹⁴ The NCAA could just as easily mandate that the student-athlete never talk to an athlete agent; however, the NCAA has chosen not to take this route.¹⁵ In fact, the NCAA explicitly authorizes student-athletes to talk to agents under certain circumstances.¹⁶ Even so, some legislatures prohibit all forms of agent contact with a student-athlete other than the specific type of agent contact legislatively permitted in that state.¹⁷

Part II of this article provides an overview of NCAA regulations pertinent to an agent's execution of an agent or professional sports services contract with a student-athlete. Part III then sets forth and analyzes the numerous provisions contained within the athlete agent statutes enacted across the nation that authorize, limit or prohibit the execution of contracts with student-athletes. Appendix A sets forth the numerous statutory authorizations, restrictions and prohibitions on an athlete agent's ability to enter into an agent or professional sports services contract with a student-athlete. Appendix B categorizes and summarizes, demonstrating statistically which of the various athlete agent statutes contain the

NCAA eligibility rules).

9. Agent gifts to student-athletes are also heavily regulated. *See generally* Sudia and Remis, *Statutory Regulation of Agent Gifts to Athletes*, 10 SETON HALL J. SPORT L. 265 (2000) [hereinafter Sudia and Remis, *Agent Gifts to Athletes*].

10. *See infra* Part III.E.2. (regarding statutory restrictions on an athlete agent's ability to execute contracts with student-athletes).

11. *See* Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.B.

12. *See* Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.E.

13. *See* Sudia and Remis, *Agent Gifts*, *supra* note 9, at nn.38-47 and accompanying text.

14. *See infra* Part III. (NCAA rules prohibiting execution of contracts); *see also* Sudia and Remis, *Agent Gifts*, *supra* note 9, at Part II.A. (NCAA rules prohibiting agent gifts).

15. *See* Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.B.

16. *See infra* Part II.

17. *See* Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.E.7.

provisions analyzed in Appendix A.

II. NCAA RULES ON EXECUTION OF AGENT CONTRACTS WITH ATHLETES

The NCAA's Constitution expresses a desire by its membership universities to keep intercollegiate athletics separate from professional sports.¹⁸ To further this goal, the NCAA enacted rules restricting an athlete's ability to play professionally. Specifically, section 12.1.1 provides:

12.1.1 Amateur Status. An individual loses amateur status and thus shall not be eligible for intercollegiate competition in a particular sport if the individual:

* * *

(c) Signs a contract or commitment of any kind to play professional athletics, regardless of its legal enforceability or any consideration received;

(d) Receives, directly or indirectly, a salary, reimbursement of expenses or any other form of financial assistance from a professional sports organization based upon athletics skill or participation, except as permitted by NCAA rules and regulations;

(e) Competes on any professional athletics team and knows (or had reason to know) that the team is a professional athletics team . . . , even if no pay or remuneration for expenses was received; or

(f) Enters into a professional draft or an agreement with an agent.¹⁹

The prohibition against signing a professional sports services contract with a professional team is not all-encompassing. The NCAA specifically authorizes a student-athlete to retain intercollegiate eligibility in any sport other than the one he or she plays professionally.²⁰ Additionally, the NCAA promulgated several other rules that are also of particular importance to athlete agents. Section 12.3 of the NCAA rules specifically addresses the authorized and prohibited purposes for which a student-athlete may contact an athlete agent. This section provides in relevant part:

12.3.1 General Rule. An individual shall be ineligible for participation in an

18. See NCAA CONST., OPERATING BYLAWS AND ADMINISTRATIVE BYLAWS, art. 1, § 1.3.1, reprinted in 1999-00 NCAA DIVISION I MANUAL, [hereinafter NCAA MANUAL].

19. *Id.* § 12.1.1. See also § 12.2.4.2.1 (which allows a limited, one time exception for entering the professional basketball draft).

20. See NCAA MANUAL, *supra* note 18, § 12.1.2.

intercollegiate sport if he or she ever has agreed (orally or in writing) to be represented by an agent for the purpose of marketing his or her athletics ability or reputation in that sport. Further, an agency contract not specifically limited in writing to a sport or particular sports shall be deemed applicable to all sports, and the individual shall be ineligible to participate in any sport.

12.3.1.1 Representation for Future Negotiations. An individual shall be ineligible per 12.3.1 if he or she enters into a verbal or written agreement with an agent for representation in future professional sports negotiations that are to take place after the individual has completed his or her eligibility in that sport.

* * *

12.3.2 Legal Counsel. Securing advice from a lawyer concerning a proposed professional sports contract shall not be considered contracting for representation by an agent under this rule, unless the lawyer also represents the student-athlete in negotiations for such a contract.

12.3.2.1 Presence of a Lawyer at Negotiations. A lawyer may not be present during discussions of a contract offer with a professional organization or have any direct contact (i.e., in person, by telephone or by mail) with a professional sports organization on behalf of the student-athlete. A lawyer's presence during such discussions is considered representation by an agent.²¹

As these regulations reveal, a student-athlete may talk with an athlete agent without affecting her remaining intercollegiate eligibility. The regulations do not state that a student-athlete shall have no contact whatsoever with an athlete agent. Instead, the rules merely provide that the student-athlete cannot agree to be represented by an athlete agent, either orally or in writing.²² Furthermore, a student-athlete is specifically authorized to request information about her professional market value without losing eligibility.²³ The individual can also enter negotiations with a professional sports organization (or allow her parents or the university's professional sports counseling panel to do so) without losing amateur status.²⁴ However, if the student-athlete actually "*retains*" an agent, that athlete loses amateur status and associated intercollegiate eligibility.²⁵

Even though the NCAA does not prohibit an athlete agent from merely speaking to or otherwise contacting an athlete agent (as long as the student-athlete does not retain the agent's services), several state

21. NCAA MANUAL, *supra* note 18, §§ 12.3.1–12.3.2.1.

22. *See* NCAA MANUAL, *supra* note 18, § 12.3.1.

23. *See* NCAA MANUAL, *supra* note 18, § 12.2.4.3

24. *See* NCAA MANUAL, *supra* note 18, § 12.2.4.3.

25. *See* NCAA MANUAL, *supra* note 18, § 12.2.4.3.

legislatures either prohibit or restrict such agent contact with a student-athlete.²⁶ As analyzed *infra*, these statutory prohibitions and restrictions also potentially affect the agent's ability to execute a contract with a student-athlete in any states not regulating (or only partially regulating) such contracts.²⁷

III. STATUTORY REQUIREMENTS FOR CONTRACT EXECUTION

The provisions of the athlete agent statutes discussed in this article regulate an athlete agent's execution of agent and professional sports services contracts with a student-athlete. Four aspects will be discussed separately. First, some athlete agent statutes require that the agent provide notice of the contract to certain specified individuals or entities.²⁸ Second, some statutes mandate the time frames within which the agent must provide such notice.²⁹ Third, some athlete agent statutes regulate the content of the notice.³⁰ Lastly, some statutory provisions explicitly establish requirements relating to the actual contract itself such as time frames within which the *contract execution* must occur (as opposed to the timing requirements mandated for the *notice* of contract execution).³¹

A. Agent Notice of Contract Execution

1. Statutory Mandates in Absence of Notice Requirements

Twenty-one athlete agent statutes mandate that an athlete agent provide notice to certain individuals or entities upon executing a contract with an athlete.³² Before an agent decides to give notice, she should

26. See generally Sudia and Remis, *Agent Solicitation*, *supra* note 6 (whether such broad reaching statutory provisions are constitutional remains an issue for the courts to address). See Remis and Sudia, *Escaping Athlete Agent Regulation*, Part II. *supra* note 8 (regarding several constitutional defects contained within the athlete agent statutes).

