



The Legislature
of the
State of New Mexico

49th Legislature, 1st Session

LAWS 2009

CHAPTER 1169

HOUSE BILL 330, as amended

Introduced by

REPRESENTATIVE ANTONIO "MOE" MAESTAS AND REPRESENTATIVE AL PARK



FOR THE COURTS, CORRECTIONS AND
JUSTICE COMMITTEE

Chapter 169

AN ACT

RELATING TO CONTRACT LAW; ENACTING THE UNIFORM ATHLETE AGENTS
ACT; PROVIDING STANDARDS FOR REPRESENTATION OF STUDENT
ATHLETES BY AGENTS; PRESCRIBING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Uniform Athlete Agents Act".

Section 2. DEFINITIONS.--As used in the Uniform Athlete
Agents Act:

A. "agency contract" means an agreement in which a
student athlete authorizes a person to negotiate or solicit on
behalf of the student athlete a professional-sports-services
contract or an endorsement contract;

B. "athlete agent" means an individual who enters
into an agency contract with a student athlete or, directly or
indirectly, recruits or solicits a student athlete to enter
into an agency contract. "Athlete agent" includes an
individual who represents to the public that the individual is
an athlete agent. "Athlete agent" does not include the
spouse, parent, sibling, grandparent or guardian of a student
athlete or an individual acting solely on behalf of a
professional sports team or professional sports organization;

C. "athletic director" means an individual
responsible for administering the overall athletic program of

1 an educational institution or, if an educational institution
2 has separately administered athletic programs for male
3 students and female students, the athletic program for males
4 or the athletic program for females, as appropriate;

5 D. "contact" means a communication, direct or
6 indirect, between an athlete agent and a student athlete, to
7 recruit or solicit the student athlete to enter into an agency
8 contract;

9 E. "endorsement contract" means an agreement under
10 which a student athlete is employed or receives consideration
11 to use on behalf of the other party any value that the student
12 athlete may have because of publicity, reputation, following
13 or fame obtained because of athletic ability or performance;

14 F. "intercollegiate sport" means a sport played at
15 the collegiate level for which eligibility requirements for
16 participation by a student athlete are established by a
17 national association for the promotion or regulation of
18 collegiate athletics;

19 G. "person" means an individual, corporation,
20 business trust, estate, trust, partnership, limited liability
21 company, association, joint venture, government, governmental
22 subdivision, governmental agency, governmental
23 instrumentality, public corporation or any other legal or
24 commercial entity;

25 H. "professional-sports-services contract" means

1 an agreement under which an individual is employed, or agrees
2 to render services, as a player on a professional sports team,
3 with a professional sports organization or as a professional
4 athlete;

5 I. "record" means information that is inscribed on
6 a tangible medium or that is stored in an electronic or other
7 medium and is retrievable in perceivable form;

8 J. "registration" means registration as an athlete
9 agent pursuant to the Uniform Athlete Agents Act;

10 K. "secretary" means the secretary of state;

11 L. "state" means a state of the United States, the
12 District of Columbia, Puerto Rico, the United States Virgin
13 Islands or any territory or insular possession subject to the
14 jurisdiction of the United States; and

15 M. "student athlete" means an individual who
16 engages in, is eligible to engage in, or may be eligible in
17 the future to engage in, any intercollegiate sport. If an
18 individual is permanently ineligible to participate in a
19 particular intercollegiate sport, the individual is not a
20 student athlete for purposes of that sport.

21 Section 3. SERVICE OF PROCESS--SUBPOENAS.--

22 A. By acting as an athlete agent in this state, a
23 nonresident individual appoints the secretary as the
24 individual's agent for service of process in any civil action
25 in this state related to the individual's acting as an athlete

1 agent in this state.

2 B. The secretary may issue subpoenas for any
3 material that is relevant to the administration of the Uniform
4 Athlete Agents Act.

5 Section 4. ATHLETE AGENTS--REGISTRATION REQUIRED--VOID
6 CONTRACTS.--

7 A. Except as otherwise provided in Subsection B of
8 this section, an individual shall not act as an athlete agent
9 in this state without holding a certificate of registration
10 pursuant to Section 6 or 8 of the Uniform Athlete Agents Act.

11 B. Before being issued a certificate of
12 registration, an individual may act as an athlete agent in
13 this state for all purposes except signing an agency contract,
14 if:

15 (1) a student athlete or another person
16 acting on behalf of the student athlete initiates
17 communication with the individual; and

18 (2) within seven days after an initial act
19 as an athlete agent, the individual submits an application for
20 registration as an athlete agent in this state.

21 C. An agency contract resulting from conduct in
22 violation of this section is void and the athlete agent shall
23 return any consideration received under the contract.

