

Report on the
Alabama Athlete Agents Commission
Montgomery, Alabama



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Examiners of Public Accounts**

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May 16, 2018

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama Athlete Agents Commission in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Alabama Athlete Agents Commission, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones
Chief Examiner

Examiner
Gerald Dedon

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PROFILE

Purpose/Authority

The Athlete Agents regulatory law was first enacted by Act 628, Acts of Alabama 1987, to be administered by an Athlete Agents Regulatory Commission.

Act 828, Acts of Alabama 1994, added the Secretary of State as a member of the Commission and provided for administrative duties of the Commission to be performed by the Secretary of State.

Act 701, Acts of Alabama 2001, effective October 1, 2001, repealed the Athlete Agents regulatory law in its entirety and created a new regulatory law in its current form with primary responsibility for administering the law transferred from the commission to the Secretary of State. The Commission was retained in a reduced capacity and renamed the Alabama Athlete Agents Commission. Act 701, Acts of Alabama 2001, also named the Commission as an enumerated body under Alabama's Sunset law.

The Athlete Agents Commission, along with the Secretary of State, administers the Athlete Agents regulatory law to protect the interests of student-athletes and academic institutions by regulating the activities of athlete agents. Current statutory authority for the Commission is found in the *Code of Alabama 1975*, Sections 8-26B-1 through 8-26B-31.

The following legislation was passed since the last sunset review of this agency:

Act 415, Acts of Alabama 2016 - Repealed the *Code of Alabama 1975*, Chapter 26A and created Chapter 26B, now known as the Revised Uniform Athlete Agents Act. The Act provides for the registration of athlete agents and the regulation of the relationship between athlete agents and student athletes; provides definitions; licensing requirements; reciprocal licensing; agency contract requirements; notification requirements; and criminal and civil remedies. The Act is included in the codification included in the appendix of the report.

Characteristics

Members and Selection	<p>The Commission consists of the Secretary of State and 18 members as follows:</p> <ul style="list-style-type: none">• One member appointed by the Governor• One member appointed by the Lieutenant Governor• One member appointed by the Speaker of the House of Representative• The athletic director or an individual appointed by the athletic director at each of the following institutions of higher education:<ul style="list-style-type: none">Auburn UniversityUniversity of Alabama, TuscaloosaUniversity of South AlabamaAlabama State UniversityAlabama A&M UniversityTuskegee UniversityTroy UniversityJacksonville State UniversityUniversity of North AlabamaUniversity of West AlabamaMiles CollegeUniversity of MontevalloUniversity of Alabama, HuntsvilleUniversity of Alabama Birmingham• One member appointed by the Alabama High School Athletic Association <p><i>Code of Alabama 1975, Section 8-26B-30 (a)</i></p>
Term	<p>All members serve three year terms. Members are eligible for reappointment. There are no term limits.</p> <p><i>Code of Alabama 1975, Section 8-26B-30 (b)</i></p>
Qualifications	<p>Members shall be citizens of the United States and residents of Alabama</p> <p><i>Code of Alabama 1975, Section 8-26B-30 (b)</i></p>
Racial Representation	<p>No statutory requirement Five black members serving</p>
Geographical Representation	<p>No statutory requirement</p>

Consumer Representation	No statutory requirement
Other Representation	The appointing power shall select those persons whose appointments, to the extent possible, ensure that the membership of the commission is inclusive and reflects the racial, gender, urban/rural, and economic diversity of the state. <i>Code of Alabama 1975, Section 8-26B-30 (b)</i>
Compensation	Except for the Secretary of State, each member who is not otherwise reimbursed by public funds, receives fifty dollars for each day the member is actively engaged in the discharge of official duties of the commission and shall also be entitled to reimbursement for actual necessary expenses <i>Code of Alabama 1975, Section 8-26B-30 (k)</i>
<u>Operations</u>	
Administrator	Secretary of State, John H. Merrill Elected official Annual salary \$81,695.77 <i>Code of Alabama 1975, Section 8-26B-3</i>
Location	State Capitol Building – Suite S-105 600 Dexter Avenue Montgomery, AL 36104 Office Hours: M - F 8:00 – 5:00
Examinations	Examinations are not required for licensure
Licensees	274 as of January 23, 2018 <i>Source:</i> Office Staff
Licensee Demographics	Data not collected
Reciprocity	An individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the Secretary of State: <ul style="list-style-type: none"> • A copy of the application for registration in the other state. • A statement that identifies any material change in the information on the application or verifies there is no