27. See *infra* Part III.

28. See *infra* Part III.A.

29. See *infra* Part III.B.

30. See *infra* Part III.C.

31. See *infra* Part III.E.

32. See ALA. CODE § 8-26-22(d); ARIZ. REV. STAT. ANN. § 15-1763(B); ARK. CODE ANN. § 17-16-204(a); CAL. BUS. & PROF. CODE § 18897.7; FLA. STAT. ANN. § 468.454(2); GA. CODE ANN. § 43-4A-16(a)(1); IND. CODE ANN. § 35-46-4-4(2); KAN. STAT. ANN. § 44-1507(e); KY. REV. STAT. ANN. § 164.685; LA. REV. STAT. ANN. § 4:423(F)(2)(a); MD. CODE ANN. BUS. REG. § 4-415(a); MO. ANN. STAT. § 436.209(1); NEV. REV. STAT. ANN. § 398.095(1)(d); N.C. GEN. STAT. § 78C-75(c); N.D. CENT. CODE § 9-15-03(3); OHIO REV. CODE ANN. § 4771.02(B); OKLA. STAT. ANN. tit. 70 § 821.63(E); Or. H.B. No. 3628, 70th Leg., Reg. Sess. § 8; S.C. CODE ANN. § 59-102-30(B); TENN. CODE ANN. § 49-7-2113(4); TEX. OCC. CODE ANN. § 2051.203, .205.

observe that a loophole potentially obliterates the notice requirement altogether. As analyzed *infra*, the statutory flaw or loophole arises from the wording of the *timing* and *content* requirements contained within some of these same statutes.³³

The remaining seven statutes (Colorado, Connecticut, Iowa, Michigan, Minnesota, Mississippi and Pennsylvania) contain no provisions imposing agent notice requirements *specifically* addressing contract execution.³⁴ Even though these statutes contain no such provisions, since the “*execution of a contract*” is technically a “*contact*” with the athlete, other statutory provisions might impose notice requirements (or additional obligations) on the athlete agent for any contract execution with an athlete.³⁵ Since there would be no “specific” provision on the *contract execution* issue, the more “general” *contact* provision would arguably apply.³⁶ Although none of these seven statutes contain agent notice requirements for contact in general, these same statutes often impose other obligations on athlete agents.³⁷

2. Conflicting Mandates

If an athlete agent statute contains agent notice requirements for contact (in general) that differ from its notice requirements for contract execution, the applicable canon of statutory construction is that the “specific” controls the “general.” Accordingly, in these states, the more specific notice requirements for contract execution would prevail over any conflicting notice requirements for contact in general whenever an agent executes a contract with a student-athlete. The problem travels beyond mere theory. Arkansas illustrates the reality of an agent facing varying statutory mandates.

33. See *infra* Part III.D.

34. See generally COLO. REV. STAT. ANN. §§ 23-16-101 to -108; CONN. GEN. STAT. ANN. §§ 20-553 to -569; IOWA CODE ANN. §§ 9A.1-12; MICH. COMP. LAWS ANN. § 750.411e; MINN. STAT. ANN. § 325E.33; MISS. CODE ANN. §§ 73-41-1 to -23; 5 PA. CONS. STAT. ANN. §§ 3101-3312, 18 PA. CONS. STAT. ANN. § 7107.

35. For an analysis and summary of the notice requirements imposed on athlete agents for *contact in general* (as opposed to *contract execution*), both as to the *recipient* and *timing* of the notice, see Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.E.4-5.

36. The statutory canon of construction that the “specific” controls the “general” would not apply in this scenario since no “specific” provision exists to prevail over the “general” provision. For an analysis of the confusing and sometimes conflicting interrelationship among the statutory provisions regulating *contact (in general)*, *solicitation*, *gifts* and *contract execution*, see Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.A.

37. See generally Sudia and Remis, *Agent Solicitation*, *supra* note 6; Sudia and Remis, *Agent Gifts*, *supra* note 9.

a. *Arkansas' Varying Provisions*

Although not conflicting, Arkansas imposes varying notice requirements on athlete agents. Under the Arkansas athlete agent statute, if an agent *enters a contract* with a student-athlete, both the student-athlete and the athlete agent must notify the athletic director of the college in which the student-athlete is enrolled.³⁸ In contrast, if an agent *merely sends written materials to (or otherwise contacts)* a student-athlete, the agent must notify the: (1) student-athlete's head coach, (2) athletic director, or (3) athletic director's designee of the university in which the athlete is enrolled or has provided a written intent to participate in athletics.³⁹ Accordingly, an athlete agent has more choices relating to whom he may provide notice when simply contacting a student-athlete or sending the student-athlete written materials. When an athlete agent executes a contract with a student-athlete, the legislature requires that the notice be sent to the athletic director (rather than the head coach or director's designee).⁴⁰

It is unclear whether the two different mandates resulted from a mere oversight by the Arkansas legislature or whether the legislature desired that only the athletic director (due to his supervisory position) receive the notice of contract execution since the student-athlete automatically loses eligibility upon signing an agent contract. In other words, perhaps the legislature wanted only the top athletic personnel to receive notice since contract execution constitutes a very serious NCAA violation that may potentially carry financial consequences to the student-athlete or university that plays the ineligible student-athlete after he signs.⁴¹ Although one would like to think the conflict was a mere oversight rather than erroneous and unartful drafting, such does not appear to be the case when one considers that Arkansas contains absolutely no provisions specifically addressing the notice requirements for athlete agents when providing gifts to student-athletes. Arkansas contains no specific agent notice requirements for agent gifts to student-athletes even though such gifts destroy a student-athlete's remaining eligibility under NCAA regulations (just as contract execution destroys such eligibility).⁴²

38. See ARK. CODE ANN. § 17-16-204(a). See also *infra* Appendices A and B.

39. See ARK. CODE ANN. § 17-16-205(b)(1).

40. See *id.*

41. See *supra* Part II. (regarding NCAA regulations concerning a student-athlete's loss of eligibility after signing with an agent); see also Remis, *Remedies and Penalties*, *supra* note 4, at Part III.D. (regarding major and secondary violations of NCAA regulations and the devastating financial sanctions that the NCAA can impose for those violations).

42. For notice requirements applicable to gifts, see Sudia and Remis, *Agent Gifts*, *supra* note 9,

In other words, Arkansas legislated: (1) certain agent notice requirements for when an athlete agent sends written materials to a student-athlete; (2) different agent notice requirements for when an agent executes a contract with a student-athlete; and (3) absolutely no agent notice requirements specifically addressing an agent's providing of gifts to a student-athlete.⁴³ Considering that both *gifts* and *contracts* technically constitute *contact* as well, the following oddity results. First, *contact in general* is governed by only one notice provision. Second, *contracts* are technically governed by two provisions: (1) one provision applicable to contact in general; and (2) a second provision specifically addressing the execution of contracts. Third, *gifts* are governed by no provisions, unless one accepts the proposition that a gift is really a contact and should thus be governed by the provisions regulating contact in general (which is arguably the most logical interpretation).

b. Arizona's Varying Provisions

Arizona takes yet another approach. Although it regulates contract execution and agent gifts, Arizona does not specifically address any contact outside these two areas (i.e., Arizona contains no provisions relating to solicitation of athletes or contact in general).⁴⁴ Further, Arizona fails to impose agent notice requirements for gifts.⁴⁵ Instead, Arizona only mandates that an agent provide notice for contract execution.⁴⁶ Accordingly, in Arizona, an agent must only provide notice when executing a contract with a student-athlete and not when providing gifts to, or otherwise contacting or soliciting, the student-athlete.⁴⁷ The agent need not provide notice of any gifts even though the student-athlete loses eligibility upon receipt of the gift and even though the university (that plays the ineligible athlete after he receives the agent gift) might suffer severe economic sanctions, as a result of bowl payout forfeiture for example.⁴⁸

at Part II.B.4.

43. See generally ARK. CODE ANN. §§ 17-16-101 to -204.

44. See generally ARIZ. REV. STAT ANN. § 15-1763 (regulation of contract execution); see *id.* §§ 15-1762(A), 1763 (regulation of agent gifts); see generally *id.* at §§15-1761 to -1765 (lack of regulation of agent solicitation or contact in general).

45. See generally ARIZ. REV. STAT ANN. §§ 15-1762 to -1763.

46. See ARIZ. REV. STAT ANN. § 15-1763(B).

47. See *supra* notes 41-43 and accompanying text.

48. See Sudia and Remis, *Agent Gifts*, *supra* note 9, at Part II.A. (regarding NCAA regulations pertaining to agent gifts to athletes); see also, Remis, *Remedies and Penalties*, *supra* note 4, at Part III.D. (regarding the severe sanctions the NCAA may impose on universities).

3. Designated Recipients of Agent Notice

Six of these statutes require that the athlete agent send the notice to the *athletic director* of the university where the athlete is enrolled.⁴⁹ Arizona designates the university *president* as the notice recipient.⁵⁰ Seven statutes require that the athlete agent send the notice to *either* the *athletic director or president* of the university where the athlete is enrolled.⁵¹ Georgia requires that the athlete agent notify the state entity responsible for overseeing athlete agents.⁵² Six of these statutes require that the athlete agent send the notice to *both* the *university* (i.e., athletic director or president) and the designated *state* entity responsible for overseeing athlete agents where the athlete is enrolled.⁵³

California and Oregon recognize that young athletes are increasingly recruited by agents and universities alike. As such, they require notice to the principal, president or other chief administrator of the elementary, secondary school or university where the athlete is admitted or enrolled.⁵⁴ In addition to filing with the *state*, Maryland and North Carolina also require notice to the *principal or athletic director of the high school or university* where the athlete is admitted or attends.⁵⁵ Nevada simply requires notice to *representatives of the institution* the athlete attends, without specifying any particular individual.⁵⁶

As one can see, when the agent is required to send notice to the educational institution attended by the student-athlete, the athlete agent statutes generally require notice to either the athletic director (or coach) or

49. See ARK. CODE ANN. § 17-16-204(a); IND. CODE ANN. § 35-46-4-4(2); KAN. STAT. ANN. § 44-1507(e); N.D. CENT. CODE § 9-15-03(3); OKLA. STAT. ANN. tit. 70, § 821.63(E); TEX. OCC. CODE ANN. § 2051.205(a)(2).

