Chapter 702 — Student Athlete Agents

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702.005 Definitions. As used in ORS 702.005 to 702.063 and 702.991:

(1) "Agent contract" means a contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of a person with one or more professional sports teams or organizations for the employment of the person:

(a) By one or more professional sports teams or organizations; or

(b) As a professional athlete.

(2)(a) "Athlete agent" means any person or an employee or representative of a person who:

(A) Directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, endorsement contract or professional sports services contract; or

(B) For compensation offers, promises, attempts or negotiates to obtain employment or procures employment for a student athlete with a professional sports team or organization or as a professional athlete.

(b) "Athlete agent" does not include:

(A) A person licensed as an attorney or a dealer in securities, financial planner, insurance agent, real estate broker, principal real estate broker, sales agent, tax consultant or any other professional person when the person offers or provides the type of services customarily provided by that profession, except to the extent that the person acts as an athlete agent as defined in paragraph (a) of this subsection;

(B) A person acting solely on behalf of a professional sports team or organization; or

(C) Parents who act as athlete agents for their children.

(3) "Educational institution" means any elementary school, secondary school, college, university or other educational institution.

(4) "Endorsement contract" means a contract or agreement pursuant to which a person is employed or receives remuneration for any value or utility that the person may have because of publicity, reputation, fame or following

obtained because of athletic ability or performance.

(5) “Professional sports services contract” means any contract or agreement pursuant to which a person is employed or agrees to render services as a player for a professional sports team or organization or as a professional athlete.

(6)(a) “Student athlete” means an individual admitted to or enrolled in an educational institution who participates, or has informed the institution of an intention to participate, in a sports program that includes competition with other educational institutions. “Student athlete” includes a student who has entered into one or more valid agent contracts, endorsement contracts or professional sports services contracts that allow athlete agent representation for a specific sport, as long as that student is eligible to participate in other sports for which the student has no athlete agent representation.

(b) “Student athlete” does not include:

(A) A person who has entered into a valid agent contract, endorsement contract or professional sports services contract that covers all sports in which the student is eligible to participate; or

(B) A student of a college or university whose eligibility to participate in an intercollegiate sport has terminated. [1999 c.1079 §1; 2001 c.300 §80]

Note: The amendments to 702.005 by section 80, chapter 300, Oregon Laws 2001, become operative July 1, 2002. See section 85, chapter 300, Oregon Laws 2001. The text that is operative until July 1, 2002, is set forth for the user’s convenience.

702.005. As used in ORS 702.005 to 702.063 and 702.991:

(1) “Agent contract” means a contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of a person with one or more professional sports teams or organizations for the employment of the person:

(a) By one or more professional sports teams or organizations; or

(b) As a professional athlete.

(2)(a) “Athlete agent” means any person or an employee or representative of a person who:

(A) Directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, endorsement contract or professional sports services contract; or

(B) For compensation offers, promises, attempts or negotiates to obtain employment or procures employment for a student athlete with a professional sports team or organization or as a professional athlete.

(b) “Athlete agent” does not include:

(A) A person licensed as an attorney or a dealer in securities, financial planner, insurance agent, real estate broker, sales agent, tax consultant or any other professional person when the person offers or provides the type of services customarily provided by that profession, except to the extent that the person acts as an athlete agent as defined in paragraph (a) of this subsection;

(B) A person acting solely on behalf of a professional sports team or organization; or

(C) Parents who act as athlete agents for their children.

(3) “Educational institution” means any elementary school, secondary school, college, university or other educational institution.

(4) “Endorsement contract” means a contract or agreement pursuant to which a person is employed or receives remuneration for any value or utility that the person may have because of publicity, reputation, fame or following obtained because of athletic ability or performance.

(5) “Professional sports services contract” means any contract or agreement pursuant to which a person is employed or agrees to render services as a player for a professional sports team or organization or as a professional athlete.

(6)(a) “Student athlete” means an individual admitted to or enrolled in an educational institution who participates, or has informed the institution of an intention to participate, in a sports program that includes competition with other educational institutions. “Student athlete” includes a student who has entered into one or more valid agent contracts, endorsement contracts or professional sports services contracts that allow athlete agent representation for a specific sport, as long as that student is eligible to participate in other sports for which the student has no athlete agent representation.

(b) “Student athlete” does not include:

(A) A person who has entered into a valid agent contract, endorsement contract or professional sports services contract that covers all sports in which the student is eligible to participate; or

(B) A student of a college or university whose eligibility to participate in an intercollegiate sport has terminated.

702.010 [1971 c.771 §1; 1973 c.832 §§61,61a; 1979 c.352 §4; 1983 c.411 §1; 1987 c.414 §91a; 1987 c.456 §7; repealed by 1995 c.386 §1]

702.012 Permit required to conduct business as athlete agent; fee; expiration; renewal; suspension; revocation; nonresidents. (1) A person desiring to conduct business as an athlete agent in the State of Oregon shall obtain an athlete agent permit from the Department of Education.