24 Section 5. REGISTRATION AS ATHLETE AGENT--FORM--
25 REQUIREMENTS.--

1 A. An applicant for registration shall submit an
2 application for registration to the secretary in a form
3 prescribed by the secretary. An application filed under this
4 section is a public record. The application shall be in the
5 name of an individual and, except as otherwise provided in
6 Subsection B of this section, shall be signed or otherwise
7 authenticated by the applicant under penalty of perjury and
8 shall state or contain:

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

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

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

16 (4) a description of the applicant's:

17 (a) formal training as an athlete
18 agent;

19 (b) practical experience as an athlete
20 agent; and

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

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

1 (6) the name, sport and last known team for
2 each individual for whom the applicant acted as an athlete
3 agent during the five years next preceding the date of
4 submission of the application;

5 (7) the names and addresses of all persons
6 who are:

7 (a) with respect to the athlete agent's
8 business if it is not a corporation, partners, members,
9 officers, managers, associates or profit-sharers of the
10 business; and

11 (b) with respect to a corporation
12 employing the athlete agent, officers, directors and any
13 shareholders of the corporation having an interest of five
14 percent or greater;

15 (8) whether the applicant or any person
16 named pursuant to Paragraph (7) of this subsection has been
17 convicted of a crime that, if committed in this state, would
18 be a crime involving moral turpitude or a felony, and identify
19 the crime;

20 (9) whether there has been an administrative
21 or judicial determination that the applicant or any person
22 named pursuant to Paragraph (7) of this subsection has made a
23 false, misleading, deceptive or fraudulent representation;

24 (10) any instance in which the conduct of
25 the applicant or any person named pursuant to Paragraph (7) of

1 this subsection resulted in the imposition of a sanction,
2 suspension or declaration of ineligibility to participate in
3 an interscholastic or intercollegiate athletic event on a
4 student athlete or educational institution;

5 (11) any sanction, suspension or
6 disciplinary action taken against the applicant or any person
7 named pursuant to Paragraph (7) of this subsection arising out
8 of occupational or professional conduct; and

9 (12) whether there has been a denial of an
10 application for, suspension or revocation of, or refusal to
11 renew, the registration or licensure of the applicant or any
12 person named pursuant to Paragraph (7) of this subsection as
13 an athlete agent in any state.

14 B. An individual who has submitted an application
15 for, and holds a certificate of, registration or licensure as
16 an athlete agent in another state may submit a copy of the
17 application and certificate in lieu of submitting an
18 application in the form prescribed pursuant to Subsection A of
19 this section. The secretary shall accept the application and
20 the certificate from the other state as an application for
21 registration in this state if the application to the other
22 state:

23 (1) was submitted in the other state within
24 six months next preceding the submission of the application in
25 this state and the applicant certifies that the information

1 contained in the application is current;

2 (2) contains information substantially
3 similar to or more comprehensive than that required in an
4 application submitted in this state; and

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

7 Section 6. CERTIFICATE OF REGISTRATION--ISSUANCE OR
8 DENIAL--RENEWAL.--

9 A. Except as otherwise provided in Subsection B of
10 this section, the secretary shall issue a certificate of
11 registration to an individual who complies with Subsection A
12 of Section 5 of the Uniform Athlete Agents Act or whose
13 application has been accepted pursuant to Subsection B of that
14 section.

15 B. The secretary may refuse to issue a certificate
16 of registration if the secretary determines that the applicant
17 has engaged in conduct that has a significant adverse effect
18 on the applicant's fitness to act as an athlete agent. In
19 making the determination, the secretary may consider whether
20 the applicant has:

21 (1) been convicted of a crime that, if
22 committed in this state, would be a crime involving moral
23 turpitude or a felony;

24 (2) made a materially false, misleading,
25 deceptive or fraudulent representation in the application or

1 as an athlete agent;

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

4 (4) engaged in conduct prohibited by Section
5 14 of the Uniform Athlete Agents Act;

6 (5) had a registration or licensure as an
7 athlete agent suspended, revoked or denied or was refused
8 renewal of registration or licensure as an athlete agent in
9 any state;

10 (6) engaged in conduct the consequence of
11 which was that a sanction, suspension or declaration of
12 ineligibility to participate in an interscholastic or
13 intercollegiate athletic event was imposed on a student
14 athlete or educational institution; or

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

18 C. In making a determination under Subsection B of
19 this section, the secretary shall consider:

20 (1) how recently the conduct occurred;

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

23 (3) any other relevant conduct of the
24 applicant.

25 D. An athlete agent may apply to renew a

1 certificate of registration by submitting an application for
2 renewal in a form prescribed by the secretary. An application
3 filed under this section is a public record. The application
4 for renewal shall be signed by the applicant under penalty of
5 perjury and shall contain current information on all matters
6 required in an original registration.