50. See ARIZ. REV. STAT. ANN. § 15-1763(A).

51. See ALA. CODE § 8-26-22(c); FLA. STAT. ANN. § 468.454(1); KY. REV. STAT. ANN. § 164.684(2); LA. REV. STAT. ANN. § 4:423(F)(2)(a); MO. ANN. STAT. § 436.209(1); S.C. CODE ANN. § 59-102-30(B); TENN. CODE ANN. § 49-7-2113(b)(4).

52. In Georgia, the state entity designated to receive notice is the Georgia Athlete Agent Regulatory Commission. See GA. CODE ANN. §§ 43-4A-2, 4A-16(a)(1).

53. See ALA. CODE § 8-26-22(c); KAN. STAT. ANN. § 44-1507(e); LA. REV. STAT. ANN. § 4:423(F)(1)-(2)(a); OKLA. STAT. ANN. tit. 70, § 821.63(e); S.C. CODE ANN. § 59-102-30(B); TEX. OCC. CODE ANN. § 2051.205(a)(1)-(2). When this article references the *state* as an entity designated to receive an agent notice, it refers to either the secretary of state or some other designated regulatory body (e.g., Georgia Athlete Agent Regulatory Commission). See *supra* note 52.

54. See CAL. BUS. & PROF. CODE § 18897.7; Or. H.B. No. 3628, 70th Leg., Reg. Sess. § 8. As to the recruiting of young athletes, see Remis and Sudia, *Escaping Athlete Agent Regulation*, *supra* note 8, at 27 n. 82 and accompanying text.

55. See MD. CODE ANN. BUS. REG. § 4-415(a)(i)-(ii); N.C. GEN. STAT. § 78C-75(c).

56. See NEV. REV. STAT. ANN. § 398.095(1)(d). The athletic director would be the most logical person for the athlete agent to notify in Nevada. See *infra* notes 58-59 and accompanying text.

the president (or principal).⁵⁷ From a practical perspective, the most logical person to receive the notice would be the athletic director or coach (rather than the president or principal) since the athletic director and coach closely and directly involve themselves with the activities of their student-athletes and with NCAA regulations.⁵⁸ The president or principal would better serve as a designated hitter on-deck in case the athletic director and coach are unavailable.⁵⁹

B. Timing Requirements for Notices

All twenty-one athlete agent statutes requiring that athlete agents notify an individual or entity upon execution of a contract with a student-athlete also provide a time frame within which the agent must provide the notice.⁶⁰ The states differ in whether the notice required assumes a *pre-contractual* or *post-contractual* nature, and within these two sub-categories the exact time frames differ dramatically.

1. Pre-Contractual Notice

Indiana and Ohio are the only two statutes requiring *pre-contractual agent notice* of contract execution with a student-athlete.⁶¹ Ohio requires that the agent file the required notice with the individual responsible for the student-athlete's sports program at the university (i.e., *coach*) *no later than fourteen days before entering the contract*.⁶² Indiana, although similarly requiring pre-contractual notice, differs as to both the recipient and timing of the notice.⁶³ Indiana requires that the agent provide the

57. See *supra* notes 50-56 and accompanying text.

58. For a more detailed analysis of this issue, see Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.E.1.a.

59. See Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.E.1.a.

60. See ALA. CODE § 8-26-22(c); ARIZ. REV. STAT. ANN. § 15-1763(B); ARK. CODE ANN. § 17-16-204(a); CAL. BUS. & PROF. CODE § 18897.7; FLA. STAT. ANN. § 468.454(1); GA. CODE ANN. § 43-4A-16(a)(2); IND. CODE ANN. § 35-46-4-4(2); KAN. STAT. ANN. § 44-1507(e); KY. REV. STAT. ANN. § 164.684(2); LA. REV. STAT. ANN. § 4:423(F)(2)(a); MD. CODE ANN. BUS. REG. § 4-415(a)(ii); MO. ANN. STAT. § 436.209(1); NEV. REV. STAT. ANN. § 398.095(3); N.C. GEN. STAT. § 78C-75(c); N.D. CENT. CODE § 9-15-03(3); OHIO REV. CODE ANN. § 4771.02(B); OKLA. STAT. ANN. tit. 70, § 821.63(E); Or. H.B. No. 3628, 70th Leg., Reg. Sess. § 8(2); S.C. CODE ANN. § 59-102-30(B); TENN. CODE ANN. § 49-7-2113(b)(4); TEX. OCC. CODE ANN. § 2051.205(a). The remaining seven states (of the twenty-eight with athlete agent statutes) do not even require agent notice. See *supra* Part III.A.1.

61. See IND. CODE ANN. § 35-46-4-4(2); OHIO REV. CODE ANN. § 4771.02(B).

62. See OHIO REV. CODE ANN. § 4771.02(B). For an analysis of the statutorily designated recipients of the required agent notices for each state, see *supra* Part III.A.3. For an analysis of the required content of the agent notices for each state, see *infra* Part III.C.

63. See IND. CODE ANN. § 35-46-4-4(2).

required notice to the *university's athletic director no later than ten days prior* to contract execution.⁶⁴

2. Post-Contractual Notice

The remaining nineteen statutes require *post-contractual agent notice* of contract execution with a student-athlete.⁶⁵ Upon analyzing the statutes, varying time requirements emerge. In all, seven different post-contractual time frames exist and are separately categorized by state and time frame in Appendices A and B.⁶⁶ The most frequently surfacing time deadline for agent notification is: (1) before the athlete practices for or participates in athletics at the institution attended or enrolled, or (2) within seventy-two hours of the contract execution, whichever occurs first. Eight states impose this statutory deadline.⁶⁷ Five statutes contain the second most frequently occurring notice deadline: within five days of signing the contract.⁶⁸

California and Oregon impose the shortest post-contractual notification time frame: within forty-eight hours of contract execution.⁶⁹ Georgia contains the longest time frame: within ten days of signing the contract.⁷⁰ Arizona mandates notice within seven days of the contract signing.⁷¹

The remaining two states, Nevada and North Dakota, impose a three day post-contractual time limitation for the agent's sending of the required notice.⁷² These two states achieve varying results because they differ in the sounding of the starting gun. Nevada starts the clock from the moment

64. See *id.*

65. See ALA. CODE § 8-26-22(c); ARIZ. REV. STAT. ANN. § 15-1763(B); ARK. CODE ANN. § 17-16-204(a); CAL. BUS. & PROF. CODE § 18897.7; FLA. STAT. ANN. § 468.454(1); GA. CODE ANN. § 43-4A-16(a)(2); KAN. STAT. ANN. § 44-1507(e); KY. REV. STAT. ANN. § 164.05(2); LA. REV. STAT. ANN. § 4:423(2)(a); MD. CODE ANN. BUS. REG. § 4-415; MO. ANN. STAT. § 436.209(a)(ii); NEV. REV. STAT. ANN. § 398.095(3); N.C. GEN. STAT. § 78C-75(c); N.D. CENT. CODE § 9-15-03(3); OKLA. STAT. ANN. tit. 70 § 821.63(E); Or. H.B. No. 3628, 70th Leg., Reg. Sess. § 8(2); S.C. CODE ANN. § 59-102-30(B); TENN. CODE ANN. § 49-7-2113(b)(4); TEX. OCC CODE ANN. § 2051.205(a).

66. See *supra* notes 61-64 and accompanying text for two different *pre-contractual* time frames existing within the athlete agent statutes of Indiana and Ohio.

67. See ALA. CODE § 8-26-22(c); ARK. CODE ANN. § 17-16-204(a); FLA. STAT. ANN. § 468.454; KY. REV. STAT. ANN. § 164.05(2); LA. REV. STAT. ANN. § 4:423(F)(2)(a); MO. ANN. STAT. § 436.209(1); S.C. CODE ANN. § 59-102-30(B); TENN. CODE ANN. § 49-7-2113(b)(4).

68. See KAN. STAT. ANN. § 44-1507(e); MD. CODE ANN. BUS. REG. § 4-415(a)(ii); N.C. GEN. STAT. § 78C-75(c); OKLA. STAT. ANN. tit. 70, § 821.63(E); TEX. OCC. CODE ANN. § 2051.205(a).