(2) To obtain an athlete agent permit, a person must apply for the permit on a form designed and provided by the Department of Education and submit the application to the Department of Education with a permit fee of $250. The permit fee is nonrefundable, regardless of whether the Department of Education issues or denies the permit.

(3) An athlete agent permit issued pursuant to this section and ORS 702.017 automatically expires one year from the date of issuance.

(4) Athlete agent permits may be renewed annually by submitting an application and a renewal fee of $250 to the Department of Education.

(5) The Department of Education may suspend or revoke an athlete agent permit if an athlete agent is found to have violated any provision of ORS 702.005 to 702.063 and 702.991, any rules adopted pursuant thereto or any material condition of the permit. If an athlete agent permit is denied, suspended or revoked, the athlete agent may appeal the denial, suspension or revocation as a contested case under ORS 183.310 to 183.550.

(6) All moneys collected for permit fees and renewal fees under this section are continuously appropriated to the Department of Education for the purposes of carrying out ORS 702.005 to 702.063 and 702.991.

(7) A person may not conduct business as an athlete agent without first having obtained an athlete agent permit pursuant to this section.

(8) Any nonresident person doing business in this state as an athlete agent shall, by so doing:

(a) Consent to the jurisdiction of the courts of this state;

(b) Be subject to suit in this state; and

(c) Be deemed to have appointed the Department of Education as the person’s agent to accept service of process in any civil action related to the person doing business as an athlete agent in this state. [1999 c.1079 §2]

702.017 Application form; requirements for permit; rules. The Department of Education shall:

(1) Develop and provide an application form for an athlete agent permit that:

(a) Requires the applicant to affirm, under penalty of perjury, that the applicant:

(A) Is at least 18 years of age;

(B) Has remitted the required permit fee or renewal fee pursuant to ORS 702.012;

(C) Has not been convicted of any crime referred to in ORS 342.143 (3)(a);

(D) Has not, in any jurisdiction, had an athlete agent license or permit suspended or revoked for a violation of any law in that jurisdiction;

(E) Has not, in any jurisdiction, had a civil judgment entered against the applicant for damages caused to an institution as a result of a violation of any athlete agent law in that jurisdiction; and

(F) Has not engaged in conduct that resulted in penalties or sanctions being imposed against a college or university by the athletic association governing that college or university or by an athletic conference in which the college or university is a member; and

(b) Informs the applicant that a criminal records check is required and that the applicant must allow the Department of Education to take fingerprints for the criminal records check;

(2) Adopt rules specifying any other qualifications for the issuance of an athlete agent permit;

(3) Take fingerprints of each applicant for a criminal records check conducted pursuant to ORS 702.022;

(4) Issue athlete agent permits to applicants who meet all of the qualifications listed in this section and the rules adopted pursuant thereto;

(5) Develop and provide an application form for the renewal of an athlete agent permit;

(6) Collect permit fees and renewal fees; and

(7) Use the moneys collected from permit fees and renewal fees to defray the costs of administering the athlete agent permit program. [1999 c.1079 §3]

702.020 [1971 c.771 §21; 1973 c.576 §1; 1983 c.411 §2; 1987 c.447 §138; repealed by 1995 c.386 §1]

702.022 Process for obtaining criminal offender information for athlete agent permits. (1) The Department of Education may request, and the Department of State Police shall furnish to the Department of Education, information on an individual that the Department of State Police possesses in the central bureau of criminal identification, including but not limited to manual or computerized information required for purposes of issuing athlete agent permits under ORS 702.012 and 702.017.

(2) After furnishing the information obtained under subsection (1) of this section, the Department of State Police shall conduct a nationwide criminal records check of the individual through the Federal Bureau of Investigation, including records of fingerprints, and report the results to the Department of Education.

(3) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used to conduct the criminal records check and shall not keep any record of the fingerprints. However, if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of Education shall not send the cards to the federal bureau but shall continue to process the information through other available resources.

(4) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall return the fingerprint cards to the Department of Education. The Department of Education shall destroy the fingerprint cards and shall not keep any facsimiles or other material from which a fingerprint can be reproduced.

(5) For purposes of receiving the information described in this section, the Department of Education is considered to be a designated agency as defined in ORS 181.010. [1999 c.1079 §4]

702.027 Limitations on contact between athlete agent and student athlete; exceptions. (1) Except as otherwise provided in this section, an athlete agent shall not make or continue any contact, whether in person, in writing, electronically or in any other manner, with a student athlete, a relative of the student athlete by blood or marriage or any person who resides in the same place as the student athlete.