	<p>material change in the information, signed under penalty of perjury; and</p> <ul style="list-style-type: none"> • A copy of the certificate of registration from the other state <p>The Commission does not have any state specific agreements.</p> <p><i>Code of Alabama 1975</i>, Section 8-26B-5 (b)</p>
Renewals	<p>Biennial – Certificates of registration expire two years from the date of issue. Issuance dates are the date of the quarterly commission meetings. All applications (new and renewal) received during the quarter are approved/denied during that quarter’s commission meeting.</p> <p>Grace period for a license after the expiration is only during that quarter for renewal.</p> <p>If a licensee does not get their renewal information in during the quarter the license expires they will need to reapply as a new agent in a subsequent quarter.</p> <p>Online renewals are not available.</p> <p><i>Code of Alabama 1975</i>, Section 8-26B-6 (f) <i>Source:</i> Office Staff</p>
Continuing Education	No statutory requirement
Employees	Four of the Secretary of State’s employees perform administrative functions for the Commission on an as needed basis.
Immigration	Non-compliant <i>(See prior significant issues)</i>
Legal Counsel	Brent Beal, Chief Legal Advisor, employee of the Secretary of State’s office
Subpoena Power	None except as provided by the Administrative Procedures Act, <i>Code of Alabama 1975</i> , Section 41-22-12, for hearings and contested cases.

Internet Presence	http://sos.alabama.gov/administrative-services/athlete-agents <ul style="list-style-type: none"> • Home Page • Roster of registered athlete agents • Law • Information packet • Application forms • Contact information
Attended Board Member Training	No one attended the last Board member training held in 2014.
<u>Financial</u>	
Source of Funds	Registration, renewal fees, and administrative penalties
State Treasury	Special Revenue Fund 0781 <i>Code of Alabama 1975</i> , Section 8-26B-31 (b)
Required Distributions	No statutory requirements
Unused Funds	The Commission retains unused funds at fiscal year-end. <i>Code of Alabama 1975</i> , Section 8-26B-31 (b)

SIGNIFICANT ISSUES

No new significant issues.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

Prior Significant Issue 2014-02 - The Commission has not taken action to comply with the state law that requires its licensees to be either United States Citizens or lawfully present in the United States. The Commission does not ask applications to sign a declaratory statement and provide proof of citizenship/legal alien status on new license or renewal forms. The Commission has not enrolled in the Federal Systematic Alien Verification for Entitlements (SAVE) program used to verify documentation presented by non-citizen applicants.

The *Code of Alabama 1975*, Section 8-26A-5 (12) (b) (3) (c) of the Commission’s licensing law provides that, “An applicant for registration shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.” More specifically, Section 31-13-29(c)(1) of the Alabama Immigration

statute requires that, “Any person entering into a public records transaction or attempting to enter into a public records transaction with this state or a political subdivision of this state shall be required to demonstrate his or her United States citizenship... or his or her lawful presence in the United States... An alien's lawful presence in the United States may be verified through the Systematic Alien Verification for Entitlements program operated by the Department of Homeland Security...” Section 31-13-29(g) lists documents to be used to verify citizenship. Section 31-13-3(10) provides that “a person shall be regarded as an alien unlawfully present in the United States only if the person's unlawful immigration status has been verified by the federal government pursuant to 8 U.S.C. § 1373(c).” and then lists documents to be used to verify lawful presence.

Current Status 2018 - Partially resolved. The Commission has modified license and renewal forms to require applicants to sign a declaratory statement and provide proof of citizenship/legal alien status, however, the Commission has not enrolled in the Federal Systematic Alien Verification for Entitlements (SAVE) program.

Commission’s Response – As to your finding of partial resolution, we respectfully ask that reconsider your assertion and believe we have fully cured this issue for the reasons provided herein.

The Alabama Uniform Athlete Agents Act was repealed in its entirety and replaced by the Revised Uniform Athlete Agents Act. Specifically, Alabama Code Section 8-26A-5 you cite in your finding was repealed by Act 2016-415 with an effective date of October 1, 2016. In a review of the amended section, the term “citizen” only appears once in Section 8-26B-30 as a requirement for appointed members of the Commission. Under the Revised Uniform Athlete Agents Act, there is no requirement for an athlete agent to be a citizen. However, the Alabama Taxpayer and Citizen Protection Act (Beason-Hammon Act) would still apply.

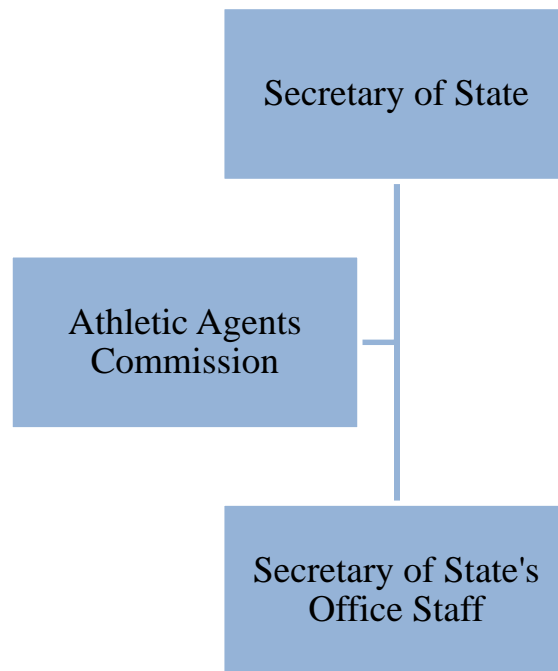
As to the Beason-Hammon Act Section 31-13-29(c)(1), the code sets out that, “[a]ny person entering into a public records transaction or attempting to enter into a public records transaction with this state or political subdivision of this state shall be required to demonstrate his or her United States citizenship as provided in subsection (g), or his or her lawful presence in the United States, as provided in subdivision (10) of Section 31-13-3. The amendment to our form was made specifically to conform to this requirement. In 31-13-29(g), it sets out the list of forms an applicant may demonstrate or confirm their United States citizenship.

