

The University of Southern Mississippi

Southern Miss Department of Athletics

Sports Agent Registration
Box 10041
Hattiesburg, MS 39406
(601)266-5474

SOUTHERN MISS GUIDELINES FOR AGENTS

This guide has been developed by the Southern Miss Department of Athletics to educate individuals who are interested in representing Southern Miss student-athletes in professional sports negotiations. A copy of this guide will be distributed to all Southern Miss coaches, administrators and student-athletes. Included in the guide are Southern Miss policies, NCAA Bylaws, and the Mississippi Statute for Agents. Adherence by all parties to the regulations set forth by these three areas is required in order to receive assistance from the Department of Athletics.

Due to the complexity of NCAA rules and Mississippi statutes, this guide should not serve as the exclusive source concerning your activity. It is recommended by the Department of Athletics that you contact Tracy Robinson, Director of the Student Academic Enhancement Program, at (601)266-5474 for general questions concerning agent guidelines or Don Oberhelman, Associate Athletic Director for Athletic Compliance, at (601)266-6586 to discuss the application of NCAA rules.

SOUTHERN MISS REGULATIONS

NCAA legislation identifies institutional control of athletics as a fundamental requirement. The NCAA constitution provides that each institution must monitor its athletics program to ensure compliance with NCAA rules and regulations. All sports agents interested in representing Southern Miss student-athletes must adhere to the following institutional rules as set forth by The University of Southern Mississippi Department of Athletics:

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- 1. Agents must register with the Southern Miss Department of Athletics prior to contacting student-athletes.***

Complete and return the Sports Agent Questionnaire to:
Southern Miss Department of Athletics
ATTN: Sports Agent Registration, Box 10041, Hattiesburg, MS 39406.

The questionnaire may be downloaded from the Compliance Corner link at www.southernmiss.com or requested by calling the Student Academic Enhancement Program office at (601)266-5474.

2. Agents must be properly licensed by the State of Mississippi.

All agents who are interested in representing Southern Miss student-athletes are requested to provide a copy of their State of Mississippi agent license in addition to the information requested on the Agent Questionnaire Checklist.

3. Southern Miss student-athletes may not have contact with sports agents until they exhaust their eligibility or declare their intent to forego any remaining intercollegiate athletics eligibility. An exception exists for the Southern Miss Professional Sports Education Day (see below) and/or any activity governed and approved by the Southern Miss Department of Athletics Agent Committee.

It is not permissible for agents to contact Southern Miss student-athletes directly by phone or in-person. Individual in-person meetings with student-athletes who have exhausted their eligibility may occur during the Southern Miss Professional Sports Education Day (and/or any activity as approved and governed by a designated Department of Athletics representative) or through interviews arranged through the Department of Athletics Agent Committee.

NOTE: Those not in compliance with this request will be listed as “NON-APPROVED AGENTS” which will be distributed to Southern Miss student-athletes by the Southern Miss Department of Athletics.

4. All written correspondence from properly-registered agents should be sent directly to the designated person named below and will be distributed at the discretion of the Department of Athletics Agent Committee.

DO send all written correspondence in duplicate to:

Department of Athletics Agent Committee
c/o Tracy Robinson, Box 10041, Hattiesburg, MS 39406.

The original will be kept on file in the Department of Athletics Agent File. The copy will be given to the student-athlete. Correspondence will be forwarded to a student-athlete at the appropriate time as determined by of the Department of Athletics Agent Committee.

DO NOT request the address or telephone number of a student-athlete. Such information is not distributed to the public.



NCAA BYLAWS

12.3.1 General Rule

An individual shall be ineligible for participation in an 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 Bylaw 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.

12.3.1.2 Benefits from Prospective Agents

An individual shall be ineligible per Bylaw 12.3.1 if he or she (or his or her relatives or friends) accepts transportation or other benefits from: *(Revised: 1/14/97)*

(a) Any person who represents any individual in the marketing of his or her athletics ability. The receipt of such expenses constitutes compensation based on athletics skill and is an extra benefit not available to the student body in general; or

(b) An agent, even if the agent has indicated that he or she has no interest in representing the student-athlete in the marketing of his or her athletics ability or reputation and does not represent individuals in the student-athlete's sport. *(Adopted: 1/14/97)*

Agent Day

The University of Southern Mississippi will hold a Professional Sports Education Day at the end of the fall semester.

The Southern Miss Department of Athletics Agent Committee will annually conduct a Professional Sports Education Day at the end of the Fall Semester. This is an opportunity for agents to meet with our student-athletes. The Professional Sports Education Day is conducted for the mutual benefit of our student-athletes and the agents interested in representing them by allowing agents equal access to Southern Miss student-athletes. If necessary, a second Professional Sports Education Day will be conducted during the spring semester. Dates and times will be posted on the Compliance Corner link at www.southernmiss.com.