(2) An athlete agent may send a student athlete or any other person described in subsection (1) of this section written materials, provided that the athlete agent has sent an identical copy of the materials to the principal, president or other chief administrator of the educational institution to which the student athlete has been admitted or in which the student athlete is enrolled.

(3) If a student athlete or any other person described in subsection (1) of this section initiates contact with an athlete agent, the athlete agent may continue the contact and make new contacts with that person. No later than the first regular business day after the initial contact, the athlete agent shall notify in writing the principal, president or other chief administrator of the educational institution to which the student athlete has been admitted or in which the student athlete is enrolled, of that contact. The notification shall describe the nature of the contact.

(4) This section does not apply to any contact between an athlete agent and a student athlete or any other person described in subsection (1) of this section if the contact is initiated by an educational institution to which the student athlete has been admitted or in which the student athlete is enrolled.

(5) This section does not apply to any contact between an athlete agent and a student athlete who have already entered into a valid agent contract, endorsement contract or professional sports services contract that allows the athlete agent to represent the student in a specific sport. [1999 c.1079 §6]

702.032 Offering or providing money or anything of benefit or value to student athlete prohibited. An athlete agent may not, directly or indirectly, offer or provide money or anything of benefit or value to a student athlete, or any person acting for or on behalf of a student athlete, for the purpose of inducing the student athlete to enter into an agent contract, endorsement contract or professional sports services contract. [1999 c.1079 §5]

702.037 Offering or providing money or anything of benefit or value to educational institution prohibited. An athlete agent may not offer or provide money or anything of benefit or value, including, but not limited to, free or reduced price legal services, to any educational institution or any representative or employee of any educational institution in return for the referral of any clients or initiation of any contact described in ORS 702.027. [1999 c.1079 §7]

702.042 Notice of contract to educational institution required. (1) An athlete agent and a student who have entered into an agent contract, endorsement contract or professional sports services contract shall each provide written notice of the contract to the principal, president or other chief administrator of the educational institution to which the

student has been admitted or is enrolled.

(2) The athlete agent shall provide the notice in writing within 48 hours of entering into the contract.

(3) The student shall provide the notice before the student practices for or participates in any interscholastic or intercollegiate sports event or within 72 hours after entering into the contract, whichever occurs first. A student who fails to provide the notice required under this section shall be subject to disciplinary action in accordance with the educational institution's rules for student conduct. [1999 c.1079 §8]

702.047 Contract requirements. Every agent contract, endorsement contract or professional sports services contract entered into by a student athlete shall contain, in close proximity to the signature of the student athlete, a notice in at least 10-point boldfaced type stating:

WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU LIKELY WILL IMMEDIATELY AND PERMANENTLY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERSCHOLASTIC OR INTERCOLLEGIATE _____ (insert sport or sports covered in this contract). YOU MUST GIVE THE PRINCIPAL, PRESIDENT OR OTHER CHIEF ADMINISTRATOR OF YOUR EDUCATIONAL INSTITUTION WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT WITHIN 72 HOURS, OR BEFORE YOU PRACTICE FOR OR PARTICIPATE IN ANY INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT, OR OTHER PARTY TO THIS CONTRACT, IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE FEDERATION OR ASSOCIATION TO WHICH YOUR EDUCATIONAL INSTITUTION BELONGS MAY CHOOSE NOT TO RESTORE YOUR ELIGIBILITY.

[1999 c.1079 §9]

702.050 [1971 c.771 §2; 1979 c.352 §5; 1983 c.411 §3; repealed by 1995 c.386 §1]

702.052 Student may rescind contract. Within 15 days after the date a student enters into an agent contract, endorsement contract or professional sports services contract, the student may rescind the contract by giving written notice to the athlete agent of the student's desire to cancel the contract. The right of a student to rescind a contract under this section may not be waived. [1999 c.1079 §10]

702.057 Civil remedies available for educational institutions. (1) An educational institution shall have a cause of action for damages or equitable relief against any athlete agent or student who violates the provisions of ORS 702.005 to 702.063 and 702.991.

(2) For the purposes of this section, an institution is damaged if a student or the institution is penalized, or is disqualified or suspended from participation in intercollegiate athletics, by an athletic association or athletic conference and, because of the penalty, disqualification or suspension, the institution:

(a) Loses revenue from media coverage of an athletic competition;

(b) Loses ticket sales for regular season or post-season athletic events;

(c) Loses the right to grant athletic scholarships;

(d) Loses the right to recruit an athlete;

(e) Is prohibited from participating in post-season athletic competition;

(f) Loses proceeds from any revenue-sharing agreement or arrangement between institutions in an athletic conference;

(g) Forfeits an athletic competition; or

(h) Otherwise suffers an adverse financial impact.