As to aliens, 31-13-3(10) speaks to those requirements to prove lawfulness. An alien self-identification in any of the forms listed is entitled to the presumption that he or she is an alien lawfully present in the United States. We specifically request these forms for an alien wishing to apply to be an athlete agent. The Alabama Athlete Agents Commission does not authorize any applicant prior to receiving this documentation. As of today’s date, we have had no aliens apply to be an athlete agent.

As to the assertion we must use the Systematic Alien Verification system, 31-13-29(c)(1) is an optional part of the statute that is unneeded due to our requirement for certifying documentation with the application. An aliens’ lawful presence in the United States may be verified through the Systematic Alien Verification for Entitlements program operated by the Department of Homeland Security, or by other verification with the Department of Homeland Security pursuant to 8 U.S.C. § 1373(c). As you can see in the language, it is permissive language and is not mandatory.

Further, 31-13-29 (c)(2)(b) states that, an alien demonstrating lawful permanent residence in the United States by the presentation of proper documentation proving that the alien is a lawfully permanent resident in the United States shall not be required to demonstrate lawful status for subsequent public records transactions after an initial verification is made. Any alien or citizen presenting documents is entitled to a presumption of legal status and has already received an initial verification to be issued the documents.

ORGANIZATION



PERSONNEL

The Commission has no employees. Four of the employees of the Secretary of State's Office perform administrative functions for the Commission.

Legal Counsel

Brent Beal, an employee of the Secretary of State, is the chief legal counsel for the Commission.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 69

Number of Persons per Licensee in Alabama and Surrounding States

	Population (estimate)*	Number of Licensees	Persons Per Licensee
Alabama	4,878,747	274	17,806
Florida	20,984,400	360	58,290
Georgia	10,429,379	113	92,295
Mississippi	2,984,100	113	26,408
Tennessee	6,715,984	160	41,975
*Source: U.S. Census Bureau, July 2017 Population Estimates			

Operating Disbursements per Licensee (2017 fiscal year) – \$218.40

Notification of Commission decisions to Amend Administrative Rules

The Commission complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are not specifically notified of proposed rule changes.

COMPLAINT HANDLING

The Commission’s *Administrative Rule* 142-1-2 provides the procedures for documentation, receipt, and investigation of complaints against licensees. According to the program administrator at the Secretary of State’s office, no complaints had been filed with the commission for the past four years.

Initial Contact/Documentation	<p>Complaints may be received by delivery of documents to the commission, an employee of the Secretary of State, in person, or by United States Mail</p> <p>Commission members are allowed to bring complaints to the attention of the commission.</p> <p>No specific form is required. Complaints may be either informal or formal.</p> <p>Formal complaints must be signed by the party or an attorney for the party. Notarization is not required.</p>
Anonymous Complaints Accepted	Yes
Negotiated Settlements	Yes
Probable Cause Determination	The Commission first recommends that complaints be corrected by communication instead of a formal hearing. A formal vote determines if the complaint merits corrective action by the Commission.
Notification of Resolution to the Complainant	Complainants are notified of the Commission’s resolution of complaints

FINANCIAL INFORMATION

Source of funds – Registration and renewal fees, administrative penalties

Fund

State Treasury Fund 0781, created by *Code of Alabama 1975*, Section 8-26B-31. Receipts are collected through registration and renewal fees. The Commission retains all unused fund at fiscal year-end.

