

# Uniform Athlete Agents Act

## Sections 436.215 – 436.272, RSMo

### **436.215. Citation of law.**

Sections 436.215 to 436.272 may be cited as the "Uniform Athlete Agents Act".  
(L. 2004 S.B. 1122)

### **436.218. Definitions.**

As used in sections 436.215 to 436.272, the following terms mean:

- (1) "Agency contract", an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract;
- (2) "Athlete agent", an individual who enters into an agency contract with a student athlete or directly or indirectly recruits or solicits a student athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. The term includes an individual who represents to the public that the individual is an athlete agent;
- (3) "Athletic director", an individual responsible for administering the overall athletic program of an educational institution or if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate;
- (4) "Contact", a direct or indirect communication between an athlete agent and a student athlete to recruit or solicit the student athlete to enter into an agency contract;
- (5) "Director", the director of the division of professional registration;
- (6) "Division", the division of professional registration;
- (7) "Endorsement contract", an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the student athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;
- (8) "Intercollegiate sport", a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics;
- (9) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity;

(10) "Professional sports services contract", an agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(11) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(12) "Registration", registration as an athlete agent under sections 436.215 to 436.272;

(13) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(14) "Student athlete", an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport the individual is not a student athlete for purposes of that sport.

*(L. 2004 S.B. 1122)*

**436.221. Director's authority.**

1. The director shall administer the provisions of sections 436.215 to 436.272.

2. By engaging in the business of an athlete agent in this state, a nonresident individual appoints the director as the individual's agent to accept service of process in any civil action related to the individual's business as an athlete agent in this state.

3. The director may subpoena witnesses, issue subpoenas duces tecum and require production of documents and records. Subpoenas including subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

4. The director may enforce its subpoenas including subpoenas duces tecum by applying to a circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county where the person resides or may be found for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which such order and a copy of the application therefor shall be served upon the person in the same manner as a summons in a civil action and if the circuit court shall after a hearing determine that the subpoena should be sustained and enforced such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

*(L. 2004 S.B. 1122)*

**436.224. Certificate of registration required--temporary license, criteria.**

1. Except as otherwise provided in subsection 2 of this section, an individual may not act as an athlete agent in this state before being issued a certificate of registration under section 436.230 or 436.236.

2. An individual with a temporary license under section 436.236 may act as an athlete agent before being issued a certificate of registration for all purposes except signing an agency contract if:

(1) A student athlete or another acting on behalf of the student athlete initiates communication with the individual; and

(2) Within seven days after an initial act as an athlete agent, the individual submits an application to register as an athlete agent in this state.

3. An agency contract resulting from conduct in violation of this section is void. The athlete agent shall return any consideration received under the contract.

*(L. 2004 S.B. 1122)*

**436.227. Application procedure, contents.**

An applicant for registration shall submit an application for registration to the director in a form prescribed by the director. The application must be in the name of an individual and signed by the applicant under penalty of perjury and must state or contain:

(1) The name of the applicant and the address of the applicant's principal place of business;

(2) The name of the applicant's business or employer, if applicable;

(3) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;

(4) A description of the applicant's:

(a) Formal training as an athlete agent;

(b) Practical experience as an athlete agent; and

(c) Educational background relating to the applicant's activities as an athlete agent;

(5) The names and addresses of three individuals not related to the applicant who are willing to serve as references;

(6) The name, sport, and last known team for each individual for whom the applicant provided services as an athlete agent during the five years next preceding the date of submission of the application;

(7) The names and addresses of all persons who are:

(a) With respect to the athlete agent's business if it is not a corporation, the partners, officers, associates, or profit-sharers; and

(b) With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation with a five percent or greater interest;

(8) Whether the applicant or any other person named under subdivision (7) of this section\* has been convicted of a crime that if committed in this state would be a felony or other crime involving moral turpitude, and a description of the crime;

(9) Whether there has been any administrative or judicial determination that the applicant or any other person named under subdivision (7) of this section\* has made a false, misleading, deceptive, or fraudulent representation;

(10) Any instance in which the prior conduct of the applicant or any other person named under subdivision (7) of this section\* resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution;

(11) Any sanction, suspension, or disciplinary action taken against the applicant or any other person named under subdivision (7) of this section\* arising out of occupational or professional conduct; and

(12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or any other person named under subdivision (7) of this section\* as an athlete agent in any state.