(3) In an action brought under this section, the court may allow a prevailing institution:

(a) Actual damages;

(b) Punitive damages;

(c) Court costs;

(d) Reasonable attorney fees; and

(e) Treble damages for any violation that results in any ineligibility of a student to compete, in an amount equal to three times the value of the athletic scholarship furnished by the institution to the student during the student's period of eligibility.

(4) An action under this section shall be commenced within three years after the date that the damages to the institution resulting from the violation are discovered or reasonably should have been discovered, whichever is sooner.

(5) If both the student and the athlete agent are at fault, the student and the athlete agent shall be jointly and severally liable for any damages awarded to an institution under this section for a violation that occurred during the student's period of eligibility. [1999 c.1079 §11]

702.060 [1971 c.771 §12; 1973 c.832 §62; 1979 c.352 §6; 1983 c.411 §4; repealed by 1995 c.386 §1]

702.063 Rules. The Department of Education may adopt any rules necessary to carry out the provisions of ORS 702.005 to 702.063 and 702.991. [1999 c.1079 §4a]

702.070 [1971 c.771 §3; 1973 c.576 §2; 1983 c.411 §5; repealed by 1995 c.386 §1]

702.080 [1971 c.771 §13; 1983 c.411 §6; repealed by 1995 c.386 §1]

702.083 [1979 c.352 §2; 1983 c.411 §7; repealed by 1995 c.386 §1]

702.087 [1979 c.352 §16; repealed by 1995 c.386 §1]

702.090 [1971 c.771 §§6,10; 1973 c.832 §63; 1977 c.873 §24; 1977 c.874 §6a; 1979 c.352 §7; 1983 c.411 §9; 1985 c.269 §1; repealed by 1995 c.386 §1]

702.100 [1971 c.771 §§5,9; 1973 c.832 §§64,64a; 1977 c.873 §25; 1977 c.874 §7a; 1979 c.352 §8; 1983 c.411 §10; 1987 c.456 §1; repealed by 1995 c.386 §1]

702.105 [1973 c.799 §6; 1979 c.352 §9; 1983 c.411 §11; repealed by 1995 c.386 §1]

702.110 [1971 c.771 §7; 1973 c.799 §3; 1973 c.832 §65; 1974 s.s. c.69 §1; 1975 c.787 §1; 1979 c.352 §10; repealed by 1983 c.411 §21]

702.120 [1971 c.771 §4; 1973 c.832 §66; 1979 c.352 §11; 1983 c.411 §12; 1987 c.414 §92; 1987 c.456 §2; repealed by 1995 c.386 §1]

702.130 [1971 c.771 §7a; 1973 c.799 §4; 1979 c.352 §12; 1983 c.411 §13; repealed by 1995 c.386 §1]

702.135 [1979 c.352 §3; 1983 c.411 §14; repealed by 1995 c.386 §1]

702.140 [1971 c.771 §8; 1979 c.352 §13; 1983 c.411 §15; 1987 c.456 §3; repealed by 1995 c.386 §1]

702.150 [1979 c.352 §14; 1983 c.411 §16; 1989 c.266 §1; repealed by 1995 c.386 §1]

702.160 [1971 c.771 §§11,18; 1983 c.411 §17; 1987 c.456 §8; repealed by 1995 c.386 §1]

702.165 [1987 c.456 §5; repealed by 1995 c.386 §1]

702.170 [1971 c.771 §14; repealed by 1979 c.31 §1]

702.175 [1987 c.456 §10; repealed by 1995 c.386 §1]

702.210 [1971 c.771 §15; 1983 c.411 §18; 1985 c.269 §2; repealed by 1987 c.414 §93a and 1987 c.456 §13]

702.220 [1971 c.771 §16; 1979 c.352 §15; 1983 c.411 §20; repealed by 1987 c.456 §13]

702.230 [1971 c.771 §17; 1973 c.832 §67; repealed by 1987 c.456 §13]

702.990 [1971 c.771 §22; repealed by 1995 c.386 §1]

702.991 Criminal penalties. (1) Violation of ORS 702.032 is a Class C felony.

(2) Violation of the athlete agent's 48-hour notice requirement provided under ORS 702.042 (2) is a Class C felony.

(3) It is a Class A misdemeanor for any person to conduct business as an athlete agent in the State of Oregon unless the person has a valid athlete agent permit issued pursuant to ORS 702.012 and 702.017.

(4) It is a Class A misdemeanor for any person to represent to another person by verbal claim, advertisement, letterhead, business card or any other means that the person is an athlete agent unless the person has a valid athlete agent permit issued pursuant to ORS 702.012 and 702.017. [1999 c.1079 §12]

702.995 [1987 c.456 §12; 1991 c.734 §91; repealed by 1995 c.386 §1]