Schedule of Fees

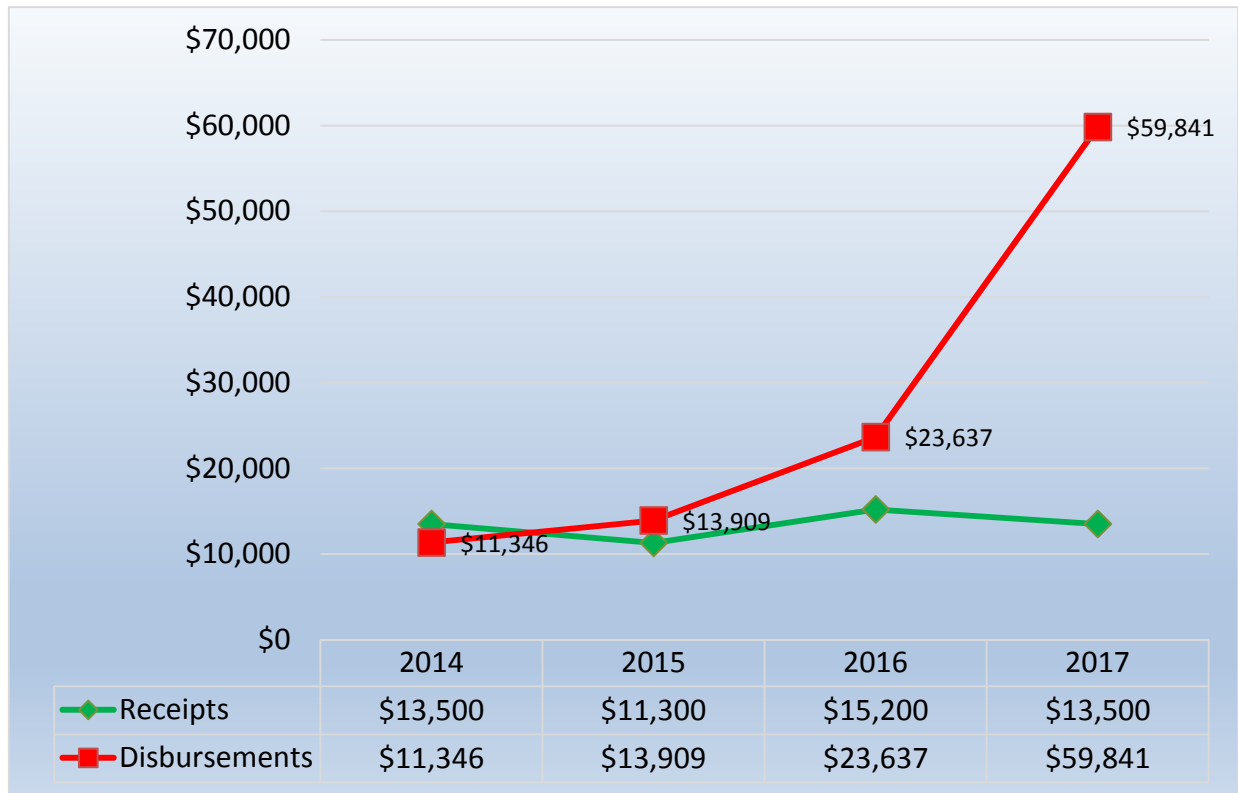
Fee Type/Purpose	Statutory Authority	Amount Authorized	Amount Collected
Initial application for registration	8-26B-9 (1)	\$200	\$200
Application for registration based upon a certificate of registration or licensure from another state	8-26B-9 (2)	\$100	\$100
Application for renewal of registration	8-26B-9 (3)	\$100	\$100
Application for renewal of registration based upon certificate of registration or licensure from another state	8-26B-9 (4)	\$100	\$100

Schedule of Receipts, Disbursements, and Balances

October 1, 2013 through September 30, 2017

	<u>2016 - 2017</u>	<u>2015 - 2016</u>	<u>2014 - 2015</u>	<u>2013 - 2014</u>
<u>Receipts</u>				
Licenses and Permits	\$ 13,500.00	\$ 15,200.00	\$ 11,300.00	\$ 13,500.00
<u>Disbursements</u>				
Personnel Costs	7,894.17	5,207.50	-	-
Employee Benefits	4,308.59	2,890.47	-	0.32
Travel-In-State	6,122.92	5,343.86	5,499.41	5,747.16
Professional Services	41,491.12	9,998.48	8,409.70	5,598.60
Supplies, Materials, and Operating Expenses	24.00	197.15	-	-
Total	<u>59,840.80</u>	<u>23,637.46</u>	<u>13,909.11</u>	<u>11,346.08</u>
Excess (Deficiency) of Receipts over Disbursements	(46,340.80)	(8,437.46)	(2,609.11)	2,153.92
Cash Balance at Beginning of Year	<u>63,684.40</u>	<u>72,121.86</u>	<u>74,730.97</u>	<u>72,577.05</u>
Cash Balance at End of Year	17,343.60	63,684.40	72,121.86	74,730.97
Reserved for Unpaid Obligations	<u>(7,605.00)</u>	<u>(19,200.00)</u>	<u>(39,900.00)</u>	<u>(5,250.00)</u>
Unreserved Cash Balance at end of Year	<u>\$ 9,738.60</u>	<u>\$ 44,484.40</u>	<u>\$ 32,221.86</u>	<u>\$ 69,480.97</u>

Operating Receipts vs. Operating Disbursements (Chart)