MISSISSIPPI LEGISLATURE

2001 Regular Session

To: Judiciary

By: Senator(s) Hamilton

Senate Bill 2312

(As Sent to Governor)

AN ACT ENTITLED THE UNIFORM ATHLETE AGENTS ACT; TO PROVIDE DEFINITIONS; TO REQUIRE REGISTRATION FOR ATHLETE AGENTS; TO PROVIDE FOR A CERTIFICATE OF REGISTRATION ISSUED OR DENIED BY THE SECRETARY OF STATE; TO PROVIDE FOR THE SUSPENSION, REVOCATION OR REFUSAL TO RENEW REGISTRATION; TO PROVIDE FOR TEMPORARY REGISTRATION; TO PROVIDE FOR FEES; TO PROVIDE FOR THE FORM OF AN AGENCY CONTRACT; TO PROVIDE FOR NOTICE TO EDUCATIONAL INSTITUTIONS; TO PROVIDE FOR THE STUDENT ATHLETE'S RIGHT TO CANCEL A CONTRACT; TO PROVIDE FOR RECORDKEEPING; TO PROHIBIT CERTAIN ACTS; TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS OF THIS ACT; TO REPEAL SECTIONS 73-41-1 THROUGH 73-41-23, MISSISSIPPI CODE OF 1972, WHICH ARE THE ATHLETE AGENTS' REGISTRATION REQUIREMENTS ADMINISTERED BY THE SECRETARY OF STATE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Short Title. This act may be cited as the "Uniform Athlete Agents Act."

SECTION 2. Definitions. In this 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. 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.

(c) "Athletic director" means 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.

(d) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

(e) "Endorsement contract" means 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.

(f) "Intercollegiate sport" means 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.

(g) "Person" means 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.

(h) "Professional-sports-services contract" means 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.

(i) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(j) "Registration" means registration as an athlete agent pursuant to this act.

(k) "State" means 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.

(l) "Student-athlete" means 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.

SECTION 3. Administration; service of process; subpoenas. (1) The Secretary of State shall administer this act.

(2) By engaging in the business of an athlete agent in this state, a nonresident individual appoints the Secretary of State 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 Secretary of State may issue subpoenas for any relevant material under this act.

SECTION 4. Athlete agents: registration required. (1) Except as otherwise provided in subsection (2), an individual may not act as an athlete agent in this state before being issued a certificate of registration under Section 6 or 8.

(2) An individual may act as an athlete agent before being issued a certificate of registration for all purposes except signing an agency contract if:

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

(b) Within seven (7) 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.

SECTION 5. Registration as athlete agent; form; requirements. (1) An applicant for registration shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. An application filed under this section is a public record. Except as otherwise provided in subsection (2), the application must be in the name of an individual and signed by the applicant under penalty of perjury and must state or contain:

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

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

(c) Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of the application;

(d) A description of the applicant's:

(i) Formal training as an athlete agent;

(ii) Practical experience as an athlete agent; and

(iii) Educational background relating to the applicant's activities as an athlete agent.

(e) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;

(f) The name, sport and last known team for each individual for whom the applicant provided services as an athlete agent during the five (5) years next preceding the date of submission of the application;

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

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

(ii) With respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation with a five percent (5%) or greater interest.

(h) Whether the applicant or any other person named pursuant to paragraph (g) has been convicted of a crime that, if committed in this state, would be a felony or other crime involving moral turpitude, and identify the crime;

(i) Whether there has been any administrative or judicial determination that the applicant or any other person named pursuant to paragraph (g) has made a false, misleading, deceptive or fraudulent representation;

(j) Any instance in which the conduct of the applicant or any other person named pursuant to paragraph (g) 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;

(k) Any sanction, suspension or disciplinary action taken against the applicant or any other person named pursuant to paragraph (g) arising out of occupational or professional conduct; and

(l) 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 pursuant to paragraph (g) as an athlete agent in any state.

(2) An individual who has submitted an application for, and received a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and a valid certificate of registration or licensure from the other state in lieu of submitting an application in the form prescribed pursuant to subsection (1). The Secretary of State shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

(a) Was submitted in the other state within the six (6) months next preceding the submission of the application in this state and the applicant certifies the information contained in the application is current;

(b) Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

(c) Was signed by the applicant under penalty of perjury.

SECTION 6. Certificate of registration; issuance or denial; renewal. (1) Except as otherwise provided in subsection (3), the Secretary of State shall issue a certificate of registration to an individual who complies with Section 5(1).

(2) Except as otherwise provided in subsection (3), the Secretary of State shall issue a certificate of registration to an individual whose application has been accepted under Section 5(2).

(3) The Secretary of State may refuse to issue a certificate of registration if the Secretary of State 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 Secretary of State may consider whether the applicant has:

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

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

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

(d) Engaged in conduct prohibited by Section 14;

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

(f) 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

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

(4) In making a determination under subsection (3), the Secretary of State shall consider:

(a) How recently the conduct occurred;

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

(c) Any other relevant conduct of the applicant.