(L. 2004 S.B. 1122)

*\*Word "subsection" appears in original rolls.*

### **436.230. Certificate of registration issued, when--refusal to issue, when.**

1. Except as otherwise provided in subsection 2 of this section, the director shall issue a certificate of registration to an individual who complies with \* section 436.227.

2. The director may refuse to issue a certificate of registration if the director determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to serve as an athlete agent. In making the determination, the director may consider whether the applicant has:

(1) Been convicted of a crime that if committed in this state would be a felony or other crime involving moral turpitude;

(2) Made a materially false, misleading, deceptive, or fraudulent representation as an athlete agent or in the application;

(3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) Engaged in conduct prohibited by section 436.254;

(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure in any state;

(6) Engaged in conduct or failed to engage in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution; or

(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

3. In making a determination under subsection 3 of this section, the director shall consider:

(1) How recently the conduct occurred;

(2) The nature of the conduct and the context in which it occurred; and

(3) Any other relevant conduct of the applicant.

4. An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the director. The application for renewal must be signed by the applicant under penalty of perjury under section 575.040, RSMo, and shall contain current information on all matters required in an original registration.

5. A certificate of registration or a renewal of a registration is valid for two years.

(L. 2004 S.B. 1122)

*\*Words "subsection 1 of" appear in original rolls.*

**436.233. Sanctioning of certificate of registration, when--complaint procedure.**

1. The director may revoke, suspend, or refuse to renew any certificate of registration required under this chapter for one or any combination of causes stated in subsection 2 of this section. The director shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration for any one or any combination of the following causes:

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(2) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration under this chapter;

(3) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions regulated by this chapter including but not limited to the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(b) Attempting directly or indirectly by way of intimidation, coercion or deception to obtain consultation;

(c) Failure to comply with any subpoena or subpoena duces tecum from the director;

(d) Failing to inform the director of the athlete agent's current residence and business address;

(4) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted under this chapter;

(5) Impersonation of any person holding a certificate of registration or allowing any person to use his or her certificate of registration;

(6) Violation of the drug laws or rules and regulations of this state, any other state, or the federal government;

(7) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth or other certificate or document executed in connection with the transaction;

(8) Soliciting patronage in person, by agents, by representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended in such a manner as to confuse, deceive, or mislead the public;

(9) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by a physician who is authorized by law to do so.

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo.

Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met the director may singly or in combination warn, censure, or place the person named in the complaint on probation on such terms and conditions as the director deems appropriate for a period not to exceed six months, or may suspend the person's certificate of registration period not to exceed one year, or restrict or limit the person's certificate of registration for an indefinite period of time, or revoke the person's certificate of registration.

4. In any order of revocation, the director may provide that the person may not apply for reinstatement of the person's certificate of registration for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

*(L. 2004 S.B. 1122)*

**436.236. Temporary certificate of registration permitted, when.**

The director may issue a temporary certificate of registration valid for sixty days while an application for registration or renewal is pending.

*(L. 2004 S.B. 1122)*

**436.239. Application fee--athlete agent fund created--rulemaking authority.**

1. An application for registration or renewal of registration shall be accompanied by a fee which shall be determined by the director and established by rule. All fees payable under the provisions of this section shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Athlete Agent Fund" which is hereby established. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in the athlete agent fund shall not be transferred and placed to the credit of general revenue until the amount in the athlete agent fund at the end of the biennium exceeds two times the amount of the appropriations from such fund for the preceding fiscal year or, if the director allows renewal of registration less frequently than yearly, then three times the appropriations from such fund for the preceding fiscal year; provided that no amount from such fund may be transferred to the credit of general revenue earlier than August 28, 2006. The amount if any which may be transferred to the credit of general revenue after August 28, 2006, is that amount in the athlete agent fund which exceeds the appropriate multiple of the appropriations from such fund for the preceding fiscal year.