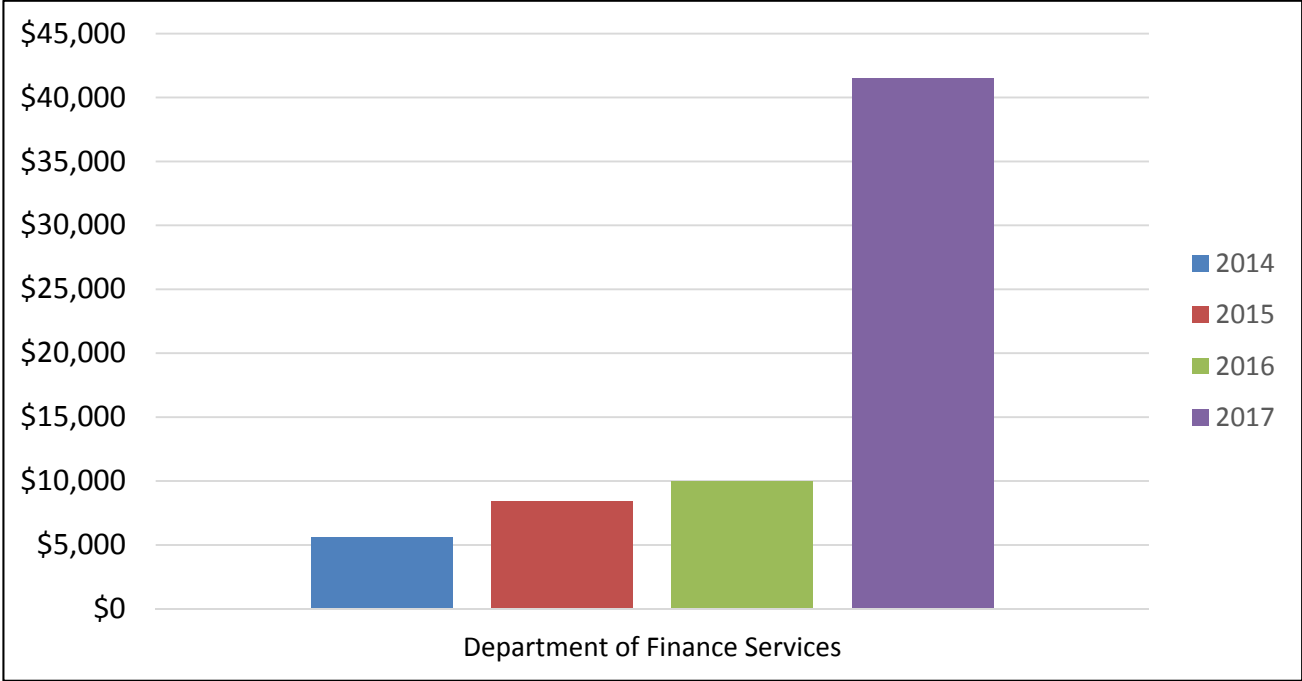


SUMMARY SCHEDULE OF PROFESSIONAL SERVICE DISBURSEMENTS*				
October 1, 2013 through September 30, 2016				
Type of Service	FY 2014	FY 2015	FY 2016	FY 2017
Department of Finance Services	\$5,598.60	\$8,409.70	\$9,998.48	\$41,491.12

Source: State Comptroller's Records

*Detailed information presented in the appendix

Professional Service Disbursement Chart



QUESTIONNAIRES

Commission Member Questionnaire

A letter was sent to all eighteen commission members requesting their participation in our survey. Eleven participated in the survey. The percentages, where shown, are based on the number who responded to the questionnaire.

1. What are the most significant issues currently facing the Alabama Athlete Agents Commission and how is the Commission addressing these issues?

Commission Member #1 – “Whether they are legit in their profession.”

Commission Member #2 – “Ensuring all applicants meet the standards to perform their duties in a legal and ethical manner.”

Commission Member #3 – “The control and monitoring of non-licensed agents and their “runners”.”

Commission Member #4 – “The main issue would be protecting our student athletes by providing continuous oversight of licensed agents, and properly identifying individuals who are not licensed agents acting as such. The recent updates to the law have allowed more transparency from state to state for applicants to be approved.”

Commission Member #5 – “N/A. I was recently appointed and have not attended my first meeting yet.”

Commission Member #6 – “1. Identifying agents and educating them on the process. 2. Sharing information with other states about bad actors. 3. Punishing those bad actors who don’t comply with legislation.”

Commission Member #7 – “The number of agent applicants who are not qualified to serve as an agent. There are no specific qualifications to be an agent. The commission does a good job of reviewing qualifications and backgrounds to make sure applicants are in good standing.”

Commission Member #8 – “Aligning the state commission with national laws. Working with all institutions. The commission could assist with education of the university representatives and assist with education on how to implement procedures and policies on their campuses. Representation by more state institutions.”

Commission Member #9 – “Insuring the credibility and integrity of the eligibility requirements of student-athletes without the interference of registered or unregistered agents.”

Commission Member #10 – “Inconsistent commission member attendance is an issue that would be helped by the ability to conduct commission business via conference call.”

Commission Member #11 – “Family and friends who do not believe they are agents but are representing the student-athlete to shoe companies, schools, etc.”

2. What changes to the commission’s laws are needed?

Commission Member #1 – “To ensure quality representation for all agents.”

Commission Member #2 – “Continue to work with legislators and the NCAA to ensure legislation is followed and communicated to all parties.”