(5) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the Secretary of State. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(6) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (5), may file a copy of the application for renewal and a valid certificate of registration from the other state. The Secretary of State shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

- (a) Was submitted in the other state within the last six (6) months and the applicant certifies the information contained in the application for renewal is current;
 - (b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
 - (c) Was signed by the applicant under penalty of perjury.
- (7) A certificate of registration or a renewal of a registration is valid for two (2) years.

SECTION 7. Suspension, revocation or refusal to renew registration. (1) The Secretary of State may suspend, revoke or refuse to renew a registration for conduct that would have justified denial of registration under Section 6(3).

(2) The Secretary of State may deny, suspend, revoke or refuse to renew a registration only after proper notice and an opportunity for a hearing.

(3) (a) The Secretary of State shall appoint at least one (1) hearing officer for the purpose of holding hearings, compiling evidence and rendering decisions under this section and Section 6 of this act. The hearing officer shall fix the date for adjudicatory hearings and notify the athlete agent involved. Such hearing shall be held at a location to be designated by the hearing officer, not less than fifteen (15) nor more than thirty (30) days after the mailing of notice to the athlete agent involved. At the conclusion of the hearing, the hearing officer shall take appropriate action regarding the registration of the athlete agent involved.

(b) Any athlete agent whose application for registration has been denied or not renewed, or whose registration has been revoked or suspended by the hearing officer, within thirty (30) days after the date of such final decision, shall have the right of a trial de novo on appeal to the Circuit Court of the First Judicial District of Hinds County, Mississippi. Either party shall have the right of appeal to the Supreme Court as provided by law from any decision of the circuit court. No athlete agent shall be allowed to deliver services to a Mississippi NCAA athlete while any such appeal is pending.

(4) In addition to the reasons specified in subsection (1) and (2) of this section, the secretary shall be authorized to suspend the registration of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a registration for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a registration suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a registration suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the secretary in suspending the registration of a person when required by Section 93-11-157 are not actions from which an appeal may be taken under this section. Any appeal of a registration suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 8. Temporary registration. The Secretary of State may issue a temporary certificate of registration while an application for registration or renewal is pending.

SECTION 9. Registration and renewal fee. An application for registration or renewal of registration must be accompanied by a fee in the following amount:

- (a) One Hundred Dollars (\$100.00) for an initial application for registration;
- (b) One Hundred Dollars (\$100.00) for an application for registration based upon a certificate of registration or licensure issued by another state;
- (c) Fifty Dollars (\$50.00) for an application for renewal of registration; or
- (d) Fifty Dollars (\$50.00) for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

SECTION 10. Form of contract. (1) An agency contract must be in a record, signed by the parties.

(2) An agency contract must state or contain:

- (a) 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;
- (b) 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;
- (c) A description of any expenses that the student-athlete agrees to reimburse;
- (d) A description of the services to be provided to the student-athlete;
- (e) The duration of the contract; and
- (f) The date of execution.

(3) An agency contract must 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.

SECTION 11. Notice to educational institution. (1) Within seventy-two (72) 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 a record 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 (72) 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 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.

SECTION 12. Student-athlete's right to cancel. (1) A student-athlete may cancel an agency contract by giving notice in a record to the athlete agent of the cancellation within fourteen (14) days after the contract is signed.

(2) A student-athlete may not waive the right to cancel any agency contract.

(3) If a student-athlete cancels an agency 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.

SECTION 13. Required records. (1) An athlete agent shall retain the following records for a period of five (5) years:

(a) The name and address of each individual represented by the athlete agent;

(b) Any agency contract entered into by the athlete agent; and

(c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete.

(2) Records required by subsection (1) to be retained are open to inspection by the Secretary of State during normal business hours.

SECTION 14. 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:

(a) Give any materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(2) An athlete agent may not intentionally:

(a) Initiate contact with a student-athlete unless registered under this act;

(b) Refuse or willfully fail to retain or permit inspection of the records required by Section 13;

(c) Violate Section 4 by failing to register;

(d) Provide materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate an agency contract; or

(f) 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.

SECTION 15. Criminal penalties. The commission of any act prohibited by Section 14 by an athlete agent is a felony punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment of not more than two (2) years, or both.

SECTION 16. Civil remedies. (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 this act. 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) 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 this act 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) This act does not restrict rights, remedies or defenses of any person under law or equity.

SECTION 17. Administrative penalty. The Secretary of State may assess a civil penalty against an athlete agent not to exceed Twenty-five Thousand Dollars (\$25,000.00) for a violation of this act.

SECTION 18. Application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter of this act among states that enact it.

SECTION 19. Sections 73-41-1, 73-41-3, 73-41-5, 73-41-7, 73-41-9, 73-41-11, 73-41-13, 73-41-15, 73-41-17, 73-41-19, 73-41-21 and 73-41-23, Mississippi Code of 1972, which are the athlete agents' registration requirements administered by the Secretary of State, are hereby repealed.

SECTION 20. This act shall take effect and be in force from and after July 1, 2001.