



Overview of NCAA Legislation for NFLPA Financial Advisors

INTRODUCTION

Financial Advisors provide a unique and vital service to professional athletes. However, the trend of student-athletes engaging in the selection process of financial advisors prior to exhausting their eligibility has become extremely prevalent. As such, it is imperative that financial advisors are aware of the restrictions they face when interacting with student-athletes. An increased awareness on the part of financial advisors will assist student-athletes in protecting their eligibility.

To support financial advisors in their adherence to NCAA legislation, the following areas are addressed herein:

- Amateur Status.
- NCAA Legislation and Agents.
- Uniform Athlete Agents Act (UAAA).
- Best Practices for NFLPA Financial Advisors.

AMATEUR STATUS

Student-Athletes of NCAA member institutions are considered to be amateurs within their respective sports. Due to this status, student-athletes are permitted to participate in collegiate athletics and receive services/items incidental to their participation and in accordance with NCAA, conference and institutional legislation/guidelines.

NCAA Bylaw 12.1.2 defines amateur status and outlines how a student-athlete may lose their amateurism. Specifically, amateurism will be lost if a student-athlete engages in any of the following:

- Competes on a professional team.
- Accepts a promise of pay (for now or in future).
- Uses his or her athletics skill for pay in any form.
- Enters into an agreement with an agent (oral or written).
- Signs a contract or commitment to play professional athletics.
- Receives compensation from a professional sports organization.
- Enters into a draft and is drafted subsequent to collegiate enrollment.

NCAA LEGISLATION & AGENTS

NCAA DEFINITION OF AN AGENT

According to NCAA Bylaw 12.02.1, an agent is any individual who, directly or indirectly:

- Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain; or
- Seeks to obtain any type of financial gain or benefit from securing a prospective student-athlete's potential earnings as a professional athlete.

Based on this definition, an agent may include (but is not limited to) certified contract advisors, financial advisors, marketing representatives, brand managers, and anyone who is employed or associated with such persons.

It is important to note that student-athletes and institutions may be subject to penalties based on the actions of financial advisors, due to triggering agent status under NCAA Bylaws 12.02.1 and 12.02.1.1.

NCAA LEGISLATION & AGENTS

Classification of a financial advisor as an agent under NCAA legislation, means that such individuals and their actions may render a student-athlete or a prospective student-athlete ineligible and result in a loss of amateur status. Financial advisors should be particularly cautious in the areas of agreements and benefits; and ensure they are not engaging in activity that may jeopardize a student-athlete's eligibility or trigger an extra benefit penalty.

AGREEMENTS

The following agreements will render a student-athlete or prospective student-athlete ineligible:

- A student-athlete is ineligible if he/she has an oral or written agreement with an agent.
- It is not permissible for a student-athlete or prospective student-athlete to enter into an agreement for future representation, even if the representation will occur after eligibility has expired.

NCAA LEGISLATION & AGENTS

BENEFITS

According to NCAA Bylaw 12.3.1.2, the following individuals cannot accept any benefits or transportation from an agent, financial advisor, runner, or any other person associated with the business of such individuals. It is important to note that acceptance of the benefit alone is impermissible, even if the benefit is not used and regardless of its value:

- Student-Athletes.
- Prospective student-athletes.
- Friends and family of student-athletes and prospective student-athletes.

NCAA AGENT LEGISLATION & ADVISORS

According to NCAA Bylaw 12.3.2, securing advice from a lawyer concerning a proposed professional sports contract, is not considered contracting for representation by an agent, unless the lawyer also represents the individual in negotiations for such a contract.

A similar analysis can be made for the financial advisor. Specifically, it is permissible for advisors to do the following without triggering agent status:

- Discuss the merits of a proposed contract with an individual and provide suggestions about the type of offer the individual should consider, provided there is not a link between the advisor and the professional team.
- ▶ **NOTE:** The advisor must be compensated at his or her normal rate when providing the aforementioned services.

NCAA LEGISLATION & THE UAAA

The Uniform Athlete Agents Act (UAAA) is a model state law that provides a means of regulating the conduct of athlete agents. In most cases, the UAAA, as enacted, requires an athlete agent to register with a state authority, typically the Secretary of State, in order to act as an athlete agent in that state. During the registration process, an athlete agent must provide important background information, both professional and criminal in nature.

The UAAA has historically defined an athlete agent as an individual who directly or indirectly recruits or solicits a student-athlete (or prospective student-athlete) to enter an agency contract. However, the UAAA recently revised the definition of an athlete agent to include individuals who, for compensation, advise a student-athlete (or prospective student-athlete) on finances, business ventures, or career management. Additionally, the Act extends its reach to individuals who engage in the following:

- Give consideration to a student-athlete, or another person, in anticipation of representing the athlete for a purpose related to their participation in athletics.
- Services the athlete in an advisory capacity on matters related to finances, business pursuits, or career management decisions.
- Manages the business affairs of the athlete by providing assistance with bills, payment, contracts or taxes.

While NCAA legislation may not permit the direct sanctioning of agents and financial advisors, the UAAA allows agents and financial advisors to be held criminally or civilly liable within the states who have adopted the Act.

BEST PRACTICES

DO...

- Make sure you are properly registered and in compliance with applicable state law to act as an agent/advisor.
- Make sure you adhere to the requirements of applicable NCAA institution or conference registration programs **before** contacting a student-athlete.
- Make sure that you are certified in accordance with the rules of the relevant professional player's association **before** contacting a student-athlete.
- Inform student-athletes of the services that you or your firm/agency can provide should they choose to become a professional athlete.
- Encourage student-athletes to consult with their institution's compliance office **before** forming an agreement with you or your firm/agency. This will allow them to understand the impact the agreement will have on their college eligibility.

BEST PRACTICES

DO...

- Cooperate with an institution's professional sports counseling panel. The panel is designed to assist student-athletes with their transition into a professional athletics career, including selection of an agent or financial advisor.
- Encourage student-athletes that you have communicated with to keep their institution's compliance officers apprised of your conversations. Thereby, allowing the athletics department to be prepared to respond to inquiries from the media and the NCAA.
- Familiarize yourself with the Uniform Athlete Agents Act and the states in which it, or similar legislation, exists.

Resources

NCAA Website

<http://www.ncaa.org/enforcement/agents-and-amateurism>

Uniform Athlete Agents Act

http://www.uniformlaws.org/shared/docs/athlete_agents/2015AM_RevAthleteAgents_VBS.pdf

THANK YOU

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