Commission Member Questionnaire

Commission Member #3 – “A uniform law and database that “talks” to all 50 states. Must continue to establish communication and regulation nationally and not just regionally or statewide.”

Commission Member #4 – “The recently updated laws have corrected most of the issues. The application form is continuously being evaluated for improvements.”

Commission Member #5 – “N/A. I was recently appointed and have not attended my first meeting yet.”

Commission Member #6 – “Following the recent revision, none”

Commission Member #7 – “The Commission meets quarterly in person. This ability to meet via teleconference when needed would be good.”

Commission Member #8 – “It is my understanding a lawyer assisting us is working on them to align with national laws.”

Commission Member #9 – “Additional study at the state and national level.”

Commission Member #10 – “None.”

Commission Member #11 – “Unsure.”

3. Is the Commission adequately funded?

Yes	10	91%
No	1	9%

Commission Member #5 – “N/A. I was recently appointed and have not attended my first meeting yet.”

Commission Member #8 – “We need the capabilities of electronic meetings”

4. Does the Commission receive regular reports on operations from the chief administrative officer?

Yes	9	82%
No	2	18%

Commission Member #1 – “Not sure”

Commission Member #5 – “N/A. I was recently appointed and have not attended my first meeting yet.”

Commission Member #8 – “Unknown, had to say no to have an answer”

5. Is the Commission adequately staffed?

Yes	10	91%
No Opinion	1	9%

Commission Member #5 – “N/A. I was recently appointed and have not attended my first meeting yet.”

Commission Member #8 – “Unknown, had to say no to have an answer”

Commission Member Questionnaire

6. Has the Commission experienced any significant changes to its operations?

Yes	3	27%
No	8	73%

Commission Member #5 – “N/A. I was recently appointed and have not attended my first meeting yet.”

Commission Member #6 – “New legislation was passed, which resulted in a revised application process”

Commission Member #8 – “Unknown. Due to travel and days of meetings, have been unable to attend”

7. Does the Commission plan any significant changes to its operations?

Yes	2	18%
No	9	82%

Commission Member #1 – “Has been mentioned.”

Commission Member #5 – “N/A. I was recently appointed and have not attended my first meeting yet.”

Commission Member #10 – “We need to have the ability to conduct Commission business via conference call.”

Athlete Agent Questionnaire

A letter was sent to one hundred Athlete Agent licensees requesting their participation in our survey. Eleven participated in the survey. The percentages, where shown, are based on the number who responded to the questionnaire.

- 1. Do you think regulation of your profession by the Athlete Agent Commission is necessary to protect the public welfare?**

Yes	6	55%
No	5	45%

Respondent #7 – “Instead of state-by-state regulation, I’d prefer national.”

Respondent #14 – “I feel it is necessary but I believe there are still unregistered people involved in the solicitation of amateur athletes who are not registered (you constantly hear of “runners” on the college campuses recruiting football players).”

- 2. Do the laws, regulations, or policies administered by the Commission constitute an unnecessary restriction on the practice of your profession?**

Yes	6	55%
No	5	45%

Respondent #2 – “Because you have agents who aren’t getting licensed but are still signing players in the state.”

Respondent #7 – “I think the rules are fine, but I don’t think the rules/regulations are ever enforced. I don’t mean Alabama specifically. I’m referring to all states.”

Respondent #8 – “Yes because the majority of the time, it is not the athlete agent causing issues with the player’s eligibility. There are financial advisors, runners, etc. who are causing the most issues.”

Respondent #10 – “I think overall the commission is good, but some rules need to be changed.”

- 3. Do you think any of the Commission’s requirements are irrelevant to the competent practice of your profession?**

Yes	4	36%
No	7	64%

Respondent #8 – “Unsure yet as I was just approved.”

- 4. Are you adequately informed by the Commission of changes to and interpretations of Commission positions, policies, rules, and laws?**

Yes	7	64%
No	4	36%

Respondent #8 – “Unsure yet as I was just approved.”

5. Has the Commission performed your licensing and renewal in a timely manner?

Yes	10	91%
No	1	9%

Respondent #2 – “I submitted my request in September but my license wasn’t approved until November.”

Respondent #7 – “I feel like the commission takes seriously the registration of agents.”

6. What do you think is the most significant issue(s) currently facing you profession and what is the Commission doing to address the issue(s)?

Respondent #1 – “No answer.”

Respondent #2 – “Making sure that the athletes are properly educated.”

Respondent #3 – “No answer.”

Respondent #4 – “No answer.”

Respondent #5 – “Unsure yet as I was just approved.”

Respondent #6 – “That agents (at least in the football field) must pass a rigorous vetting process not to mention costly fees and unnecessary insurance; and then are forced to be governed by a second governmental body; while the athletes are contacted by unlicensed runners who have more access to the athlete since there is no restriction.”

Respondent #7 – “Rampant cheating by agents and families conditioned to make decisions based on illegal payments by unethical agents. The regulations are not enforced anywhere.”

Respondent #8 – “No answer.”