7 E. An individual who has submitted an application
8 for renewal of registration or licensure in another state, in
9 lieu of submitting an application for renewal in the form
10 prescribed pursuant to Subsection D of this section, may file
11 a copy of the application for renewal and a valid certificate
12 of registration or licensure from the other state. The
13 secretary shall accept the application for renewal from the
14 other state as an application for renewal in this state if the
15 application to the other state:

16 (1) was submitted in the other state within
17 six months next preceding the filing in this state and the
18 applicant certifies the information contained in the
19 application for renewal is current;

20 (2) contains information substantially
21 similar to or more comprehensive than that required in an
22 application for renewal submitted in this state; and

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

25 F. A certificate of registration or a renewal of a

1 certificate of registration is valid for two years.

2 Section 7. SUSPENSION, REVOCATION OR REFUSAL TO RENEW
3 REGISTRATION.--

4 A. The secretary may suspend, revoke or refuse to
5 renew a certificate of registration for conduct that would
6 have justified denial of registration pursuant to Subsection B
7 of Section 6 of the Uniform Athlete Agents Act.

8 B. The secretary may deny, suspend, revoke or
9 refuse to renew a certificate of registration or licensure
10 only after proper notice and an opportunity for a hearing.

11 Section 8. TEMPORARY REGISTRATION.--The secretary may
12 issue a temporary certificate of registration while an
13 application for registration or renewal of registration is
14 pending.

15 Section 9. REGISTRATION AND RENEWAL FEES.--An
16 application for registration or renewal of registration shall
17 be accompanied by a fee in the following amount:

18 A. two hundred fifty dollars (\$250) for an initial
19 application for registration;

20 B. two hundred dollars (\$200) for an application
21 for registration based upon a certificate of registration or
22 licensure issued by another state;

23 C. two hundred fifty dollars (\$250) for an
24 application for renewal of registration; or

25 D. two hundred dollars (\$200) for an application

1 for renewal of registration based upon an application for
2 renewal of registration or licensure submitted in another
3 state.

4 Section 10. REQUIRED FORM OF CONTRACT.--

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

7 B. An agency contract shall state or contain:

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

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

18 (3) a description of any expenses that the
19 student athlete agrees to reimburse;

20 (4) a description of the services to be
21 provided to the student athlete;

22 (5) the duration of the contract; and

23 (6) the date of execution.

24 C. An agency contract shall contain, in close
25 proximity to the signature of the student athlete, a

1 conspicuous notice in boldface type in capital letters
2 stating:

3 "WARNING TO STUDENT ATHLETE

4 IF YOU SIGN THIS CONTRACT:

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

7 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN
8 SEVENTY-TWO HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU
9 AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

10 (3) YOU MAY CANCEL THIS CONTRACT WITHIN
11 FOURTEEN DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT
12 MAY NOT REINSTATE YOUR ELIGIBILITY."

13 D. An agency contract that does not conform to
14 this section is voidable by the student athlete. If a student
15 athlete voids an agency contract, the student athlete is not
16 required to pay any consideration under the contract or to
17 return any consideration received from the athlete agent to
18 induce the student athlete to enter into the contract.

19 E. The athlete agent shall give a record of the
20 signed or otherwise authenticated agency contract to the
21 student athlete at the time of execution.

22 Section 11. NOTICE TO EDUCATIONAL INSTITUTION.--

23 A. Within seventy-two hours after entering into an
24 agency contract or before the next scheduled athletic event in
25 which the student athlete may participate, whichever occurs

1 first, the athlete agent shall give notice in a record of the
2 existence of the contract to the athletic director of the
3 educational institution at which the student athlete is
4 enrolled or the athlete agent has reasonable grounds to
5 believe the student athlete intends to enroll.

6 B. Within seventy-two hours after entering into an
7 agency contract or before the next athletic event in which the
8 student athlete may participate, whichever occurs first, the
9 student athlete shall inform the athletic director of the
10 educational institution at which the student athlete is
11 enrolled that the student athlete has entered into an agency
12 contract.

13 Section 12. STUDENT ATHLETE'S RIGHT TO CANCEL.--

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

17 B. A student athlete shall not waive the right to
18 cancel an agency contract.

19 C. If a student athlete cancels an agency
20 contract, the student athlete is not required to pay any
21 consideration under the contract or to return any
22 consideration received from the athlete agent to induce the
23 student athlete to enter into the contract.

24 Section 13. REQUIRED RECORDS.--

25 A. An athlete agent shall retain the following

1 records for a period of five years:

2 (1) the name and address of each individual
3 represented by the athlete agent;

4 (2) any agency contract entered into by the
5 athlete agent; and

6 (3) any direct costs incurred by the athlete
7 agent in the recruitment or solicitation of a student athlete
8 to enter into an agency contract.