69. See CAL. BUS. & PROF. CODE § 18897.7; Or. H.B. No. 3628, 70th Leg., Reg. Sess. § 8(2).

70. See GA. CODE ANN. § 43-4A-16(a)(2).

71. See ARIZ. REV. STAT. ANN. § 15-1763.

72. See NEV. REV. STAT. ANN. § 398.095(3); N.D. CENT. CODE § 9-15-03(3).

the contract is *entered*, whereas North Dakota's time frame begins upon the *signing* of the contract.⁷³ As noted *infra*, these different starting times, along with other statutory provisions, create a huge discrepancy in the potential effectiveness of the athlete agent statutes.⁷⁴

One final point on the sending of timely notice needs to be addressed before proceeding. Nevada and Tennessee explicitly require the athlete agent to send the notification of contract execution by registered or certified mail.⁷⁵ Most states may potentially assess severe penalties against athlete agents for failure to comply with the athlete agent legislation. Consequently, sending the agent notification via registered or certified mail even in the states not specifically requiring such mode of transmission will help protect the agent's interests in the event of future criminal or civil litigation by constituting proof of the agent's timely mailing of the notice.⁷⁶

C. Content of Notices

Surprisingly, only four of the twenty-one states mandating that agents provide notification of executed contracts with student-athletes also mandate the required content of the notice.⁷⁷ The particular content required for each of these four states is set forth and categorized by state and content in Appendices A and B.

As noted *supra*, Indiana and Ohio are the only two athlete agent statutes requiring *pre-contractual agent notice* of contracts executed with student-athletes.⁷⁸ These two states differ as to the designated *recipient* and *timing* of the agent notice.⁷⁹ Indiana and Ohio also differ in the required *content* of the agent notices. As to content, Ohio requires that the agent actually *file a copy of the proposed contract* with the designated

73. See NEV. REV. STAT. ANN. § 398.095(3); N.D. CENT. CODE § 9-15-03(3).

74. See *infra* Part III.D.

75. See NEV. REV. STAT. ANN. § 398.095(3); TENN. CODE ANN. § 49-7-2113(b)(4). Whether another provision of any particular athlete agent statute (or other statute, administrative regulation or court decision) requires *all* agent notices to be sent by registered or certified mail is beyond the scope of this article. This article focuses only on those statutory provisions *explicitly requiring* athlete agents to send *notice of contract execution* by registered or certified mail to certain designated individuals.

76. For a detailed analysis of the civil, criminal and administrative penalties that may be imposed on an athlete agent, see generally Remis, *Remedies and Penalties*, *supra* note 4.

77. See ARIZ. REV. STAT. ANN. § 15-1763(B); GA. CODE ANN. § 43-4A-16(a)(2); IND. CODE ANN. § 35-46-4-4(2); N.C. GEN. STAT. § 78C-75(c). See *supra* note 32 and accompanying text (regarding the remaining seventeen states that require agent notification of contract execution).

78. See IND. CODE ANN. § 35-46-4-4; OHIO REV. CODE ANN. § 4771.02. See *supra* Part III.B.1.

79. See IND. CODE ANN. § 35-46-4-4; OHIO REV. CODE ANN. § 4771.02.

recipient (i.e., coach) within the required time frame (i.e., no later than fourteen days before entering the contract).⁸⁰ Indiana's athlete agents must file the notice with the designated recipient (i.e., athletic director) within the required time frame (i.e., no later than ten days before the contract is executed) and must include within that notice the following information: (1) name and address of the parties to the contract; (2) whether the contract is a professional sports services contract or agent contract; and (3) date the contract will be executed.⁸¹

Comparing the two athlete agent statutes, Indiana provides agents a shorter time frame within which to provide the notice but is much more lenient with respect to the content of the notice since a copy of the actual proposed contract need not be filed.⁸² In Indiana, an agent merely has to provide a few simple and brief identifying facts about the contract.⁸³ Although Ohio is tougher than Indiana on the content requirement, the wording of the two statutes reveals that Indiana encompasses far more agent activity than Ohio, as discussed *infra*.⁸⁴

Arizona and Georgia simply require the agent to include within the notice the name of the athlete, educational institution and sports in which the athlete competes.⁸⁵ North Carolina requires the agent notice to contain the (1) name and address of the athlete, athlete agent and employer; (2) dates of contract execution and memorandum of contract; and (3) signature of the athlete agent.⁸⁶

D. Legislative Flaw: Signing/Writing vs. Entering/Executing

As one peruses the numerous detailed legislative provisions contained within the twenty-eight athlete agent statutes, carefully reading each and every line, one cannot help but ponder whether some legislatures have a true understanding of NCAA regulations.⁸⁷ Some of these legislatures certainly underscored and otherwise highlighted their misunderstanding of NCAA rules through enactment of the statutory requirements discussed, *supra*, regarding the *recipient*, *timing* and *content* of the agent contract notifications.⁸⁸ These legislatures highlight their misunderstanding through

80. See OHIO REV. CODE ANN. § 4771.02.

81. See IND. CODE ANN. § 35-46-4-4.

82. See *id.*; see also *supra* notes 78-81 and accompanying text.

83. See IND. CODE ANN. § 35-46-4-4.

84. See *infra* Part III.D.

85. See ARIZ. REV. STAT. ANN. § 15-1763(B); GA. CODE ANN. § 43-4A-16(a)(2).

86. See N.C. GEN. STAT. § 78C-75(c).

87. See *supra* note 2 (regarding the twenty-eight states with athlete agent statutes).

88. See *supra* Part III.A. (regarding recipient requirements); Part III.B. (regarding timing requirements); Part III.C. (regarding content requirements).

the use (or “nonuse” or “misuse”) of the terms “signed,” “written,” “entered” and “executed.” Indiana and Ohio will once again illustrate this principle.⁸⁹

Indiana requires that an athlete agent provide notice of a contract ten days before it is executed.⁹⁰ Ohio, in contrast, requires that: (1) all agent contracts be in writing; and (2) that not less than fourteen days before entering the contract, the agent must provide a copy of the proposed contract to the supervisor of the student-athlete’s sports program (i.e., coach).⁹¹ To the naked eye, Ohio’s statute appears to be more wisely drafted since it prohibits an athlete agent from entering into an agreement with a student-athlete unless the agent reduces it to writing.⁹² In theory, Ohio’s statute better protects the student-athlete in this regard and other legislatures would wisely protect their athletes and universities better if they did include such statutory provisions.

The problem with Ohio’s statute is not that it requires contracts to be in writing. Instead, Ohio’s mistake turns upon its notice requirement. In Ohio, the only notice requirement imposed on athlete agents is that they file a copy of the proposed written contract with the coach. Ohio’s requirement of filing the proposed written contract appears more burdensome than Indiana’s notice requirement for it is much more difficult to come up with a written contract to file with the university (as required in Ohio) than it is to merely state the names of the parties and the nature of the contract (as required in Indiana).⁹³ Where Ohio fails, however, is in its ability to address the scenario when an athlete agent decides to defy the statutory mandate of a written contract. In Ohio, the legislature felt that requiring a written contract, and then requiring the agent to file the contract with the coach, properly safeguarded against agent misconduct. What that legislature failed to realize is that not all athlete agents will follow the rules statutorily established in Ohio. In other words, some of them might be criminals and simply not care that the statute requires a writing. If no “writing” exists, there can be no proposed contract to file. Therefore, in Ohio, no notice is required to be filed for an oral contract.

Additionally, if the Ohio legislature better understood NCAA rules, it would have known that the NCAA renders a student-athlete ineligible

89. See IND. CODE ANN. § 35-46-4-4(2); OHIO REV. CODE ANN. § 4771.02(B). See *supra* Part III.B. (regarding the differentiation between the *timing* requirements for Indiana and Ohio); Part III.C. (regarding the differentiation between the *content* requirements for Indiana and Ohio).