Respondent #9 – “Making sure people are doing it the clean way and not going adjacent regulations/rules/laws. They make that you are within your rights.”

Respondent #10 – “The rules are not enforced evenly. Many agents (like those who rep the head coaches) get earlier visits, talk to players without being registered, etc. Even when an agent signed a player without being registered, nothing happens (especially to the bigger firms). There is a blind eye turned towards the bigger firms.”

Respondent #11 – “I think the lack of specific industry training, ethics and awareness of the state’s requirements for athlete registration is the most pressing issue. I’m not sure how the state can address that if you don’t know who’s not complying with the state’s requirements.”

7. Do you think the Commission and its staff are satisfactorily performing their duties?

Yes	9	82%
No	2	18%

Respondent #7 – “See above”

Respondent #10 – “See comments to #6.”

Athlete Agent Questionnaire

8. Has any member of the Commission or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a Commission service for you?

No	11	100%
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APPENDICES

Applicable Statutes

Section 8-26B-1

Short title.

This chapter may be cited as the Revised Uniform Athlete Agents Act (2016).
(Act 2016-415, §1.

Section 8-26B-2

Definitions.

In this chapter:

- (1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional-sports-services contract or endorsement contract.
- (2) "Athlete agent":
 - (A) means an individual, whether or not registered under this chapter, who:
 - (i) directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;
 - (ii) for compensation or in anticipation of compensation related to a student athlete's participation in athletics:
 - (I) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or
 - (II) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or
 - (iii) in anticipation of representing a student athlete for a purpose related to the athlete's participation in athletics:
 - (I) gives consideration to the student athlete or another person;
 - (II) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or
 - (III) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; but
 - (B) does not include an individual who:
 - (i) acts solely on behalf of a professional sports team or organization; or
 - (ii) is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:
 - (I) also recruits or solicits the athlete to enter into an agency contract;
 - (II) also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or
 - (III) receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.
 - (3) "Athletic director" means the 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) "Educational institution" includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.

(5) "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 athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(6) "Enrolled" means registered for courses and attending athletic practice or class. "Enrolls" has a corresponding meaning.

(7) "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 that promotes or regulates collegiate athletics.

(8) "Interscholastic sport" means a sport played between educational institutions that are not community colleges, colleges, or universities.

(9) "Licensed, registered, or certified professional" means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing.

(10) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(11) "Professional-sports-services contract" means an agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.

(12) "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.

(13) "Recruit or solicit" means attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.

(14) "Registration" means registration as an athlete agent under this chapter.

(15) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(16) "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.

(17) "Student athlete" means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

(Act 2016-415, §1.)

Section 8-26B-3

Secretary of State; authority; procedure.

(a) The Alabama Administrative Procedure Act applies to this chapter. The Secretary of State may adopt rules under the act to implement this chapter.

(b) By acting as an athlete agent in this state, a nonresident individual appoints the Secretary of State as the individual's agent for service of process in any civil action in this state related to the individual acting as an athlete agent in this state.

(Act 2016-415, §1.)

Section 8-26B-4

Athlete agent; registration required; void contract.

(a) Except as otherwise provided in subsection (b), an individual may not act as an athlete agent in this state without holding a certificate of registration under this chapter.

(b) Before being issued a certificate of registration under this chapter, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

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

(2) not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

(Act 2016-415, §1.)

Section 8-26B-5

Registration as athlete agent; application; requirements; reciprocal registration.

(a) An applicant for registration as an athlete agent shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) the name and date and place of birth of the applicant and the following contact information for the applicant:

(A) the address of the applicant's principal place of business;

(B) work and mobile telephone numbers; and

(C) any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer websites;

(2) the name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

(3) each social-media account with which the applicant or the applicant's business or employer is affiliated;

(4) each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

(5) 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;

- (6) the name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;
- (7) the name and address of each person that:
- (A) is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation; and
 - (B) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;
- (8) a description of the status of any application by the applicant, or any person named under paragraph (7), for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;
- (9) whether the applicant, or any person named under paragraph (7), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state and, if so, identification of:
- (A) the crime;
 - (B) the law-enforcement agency involved; and
 - (C) if applicable, the date of the conviction and the fine or penalty imposed;
- (10) whether, within 15 years before the date of application, the applicant, or any person named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full explanation of each proceeding;
- (11) whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;
- (12) whether, within 10 years before the date of application, the applicant, or any person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;
- (13) whether there has been any administrative or judicial determination that the applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or fraudulent representation;
- (14) each instance in which conduct of the applicant, or any person named under paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution;
- (15) each sanction, suspension, or disciplinary action taken against the applicant, or any person named under paragraph (7), arising out of occupational or professional conduct;
- (16) whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under paragraph (7), as an athlete agent in any state;
- (17) each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;
- (18) if the applicant is certified or registered by a professional league or players association:
- (A) the name of the league or association;
 - (B) the date of certification or registration, and the date of expiration of the certification or registration, if any; and
 - (C) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

- (19) any additional information required by the Secretary of State.
- (b) Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the Secretary of State:
- (1) a copy of the application for registration in the other state;
 - (2) a statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and
 - (3) a copy of the certificate of registration from the other state.
- (c) The Secretary of State shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the Secretary of State determines:
- (1) the application and registration requirements of the other state are substantially similar to or more restrictive than this chapter; and
 - (2) the registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.
- (d) For purposes of implementing subsection (c), the Secretary of State shall:
- (1) cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this chapter; and
 - (2) exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.
- (Act 2016-415, §1.)*

Section 8-26B-6

Certificate of registration; issuance or denial; renewal.