9 B. Records required pursuant to Subsection A of
10 this section to be retained are open to inspection by the
11 secretary during normal business hours.

12 Section 14. PROHIBITED CONDUCT.--

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

15 (1) give any materially false or misleading
16 information or make a materially false promise or
17 representation;

18 (2) furnish anything of value to a student
19 athlete before the student athlete enters into the agency
20 contract; or

21 (3) furnish anything of value to any
22 individual other than the student athlete or another
23 registered athlete agent.

24 B. An athlete agent shall not intentionally:

25 (1) initiate contact with a student athlete

1 unless registered pursuant to the Uniform Athlete Agents Act;

2 (2) refuse or fail to retain or permit
3 inspection of the records required to be retained pursuant to
4 Section 13 of the Uniform Athlete Agents Act;

5 (3) fail to register when required pursuant
6 to Section 4 of the Uniform Athlete Agents Act;

7 (4) provide materially false or misleading
8 information in an application for registration or renewal of
9 registration;

10 (5) predate or postdate an agency contract;
11 or

12 (6) fail to notify a student athlete before
13 the student athlete signs or otherwise authenticates an agency
14 contract for a particular sport that the signing or
15 authentication may make the student athlete ineligible to
16 participate as a student athlete in that sport.

17 Section 15. CRIMINAL PENALTIES.--An athlete agent who
18 violates the provisions of Section 14 of the Uniform Athlete
19 Agents Act is guilty of a misdemeanor and upon conviction
20 shall be sentenced pursuant to the provisions of Section
21 31-19-1 NMSA 1978.

22 Section 16. CIVIL REMEDIES.--

23 A. An educational institution has a right of
24 action against an athlete agent for damages caused by a
25 violation of the provisions of the Uniform Athlete Agents Act.

1 In an action pursuant to this section, the court may award to
2 the prevailing party costs and reasonable attorney fees.

3 B. Damages of an educational institution pursuant
4 to Subsection A of this section include losses and expenses
5 incurred because, as a result of the conduct of an athlete
6 agent, the educational institution was injured by a violation
7 of the Uniform Athlete Agents Act or was penalized,
8 disqualified or suspended from participation in athletics by a
9 national association for the promotion and regulation of
10 athletics, by an athletic conference or by reasonable self-
11 imposed disciplinary action taken to mitigate sanctions likely
12 to be imposed by such an organization.

13 C. A right of action pursuant to this section does
14 not accrue until the educational institution discovers or by
15 the exercise of reasonable diligence would have discovered the
16 violation by the athlete agent.

17 D. The Uniform Athlete Agents Act does not
18 restrict rights, remedies or defenses of any person under law
19 or equity.

20 Section 17. ADMINISTRATIVE PENALTY.--The secretary may
21 assess a civil penalty against an athlete agent not to exceed
22 twenty-five thousand dollars (\$25,000) for a violation of the
23 Uniform Athlete Agents Act.

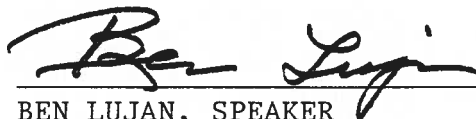
24 Section 18. UNIFORMITY OF APPLICATION AND
25 CONSTRUCTION.--In applying and construing the Uniform Athlete

1 Agents Act, consideration shall be given to the need to
2 promote uniformity of the law with respect to its subject
3 matter among states that enact it.

4 Section 19. FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND
5 NATIONAL COMMERCE ACT.--The provisions of the Uniform Athlete
6 Agents Act governing the legal effect, validity or
7 enforceability of electronic records or signatures, and of
8 contracts formed or performed with the use of such records or
9 signatures, conform to the requirements of Section 102 of the
10 federal Electronic Signatures in Global and National Commerce
11 Act and supersede, modify and limit the federal Electronic
12 Signatures in Global and National Commerce Act.

13 Section 20. SEVERABILITY.--If any provision of the
14 Uniform Athlete Agents Act or its application to any person or
15 circumstance is held invalid, the invalidity does not affect
16 other provisions or applications of that act that can be given
17 effect without the invalid provision or application, and to
18 this end the provisions of that act are severable.

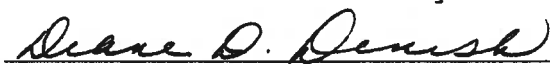
19 Section 21. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2009.



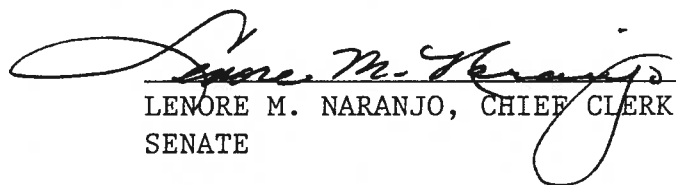
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 7th day of April, 2009



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO

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