2. The director may promulgate rules to authorize and file athlete agent documents as that term is defined in section 536.010, RSMo. Any rule promulgated under the authority in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

*(L. 2004 S.B. 1122)*

**436.242. Contract requirements and content.**

1. An agency contract must be in a record signed by the parties.

2. An agency contract must state or contain:

(1) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(2) The name of any person not listed in the application for registration or renewal who will be compensated because the student athlete signed the agency contract;

(3) A description of any expenses that the student athlete agrees to reimburse;

(4) A description of the services to be provided to the student athlete;

(5) The duration of the contract; and

(6) The date of execution.

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

"WARNING TO STUDENT ATHLETE IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.".

4. An agency contract that does not conform to this section is voidable by the student athlete.

5. The athlete agent shall give a copy of the signed agency contract to the student athlete at the time of signing.

*(L. 2004 S.B. 1122)*

**436.245. Notice of contract, when.**

1. Within seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate whichever occurs first the athlete agent shall give notice in writing of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

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

*(L. 2004 S.B. 1122)*

**436.248. Cancellation of contract, when.**

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

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

3. If a student athlete cancels an agency contract within fourteen days of signing the contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the agent to induce the student athlete to enter into the contract.  
(L. 2004 S.B. 1122)

**436.251. Records to be retained.**

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

- (1) The name and address of each individual represented by the athlete agent;
- (2) Any agency contract entered into by the athlete agent; and
- (3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete.

2. Records required by subsection 1 of this section to be retained are open to inspection by the director during normal business hours.

(L. 2004 S.B. 1122)

**436.254. Prohibited acts.**

1. An athlete agent may not do any of the following with the intent to induce a student athlete to enter into an agency contract:

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

2. An athlete agent may not intentionally:

- (1) Initiate contact with a student athlete unless registered under sections 436.215 to 436.272;
- (2) Refuse or willfully fail to retain or permit inspection of the records required by section 436.251;
- (3) Violate section 436.224 by failing to register;
- (4) Provide materially false or misleading information in an application for registration or renewal of registration;
- (5) Predate or postdate an agency contract; or
- (6) Fail to notify a student athlete prior to the student athlete's signing an agency contract for a particular sport that the signing by the student athlete may make the student athlete ineligible to participate as a student athlete in that sport.

(L. 2004 S.B. 1122)

**436.257. Violation, penalty.**

The commission of any act prohibited by section 436.254 by an athlete agent is a class B misdemeanor.

(L. 2004 S.B. 1122)

**436.260. Educational institution cause of action, when, damages, accrual of right of action.**

1. An educational institution has a right of action against an athlete agent or a former student athlete for damages caused by a violation of sections 436.215 to 436.272. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

2. Damages of an educational institution under subsection 1 of this section include losses and expenses incurred because as a result of the activities of an athlete agent or former student athlete the educational institution was injured by a violation of sections 436.215 to 436.272 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions.

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

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

5. Sections 436.215 to 436.272 do not restrict rights, remedies, or defenses of any person under law or equity.  
(L. 2004 S.B. 1122)

**436.263. Violation, penalty.**

Any person who violates any provisions of sections 436.215 to 436.269 is guilty of a class A misdemeanor.  
(L. 2004 S.B. 1122)

**436.266. Uniformity considered in applying law.**

In applying and construing sections 436.215 to 436.272, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of sections 436.215 to 436.272 among states that enact it.  
(L. 2004 S.B. 1122)

**436.272. Moneys collected for certain violations to be transferred to general revenue.**

Any moneys collected by the director under section 436.263 shall immediately be transferred to the department of revenue for deposit in the state treasury to the credit of general revenue.  
(L. 2004 S.B. 1122)