90. See IND. CODE ANN. § 35-46-4-4(2).

91. See OHIO REV. CODE ANN. § 4771.02(B).

92. See *id.*

93. See IND. CODE ANN. § 35-46-4-4(2); OHIO REV. CODE ANN. § 4771.02(B). See *supra* Part III.C. (regarding the differentiation between the *content* requirements for Indiana and Ohio).

upon entering an “oral or written” contract with an agent.⁹⁴ The NCAA also prohibits oral agreements for representation in the future (i.e., after eligibility expires).⁹⁵ Further, if the Ohio legislature thinks the state’s universities are safe from NCAA sanctions because Ohio renders oral agent contracts illegal or unenforceable, the Ohio legislature should think again. Under NCAA rules, a student-athlete who signs an agent or professional sports services contract is ineligible *even if the contract is unenforceable* in that jurisdiction.⁹⁶ The fact that Ohio prohibits oral contracts constitutes nothing more than an irrelevant, meaningless technicality to the NCAA. Nevertheless, Ohio apparently felt it was enough to simply prohibit oral contracts and require agents to file the written contracts. Such statutory provisions are insufficient to protect Ohio’s athletes and universities, which is the reason all athlete agent legislation is enacted in the first place.⁹⁷

The Ohio legislature should not let its emotions drag too low, though, as it was not alone in drafting insufficient legislation on this issue. For example, some states (e.g., Kansas) do not require agent notice until a certain number of days after the contract is *signed*.⁹⁸ Kansas’ utilization of the “signing” of a contract as the triggering event for agent notice equates with Ohio’s requirement of a writing.⁹⁹ Legislative language that better serves the states’ interests in protecting its athletes and universities can be found in states like California, where the triggering event for agent notice is the “entering” of the contract. “Entering” the contract, by necessity, contemplates both oral and written contracts and more effectively informs the universities of potential NCAA violations. Indiana’s use of the term “execution” is arguably equally effective but is somewhat vague, depending on whether “execution” is interpreted by the courts (or better yet defined in the statute) as a term with legal significance to “oral” contracts or as a term applying only to the reducing of an oral agreement to writing.¹⁰⁰ Appendices A and B set forth and categorize the particular language utilized by each statute when mandating agent notification of

94. See *supra* Part II. (regarding NCAA regulations pertaining to loss of a student-athlete’s eligibility upon signing with an agent).

95. See *supra* Part II.

96. See *supra* Part II.

97. See *supra* note 3 and accompanying text (regarding Colorado’s legislative declaration).

98. See, e.g., KAN. STAT. ANN. § 44-1507(e). For the specific requirements for each state, see *supra* Part III.B.2.; see also Appendices A and B.

99. Cf. KAN. STAT. ANN. § 44-1507(e) with OHIO REV. CODE ANN. § 4771.02(B).

100. Statutory interpretation of the contractual significance of the term “execute” is beyond the scope of this article but could potentially be an issue raised by an athlete agent when being charged with violation of the athlete agent statute in a particular jurisdiction.

contract execution. For states with no notice requirements specifically addressing contract execution, the notice requirements for contact in general arguably apply to contract execution.¹⁰¹

If a written contract exists, then certainly Ohio wisely requires the agent to file the contract with the university. Indiana would arguably better protect its athletes and universities if it also required the agent to file the proposed contract. Indiana and Ohio (both of which require *pre-contractual* notice of contract execution) show much more wisdom than their nineteen sister states that only require *post-contractual* notice.¹⁰² On this same issue, the Indiana and Ohio legislatures appear as near geniuses to the seven states that require *no notice* at all (bearing in mind the caveat discussed, *supra*, that these states might have other applicable notice requirements in other provisions).¹⁰³ For if the university receives notice *after* the contract is executed (as required in nineteen states), the university might be able to protect itself but will not be able to protect the athlete since the damage will already be done. If the appropriate school personnel (i.e., coach, athletic director, principal or president) obtain notice of a proposed contract before it is executed, these individuals can warn the athlete about not signing the agreement. If the university does not get the notice until after the contract is signed, then the athlete already is beyond help for he loses eligibility upon signing.¹⁰⁴

Further, although the university might be able to protect itself from NCAA sanctions by receiving notice after the contract is executed, no guarantee exists that this result will occur. For instance, if a student-athlete signs a contract and participates in an intercollegiate bowl game thereafter, the university has played an ineligible athlete and the NCAA can forfeit their win of the bowl game and the multi-million dollar payout associated therewith.¹⁰⁵ This inherent statutory defect compounds when one considers that the states requiring post-contractual notice vary in their timing requirements from between forty-eight hours to ten days after the

101. See *supra* notes 35-36 and accompanying text; see generally Sudia and Remis, *Agent Solicitation*, *supra* note 6.

102. See *supra* Part III.B.2. (regarding the states that require *post-contractual* notice rather than *pre-contractual* notice). See also Appendices A and B.

103. See *supra* note 34 and accompanying text (regarding the seven states with no agent notice requirements specifically addressing execution of contracts). See also *supra* note 35 and accompanying text (regarding other statutory provisions that arguably impose notice requirements for executed contracts such as the provisions mandating agent notice for contact in general with athletes).

104. See *supra* Part II. (regarding NCAA eligibility rules).

105. See *supra* note 41 and accompanying text (regarding NCAA eligibility rules and potentially severe NCAA sanctions).

contract signing.¹⁰⁶ As to the states that do not even require agent notice of contract execution, the phrase “better late than never” would certainly appear appropriate.¹⁰⁷

E. Requirements for the Actual Contract

1. Absolute Prohibition/Statutorily Authorized Contracts Only

Some states place an absolute bar on the ability of an athlete agent to contract with an athlete unless certain requirements are met. First, California and Nevada prohibit an athlete agent from securing employment for any athlete during a strike, lockout or other labor trouble unless the agent first notifies the athlete of those conditions.¹⁰⁸

Second, seven states contain a very important second brand of restriction. Namely, that an athlete agent cannot execute a contract unless such execution is specifically provided for in the athlete agent statute itself.¹⁰⁹ This provision is similar to the broader provision regarding the statutes that prohibit agents from having *any contact* with athletes unless specifically provided for by statute.¹¹⁰

2. Timing Requirements for Contract Execution

Fourteen athlete agent statutes provide a third type of restriction, namely that a contract cannot be executed with an athlete outside a specified time frame.¹¹¹ This restriction regulates the *timing of the actual contract* execution (rather than the timing of the *notice* of contract execution).¹¹² In other words, some states mandate that contracts be executed with student-athletes only during certain designated time periods.

When analyzing these statutes, one can categorize the varying time

106. See *supra* Part II.B.2.; see also *infra* Appendices A and B.

107. See *supra* notes 34-35, 95 and accompanying text.

108. See CAL. BUS. & PROF. CODE § 18897.43; NEV. REV. STAT. ANN. § 597.920(1)(g).

109. See IOWA CODE ANN. § 9A.8(1); LA. REV. STAT. ANN. § 4:424(8); MISS. CODE ANN. § 73-41-11(g); N.C. GEN. STAT. § 78C-76(b)(5); N.D. CENT. CODE § 9-15-04(1); OKLA. STAT. ANN. tit. 70, § 821.64(8); TEX. OCC. CODE ANN. § 2051.351(B).

110. See Sudia and Remis, *Agent Solicitation*, *supra* note 6, at Part II.E.7.

111. See ARIZ. REV. STAT. ANN. § 15-1763(B); CONN. GEN. STAT. ANN. § 20-555(4); GA. CODE ANN. § 43-4A-16(a)(1); IOWA CODE ANN. § 9A.8(3); KAN. STAT. ANN. § 44-1508(b)(5); MD. CODE ANN. BUS. REG. § 4-423(1); MICH. COMP. LAWS ANN. § 750.411(e)(1)(a); MINN. STAT. ANN. § 325E.33(3); MISS. CODE ANN. § 73-41-11(g); N.C. GEN. STAT. § 78C-76(b)(5); OHIO REV. CODE ANN. § 4771.02(B); OKLA. STAT. ANN. tit. 70, § 821.64(8); 5 PA. CONS. STAT. ANN. § 3305(1), 18 PA. CONS. STAT. ANN. § 7107; TEX. OCC. CODE ANN. § 2051.202, .351(7)(B).

112. As to the statutory requirements pertaining to the timing of the notice of contract execution (either *pre-contractual* or *post-contractual* in nature), see *supra* Part III.B.

requirements relating to contract execution. The requirements mostly differ in three significant ways: (1) the *triggering event* (e.g., university's receipt of agent's notice of intent to contract, athlete's intercollegiate eligibility expiring, athlete's waiving of eligibility, and intercollegiate association rules); (2) the *recipient of the agent's notice* of intent to contract (e.g., athletic director, president or state); and (3) the *number of days* after the triggering event that the athlete agent must wait before contracting with the athlete (e.g., anywhere between seven and thirty days from the time the president, athletic director or state receives the agent's notice of intent to contract, depending on the particular state involved). Appendices A and B set forth and categorize the differing triggering events, notice recipients and agent waiting periods when executing contracts with athletes.¹¹³ As one can determine from Appendix B, the most frequently surfacing time prohibition (occurring in eleven of the fourteen statutes) mandates that athlete agents not execute contracts with an athlete before the athlete's intercollegiate eligibility expires or the athlete competes in his last athletic contest, including post season.¹¹⁴

3. Contractual Terms and Other Notices

A few final points must be made concerning statutory regulation of contracts. As the following requirements have previously been analyzed, only a brief reflection is due. First, several statutes contain provisions that mandate the required *content of the actual contracts* (i.e., various notices and other terms contained within the actual agent contract rather than notices of contract execution).¹¹⁵ For example, some states mandate that agent contracts include a particular warning to the student-athlete about matters such as potential loss of eligibility upon signing the contract.¹¹⁶

Second, some of the legislatures of the twenty-eight states with athlete

113. See *infra* Appendices A and B. Also, although not specifically dealt with in this article, the post-dating of contracts is also usually explicitly prohibited by statute in most states. See e.g., MISS. CODE ANN. § 73-41-11(g) ("[A]n athlete agent may not enter into an agreement before the athlete's last intercollegiate contest that purports to take effect at a time after that contest is completed.") Additionally, for a detailed analysis of the various notices and other terms that must be included *within the agent contract itself*, as opposed to within the *notice* of contract execution, see generally Remis, *Registration and Reporting*, *supra* note 5.

114. See ARIZ. REV. STAT. ANN. § 15-1763(A); CONN. GEN. STAT. ANN. § 20-555(4); GA. CODE ANN. § 43-4A-16(a)(1); IOWA CODE ANN. § 9A.8(4); MD. CODE ANN. BUS. REG. § 4-423; MICH. COMP. LAWS ANN. § 750.411(e)(b)(3); MISS. CODE ANN. § 73-41-11(g); N.C. GEN. STAT. § 78C-76(b)(5); OKLA. STAT. ANN. tit. 70, § 821.64(8); 5 PA CONS. STAT. ANN. § 3305(a)(1), 18 PA. CONS. STAT. ANN. § 7107; TEX. OCC. CODE ANN. §§ 2051.202, .351(7).

115. See Remis, *Registration and Reporting*, *supra* note 5, at 444 and Appendices A through D.

116. See Remis, *Registration and Reporting*, *supra* note 5, at 446.

agent legislation impose several other notice requirements on the athlete agent other than those pertaining to contract execution or other contact with athletes.¹¹⁷ Third, some states also impose notice requirements on the student-athletes rather than just the athlete agents.¹¹⁸ Nevertheless, many more states exist that impose mandates only on athlete agents, and any states that do impose mandates on student-athletes do not dispense with the need for the athlete agent to also provide the required notices.¹¹⁹ Further, the potential statutory penalties are often not the same for the student-athlete and athlete agent.¹²⁰ Finally, players' associations often require athlete agents to utilize the association's form player contract in order to represent an athlete.¹²¹

IV. CONCLUSION

Sitting in the cheap seats of the stadium bleachers, with a pole blocking their view, the legislatures of twenty-eight states have focused their binoculars on an athlete agent's every move. When an athlete agent executes a contract with a student-athlete in a state with different notice requirements for contact (in general) and contract execution, the agent should abide by the more specific notice requirements addressing contract execution (assuming any requirements exist).¹²² To be extra cautious in such states, a prudent athlete agent might wish to abide by any additional non-conflicting requirements (notice or otherwise) imposed for contact in general, if any exist, since contract execution is also a contact.¹²³

Any athlete agent desiring to execute an agent contract (or any other type of contract such as a professional sports services contract or endorsement agreement) must exercise extreme care in doing so. Athlete agents subject themselves to many requirements established via statutes and players' association regulations. Some comforting words for the athlete agents: *At least twenty-two states do not regulate the activities of athlete agents . . . yet!*

117. See Remis, *Registration and Reporting*, *supra* note 5, at 444.

118. See Remis, *Registration and Reporting*, *supra* note 5, at 445 and Appendices A through D.

119. See Remis, *Registration and Reporting*, *supra* note 5, at 444.

120. See generally Remis, *Remedies and Penalties*, *supra* note 4.

121. See Remis, *Registration and Reporting*, *supra* note 5, at 454.

122. See, e.g., ARK. CODE ANN. § 17-16-205(10).

123. Any athlete agent desiring to know of any differing requirements should consult and compare Appendices A and B, *infra*, with the appendices for each of the following articles: Sudia and Remis, *Agent Solicitation*, *supra* note 6; Sudia and Remis, *Agent Gifts*, *supra* note 9.

APPENDIX "A"
STATUTORY REGULATION OF AGENT CONTRACTS WITH
ATHLETES[†]

ALABAMA

Agent Contracts With Athletes [ALA. CODE § 8-26-22 (WESTLAW through 1999 Reg. Sess.)]

1. An athlete agent physically present on a campus or university for the purpose of recruiting any student-athlete to enter into (or negotiate) any contract must register with the athletic director (or president).
2. An athlete agent who negotiates (or enters into) an agent contract (oral or written) with a student-athlete who is subject to the rules and regulations of an intercollegiate sports governing body must notify the:
 - a. Athletic director (or president) of the college or university in which the student-athlete is enrolled; and
 - b. Alabama Athlete Agent Regulatory Commission, that the athlete agent negotiated (or has entered into) a contract with the student-athlete.
3. An athlete agent must provide written notification of the contract, regardless of the legal enforceability of the contract:
 - a. Before the student-athlete practices for, or participates in, an athletic event on behalf of a college or university; or
 - b. Within seventy-two (72) hours after entering into the contract,whichever occurs first.

ARIZONAAgent Contracts With Athletes [ARIZ. REV. STAT. ANN. § 15-1763
(West, WESTLAW through 1999 Reg. Sess. and 2nd Spec. Sess.)]

1. When an athlete agent and an athlete enter into a verbal agreement in which the athlete agent and the athlete agree that the agent will contractually represent the athlete before the athlete's eligibility to participate in intercollegiate sports at an institution of higher education terminates, the athlete agent must notify (in writing) the president of the institution of higher education that is attended by the athlete of the verbal agreement.
2. An athlete agent may not sign the athlete to an agent contract until the expiration of seven (7) days from the date that the president receives the notice.
3. An athlete agent who signs an athlete to an agent contract before the athlete's eligibility to participate in intercollegiate sports at an institution of higher education terminates must notify (in writing) the president of the institution of higher education that is attended by the athlete within seven (7) days of the signing.
4. These required notices (*see supra* #1-3) must include the name of the:
 - a. Athlete;
 - b. Athlete's institution of higher education; and
 - c. Sport or sports in which the athlete competes.
5. Before signing an agent contract, an athlete agent may not take any action in connection with the athlete that may jeopardize the athlete's eligibility to participate in intercollegiate sports contests.

ARKANSASAgent Contracts With Athletes [ARK. CODE ANN. §§ 17-16-204
(Michie, WESTLAW through 1999 Reg. Sess.)]

1. An athlete agent who enters into an agent contract with a student-athlete must provide written notice of the contract to the athletic director of the college or university in which the student-athlete is enrolled.

2. The athlete agent must provide the written notice:
 - a. Before the contracting student-athlete practices, or participates, in any intercollegiate athletic event; or
 - b. Within seventy-two (72) hours after entering into the contract,whichever occurs first.

CALIFORNIA

Agent Contracts With Athletes [CAL. BUS. & PROF. CODE §§ 18897.43, .7 (West 1990)]

1. No athlete agent may knowingly secure employment for persons in any place where a strike, lockout or other labor trouble exists, without notifying the person of those conditions.
2. An athlete agent who enters into an agent (or endorsement or professional sports services) contract with a student-athlete must provide written notice of the contract to the:
 - a. Principal;
 - b. President; or
 - c. Other chief administrator,of the:
 - i. Elementary or secondary school;
 - ii. College or university; or
 - iii. Other educational institutionto which the student-athlete has been admitted or is enrolled.
3. The athlete agent must provide the notice of the contract (in writing) within forty-eight (48) hours of entering into the contract.

COLORADO

*

CONNECTICUT

Agent Contracts With Athletes [CONN. GEN. STAT. ANN. § 20-555 (West 1999)]

1. An athlete agent may not enter into an agent (or professional sport services) contract (oral or written) with an athlete before the athlete's eligibility for collegiate athletics expires.

FLORIDA

Agent Contracts With Athletes [FLA. STAT. ANN. § 468.454 (West 1994)]

1. An athlete agent who enters into an agent contract with a student-athlete must provide written notice of the contract to the athletic director (or president) of the college or university in which the student-athlete is enrolled.
2. The athlete agent must give the required notice:
 - a. Before the contracting student-athlete practices or participates in any intercollegiate athletic event; or
 - b. Within seventy-two (72) hours after entering into the contract,whichever occurs first.

GEORGIA

Agent Contracts With Athletes [GA. CODE ANN. § 43-4A-16 (WESTLAW through 1999 Gen. Ass.)]

1. Prior to the signing of an agent contract, an athlete agent may not take any action in connection with an athlete that may jeopardize the athlete's eligibility to participate in intercollegiate sports contests at an institution of higher education.
2. An athlete agent who intends to sign an athlete to an agent contract prior to the termination of the athlete's eligibility to participate in intercollegiate sports contests at an institution of higher education must notify (in writing) the Georgia Athlete

- Agent Regulatory Commission of the intention to sign the contract.
3. The notice filed by the athlete agent with the commission (*see supra* #2) shall be confidential information and not a public record.
 4. An athlete agent is not permitted to sign an athlete to an agent contract until the expiration of thirty (30) days from the date that the commission receives notice from the agent of the intention to sign the contract.
 5. An athlete agent who signs an athlete to an agent contract prior to termination of the athlete's eligibility to participate in intercollegiate sports contests at an institution of higher education must notify the commission in writing within ten (10) days of the date of signing.
 6. The required notices (*see supra* #2-5) must include the name of the:
 - a. Athlete;
 - b. Athlete's institution of higher education; and
 - c. Sport or sports in which the athlete competes at the institution of higher education.
 7. The commission must within seven (7) business days notify (in writing) the athletic director of the institution of higher education attended by the athlete, provided that the institution has filed the annual report required by this statute.

INDIANA

Agent Contracts With Athletes [IND. CODE ANN. § 35-46-4-4 (West 1998)]

1. An athlete agent who knowingly or intentionally enters into an agent (or professional sports services) contract with a student-athlete must, no later than ten (10) days before the contract is executed, provide written notice to the head of the athletic department for the college or university in which the student-athlete is enrolled that identifies:
 - a. The name and business address of each party to the contract;

- b. Whether the contract is an agent contract or a professional sports services contract; and
- c. The date that the contract will be executed.

IOWA

Agent Contracts With Athletes [IOWA CODE ANN. § 9A.8 (West 1995)]

1. An athlete agent may not, except as otherwise provided in this statute, enter into an agreement (written or oral) by which the athlete agent will represent a student-athlete until after completion of the student-athlete's last intercollegiate athletic contest (including any postseason contest).

KANSAS

Agent Contracts With Athletes [KAN. STAT. ANN. §§ 44-1507, -1509 (WESTLAW through 1998 Reg. Sess.)]

1. An athlete agent must file a copy of each agent (and financial services) contract entered into with an athlete:
 - a. With the secretary of state; and
 - b. If the athlete is a student at an institution of higher education located in Kansas, also with the athletic director of the institution.
2. An athlete agent must file the contract (*see supra* #1) not later than the fifth (5th) day after the date on which the contract is signed by the athlete.
3. The signing of an athlete agent contract by an athlete may occur at any time permitted by the rules or regulations of the national association for the promotion and regulation of intercollegiate athletics of which the athlete's institution of higher education is a member.

KENTUCKY

Agent Contracts With Athletes [KEN. REV. STAT. ANN. § 164.05 (Michie, WESTLAW through 1998 Reg. Sess.)]

1. An athlete agent who negotiates (or enters into) an agent contract (oral or written) with a student-athlete who is subject to the rules and regulations of an intercollegiate sports governing body must notify the athletic director (or president) of the college or university in which the student-athlete is enrolled that the athlete agent negotiated (or entered into) a contract with a student-athlete.
2. An athlete agent must give written notification of the contract, regardless of the legal enforceability of the contract:
 - a. Before the student-athlete practices for, or participates in, an athletic event on behalf of a college or university;
or
 - b. Within seventy-two (72) hours after entering into the contract,
whichever occurs first.

LOUISIANA

**Agent Contracts With Athletes [LA. REV. STAT. ANN. §§ 4:423–424
(West, WESTLAW through 1999 Reg. Sess.)]**

1. Any agent contract to be used by an athlete agent with an athlete must be filed with the public protection division of the Department of Justice.
2. If an athlete agent executes an agent contract with an athlete who has never before signed a contract of employment with a professional sports team, the athlete agent must:
 - a. File a copy of the agent contract with the public protection division of the Department of Justice;
 - b. If the athlete is a full-time student at an institution of higher education located in Louisiana:
 - i. Provide written notice of the contract to; and
 - ii. File the contract with,
the athletic director (or president) of the institution; and
 - c. Give notice:
 - i. Before the contracting athlete practices, or participates, in any intercollegiate athletic event;
or

- ii. Within seventy-two (72) hours after entering into the contract,
whichever occurs first.
3. Except as provided with respect to on-campus agent interviews, an athlete agent may not enter into any agreement (written or oral) by which the agent will represent an athlete.

MARYLAND

Agent Contracts With Athletes [MD. CODE ANN. BUS. REG. §§ 4-415, -423 (WESTLAW through 1999 Reg. Sess.)]

1. A sports agent must submit a copy of each sports agent contract to the:
 - a. Secretary of state; and
 - b. Athletic director of the institution of higher education (or high school) of the local athlete within five (5) days after the day on which the local athlete signs the sports agent contract.
2. Before a local athlete's last intercollegiate (or high school) athletic event (including any postseason game) a sports agent may not make a sports agent contract with the local athlete.

MICHIGAN

Agent Contracts With Athletes [MICH. COMP. LAWS ANN. § 750.411(e) (West 1991)]

1. An athlete agent may not induce a student-athlete to enter into an agent (or professional sport services) contract before the student-athlete's eligibility for collegiate athletics expires.

MINNESOTA

Agent Contracts With Athletes [MINN. STAT. ANN. § 325E.33(3) (West 1995)]

1. A person may not, before the effective date of a student-athlete's waiver of intercollegiate athletic eligibility, enter into a contract (written or oral) with a student-athlete to:
 - a. Serve as the agent of the student-athlete in obtaining a professional sports contract; or
 - b. Represent the student-athlete (or a professional sports organization) in obtaining a professional sports contract for or with a student-athlete.

MISSISSIPPI

Agent Contracts With Athletes [MISS. CODE ANN. § 73-41-11 (1999)]

1. Except as provided with respect to on-campus interviews, an athlete agent may not enter into any agreement (written or oral) by which the athlete agent will represent the athlete until after completion of the athlete's last intercollegiate sports contest (including postseason games).

MISSOURI

Agent Contracts With Athletes [MO. ANN. STAT. § 436.209 (West, WESTLAW through 1999 1st Ext. Sess.)]

1. An athlete agent who enters into an agent (or financial services or professional sports services) contract with a student-athlete who is subject to the rules and regulations of the:
 - a. National Collegiate Athletic Association;
 - b. National Association for Intercollegiate Athletics; or
 - c. National Junior College Athletic Association,must provide written notification to the athletic director (or president) of the college or university in which the student-athlete is enrolled that the student-athlete has entered into the contract.
2. An athlete agent must give written notification of the contract:
 - a. Prior to the student-athlete's practicing for, or participating in, any athletic event on behalf of any college or university; or

- b. Within seventy-two (72) hours after entering into the contract,
whichever occurs first.

NEVADA

Agent Contracts With Athletes [NEV. REV. STAT. ANN. §§ 398.095, 597.920 (Michie, WESTLAW through 1997 Reg. Sess.)]

1. A sports agent who enters into a contractual relationship with a student-athlete during the student-athlete's period of eligibility must, not later than three (3) days after entering into the contractual relationship, send notice of the contractual relationship (by registered or certified mail) to the representatives of the institution the student-athlete is attending.
2. A sports agent may not knowingly secure employment for any person with an employer experiencing a strike, lockout or other problems with his employees, without first notifying the person of those conditions.

NORTH CAROLINA

Agent Contracts With Athletes [N.C. GEN. STAT. §§ 78C-75 to -76 (Michie, WESTLAW through 1998 Cum. Supp.)]

1. An athlete agent must file a memorandum of contract for each agent (and financial services) contract with the:
 - a. Secretary of state; and
 - b. Athlete's high school principal (or athletic director of the institution of higher learning to which the athlete is admitted),
 within five (5) days after the contract is signed by the athlete.
2. This memorandum of contract must include the:
 - a. Date of the contract;
 - b. Name and address of the athlete;
 - c. Name and address of the athlete agent;
 - d. Name and address of the employer;
 - e. Date of the memorandum of contract; and
 - f. Signature of the athlete agent.

3. Except as otherwise provided herein, an athlete agent may not enter into any agreement (written or oral) by which the athlete agent will represent the athlete, until after completion of the athlete's last high school (or intercollegiate) contest (including postseason games).

NORTH DAKOTA

Agent Contracts With Athletes [N.D. CENT. CODE §§ 9-15-03 to -04 (WESTLAW through 1999 Reg. Sess.)]

1. If an athlete agent enters into a contract with an athlete who is a student at an institution of higher education located in North Dakota, the athlete agent must file a copy of the contract with the athletic director of the institution not later than the third (3rd) day after the date on which the contract was signed by the athlete.
2. Except as otherwise provided by this chapter, an athlete agent may not enter any agreement with an athlete.

OHIO

Agent Contracts With Athletes [OHIO REV. CODE ANN. § 4771.02 (West, WESTLAW through portion of 123rd Gen. Ass.)]

1. An athlete agent may not enter into an agent contract with a student-athlete unless:
 - a. The contract is in writing; and
 - b. Not less than fourteen (14) days before entering into the contract, the athlete agent files a copy of the proposed contract with the official who is responsible for the supervision of the particular sport program at the institution of higher education at which the student-athlete who is a participant in the program is enrolled.

OKLAHOMAAgent Contracts With Athletes [OKLA. STAT. ANN. tit. 70, §§ 821.63–
.64 (West 1997)]

1. A registered athlete agent must file a copy of an agent contract made with an Oklahoma non-NCAA athlete who has never before signed a contract of employment with a professional sports team with the:
 - a. Secretary of state; and
 - b. If the Oklahoma non-NCAA athlete is a student at an institution of higher education located in Oklahoma, also with the athletic director of the institution.
2. The athlete agent must file the contract not later than the fifth (5th) day after the date the contract is signed by the athlete.
3. Except as provided in this Act, a registered athlete agent may not enter into any agreement (written or oral) by which the athlete agent will represent the athlete, until after completion of the athlete's last intercollegiate contest (including postseason games).

OREGONAgent Contracts With Athletes [H.B. 3628, 70TH LEG., REG. SESS. § 8
(OR. 1999)]

1. An athlete agent who enters into an agent (endorsement or professional sports services) contract with a student must provide notice (in writing) of the contract, within forty-eight (48) hours of entering into the contract, to the:
 - a. Principal;
 - b. President; or
 - c. Other chief administrator,of the educational institution to which the student has been admitted or enrolled.

PENNSYLVANIA**Agent Contracts With Athletes [5 PA. CONS. STAT. ANN. § 3305, 18 PA. CONS. STAT. ANN. § 7107 (West, WESTLAW through Act of 1999-47)]**

1. An athlete agent may not enter into an agent (or professional sport services) contract (oral or written) with a student-athlete before the student-athlete's eligibility for collegiate athletics expires.

SOUTH CAROLINA**Agent Contracts With Athletes [S.C. CODE ANN. § 59-102-30 (Law. Co-op., WESTLAW through 1999 Reg. Sess.)]**

1. An athlete agent who enters into an agent contract with a student-athlete who is subject to the rules and regulations of the:
 - a. National Collegiate Athletic Association;
 - b. National Association for Intercollegiate Athletics; or
 - c. National Junior College Athletic Associationmust notify the:
 - i. Athletic director (or president) of the college or university in which the student-athlete is enrolled; and
 - ii. Administrator of the Department of Consumer Affairsthat the student-athlete has entered into the contract.
2. An athlete agent must give written notification of the contract:
 - a. Before the student-athlete's practicing for, or participating in, an athletic event on behalf of a college or university; or
 - b. Within seventy-two (72) hours after entering into the contract,whichever occurs first.

TENNESSEEAgent Contracts With Athletes [TENN. CODE ANN. § 49-7-2113 (West, WESTLAW through 1999 Reg. Sess.)]

1. A sports agent who enters into an agent contract with a student-athlete must provide notice (in writing) of the contract to the athletic director (or president) of the institution in which the student-athlete is enrolled.
2. The sports agent must give the required notice (*see supra* #1) in writing (via registered or certified mail):
 - a. Before the contracting student-athlete practices, or participates, in any intercollegiate athletic event; or
 - b. Within seventy-two (72) hours after entering into the contract,whichever occurs first.

TEXASAgent Contracts With Athletes [TEX. OCC. CODE ANN. §§ 2051.003, .202, .205, .351 (West, WESTLAW through 1999 Reg. Sess.)]

1. In this chapter, a personal service contract between an athlete and the owner or prospective owner of a professional sports team in which the athlete agrees to perform future athletic services constitutes employment with a professional sports team.
2. An athlete may sign an athlete agent contract at any time as permitted by the national association for the promotion and regulation of intercollegiate athletics of which the athlete's institution of higher education is a member.
3. A registered athlete agent must, not later than the fifth (5th) day after the date an athlete signs an agent contract or financial services contract, file a copy of the contract with:
 - a. The secretary of state; and
 - b. If the athlete is a student at an institution of higher education, the athletic director of the athlete's institution.

4. If the schedule of fees in an agent or financial services contract is changed, the athlete agent must file with the secretary a copy of the changed contract.
5. Except as provided by this chapter, an athlete agent may not enter into an oral or written agreement with an athlete for the athlete agent to represent the athlete before the athlete completes the athlete's last intercollegiate football or basketball contest.

† *CAVEATS:*

Please note the following statements concerning how to properly interpret Appendix A.

1. Appendix A paraphrases the statutory provisions directly regulating agent contracts executed with athletes. In determining whether a person is either an athlete or agent, one must read the definitions sections of the statute in each state of interest. For a detailed analysis of the exemptions and loopholes found within athlete agent statutes on this issue, see generally Remis and Sudia, *Escaping Athlete Agent Regulation*, *supra* note 8.
2. Appendix A does not include the statutory provisions governing the terms and notices that must be contained *within* the agent contract itself (e.g., the practice of post-dating the contract to a time period after eligibility expires, required warnings to the student-athlete in the contract about loss of eligibility, notarization requirements for the contracts, etc.). Appendix A, in contrast, sets forth the statutory provisions relating to the contract's *existence* (i.e., specific authorizations, prohibitions, timing requirements and notice requirements associated with executing a contract with an athlete). For a detailed analysis of the notices and other contractual terms that must be included *within* the contract itself, see Remis, *Registration and Reporting*, *supra* note 5, at Part IV.B. and Appendices C and D.
3. Appendix A does not include the statutory provisions prohibiting a person from conducting business as an athlete

agent (including executing contracts with an athlete) until the athlete registers with the state. Instead, Appendix A deals with regulated contact with athletes by properly registered agents. For a detailed analysis of the many states that require agents to undergo licensure or registration prior to contacting an athlete, and the requirements and prohibitions pertaining thereto, see Remis, *Registration and Reporting*, *supra* note 5, at Part IV.B. and Appendices C and D.

4. Appendix A sets forth the various notices that agents must provide (and to whom) when contracting with an athlete (except for the contract's own terms as indicated in #2 *supra*). However, student-athletes (not just the athlete agents) must also provide various notices when contracts are executed in some states. Nevertheless, since the students' obligations do not dispense with the athlete agents' obligations to provide the required notices, the statutory provisions obligating students to provide various notices are not included within Appendix A. Rather, Appendix A deals solely with the obligations placed upon athlete agents with regard to notices and executed contracts.
4. Refer to Sudia and Remis, *Agent Solicitation*, *supra* note 6, regarding the prohibitions and mandates contained within the athlete agent statutes pertaining to athlete agent solicitation of athlete clients and related activities.

* Regulation of Agent Contracts with Athletes Not Enumerated in Athlete Agent Statute.

STATUTORILY AUTHORIZED AND PROHIBITED AGENT CONDUCT	A	A	A	C	C	C	F	G	I	I	K	K	L	M	M	M	N	N	N	O	O	P	S	T	T		
5. INCLUDE IN THE REQUIRED NOTICE (See supra #1-4):	L	Z	A	A	O	T	L	A	N	A	S	Y	A	D	I	N	S	O	V	C	D	H	K	R	A	C	N
Name of athlete and educational institution	X						X																				
Name of sports in which athlete competes	X						X																				
Name and business address of each party to the contract									X																		
Whether an agent contract or professional sports services contract									X																		
Date the contract will be executed									X																		
Name and address of athlete, athlete agent and employer																											
Date the contract was executed																											
Date of memorandum of contract																											
Signature of athlete agent																											
REQUIREMENTS FOR THE CONTRACT (Not the Notice)																											
1. TIMING: CANNOT EXECUTE CONTRACT w/ ATHLETE:																											
Until 7 days after Pres. of Univ. receives notice of verbal agreement				X																							
Unless files contract not less than 14 days before entering contract																											
Until 30 days after State receives notice of intent to contract									X																		
Before intercollegiate eligibility expires				X					X																		
Before athlete completes last intercollegiate contest										X																	
Outside time permitted under of rules of intercollegiate association											X																
Before effective date of athlete's waiver of intercollegiate eligibility																											
Unless specifically provided by the athlete agent statute										X																	
If during strike/lockout (unless notify athlete of those conditions)																											

Abbreviations used in Appendix B
X = Specifically enumerated provision located within the athlete agent statute.
AD = Athletic Director / PR = Principal / Pres. = President / Univ. = University or college
State = Secretary of State (or other state entity or commission - e.g., Alabama Athlete Agent Regulatory Commission)

CAVEAT
See caveat to Appendix A for instructions on properly interpreting Appendix A (and thus Appendix B).