- (a) Except as otherwise provided in subsection (b), the Secretary of State shall issue a certificate of registration to an applicant for registration who complies with Section 8-26B-5(a).
- (b) The Secretary of State may refuse to issue a certificate of registration to an applicant for registration under Section 8-26B-5(a) if the Secretary of State determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the Secretary of State may consider whether the applicant has:
- (1) pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state;
 - (2) made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
 - (3) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
 - (4) engaged in conduct prohibited by Section 8-26B-14;
 - (5) had a registration as an athlete agent suspended, revoked, or denied in any state;
 - (6) been refused renewal of registration as an athlete agent in any state;
 - (7) engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or
 - (8) engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.
- (c) In making a determination under subsection (b), the Secretary of State shall consider:
- (1) how recently the conduct occurred;
 - (2) the nature of the conduct and the context in which it occurred; and
 - (3) other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the Secretary of State. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) An athlete agent registered under Section 8-26B-5(c) may renew the registration by proceeding under subsection (d) or, if the registration in the other state has been renewed, by submitting to the Secretary of State copies of the application for renewal in the other state and the renewed registration from the other state. The Secretary of State shall renew the registration if the Secretary of State determines:

(1) the registration requirements of the other state are substantially similar to or more restrictive than this chapter; and

(2) the renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(f) A certificate of registration or renewal of registration under this chapter is valid for two years. *(Act 2016-415, §1.)*

Section 8-26B-7

Suspension, revocation, or refusal to renew registration.

(a) The Secretary of State may limit, suspend, revoke, or refuse to renew a registration of an individual registered under Section 8-26B-6(a) for conduct that would have justified refusal to issue a certificate of registration under Section 8-26B-6(b).

(b) The Secretary of State may suspend or revoke the registration of an individual registered under Section 8-26B-5(c) or renewed under Section 8-26B-6(e) for any reason for which the Secretary of State could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under Section 8-26B-6(b).

(Act 2016-415, §1.)

Section 8-26B-8

Temporary registration.

The Secretary of State may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

(Act 2016-415, §1.)

Section 8-26B-9

Registration and renewal fees.

An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

(1) Two hundred dollars (\$200) for an initial application for registration;

(2) One hundred dollars (\$100) for registration based on a certificate of registration issued by another state;

(3) One hundred dollars (\$100) for an application for renewal of registration; or

(4) One hundred dollars (\$100) for renewal of registration based on a renewal of registration in another state.

(Act 2016-415, §1.)

Section 8-26B-10

Required form of agency contract.

- (a) An agency contract must be in a record signed by the parties.
- (b) An agency contract must contain:
 - (1) a statement that the athlete agent is registered as an athlete agent in this state and a list of any other states in which the agent is registered as an athlete agent;
 - (2) the amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the agent under the contract and any other consideration the agent has received or will receive from any other source for entering into the contract or providing the services;
 - (3) the name of any person not listed in the agent's application for registration or renewal of registration which will be compensated because the athlete signed the contract;
 - (4) a description of any expenses the athlete agrees to reimburse;
 - (5) a description of the services to be provided to the athlete;
 - (6) the duration of the contract; and
 - (7) the date of execution.
- (c) Subject to subsection (g), an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

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) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND**
 - (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.**
 - (d) An agency contract must be accompanied by a separate record signed by the student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.
 - (e) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.
 - (f) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the contract and the separate acknowledgement required by subsection (d).
 - (g) If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (c) must be revised accordingly.
- (Act 2016-415, §1.)***

Section 8-26B-11

Notice to educational institution.

(a) In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

(b) Not later than 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 athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

(c) Not later than 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 shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

(d) If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than 72 hours after the agent knew or should have known the athlete enrolled.

(e) If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the institution of the relationship not later than 10 days after the enrollment if the agent knows or should have known of the enrollment and:

(1) the relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or

(2) the agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

(f) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:

(1) the athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or

(2) another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.

(g) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than 10 days after the communication or attempt.

(h) An educational institution that becomes aware of a violation of this chapter by an athlete agent shall notify the Secretary of State and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

(Act 2016-415, §1.)

Section 8-26B-12

Student athlete's right to cancel.

(a) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than 14 days after the contract is signed.

- (b) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may not waive the right to cancel an agency contract.
- (c) If a student athlete, parent, or guardian cancels an agency contract, the athlete, parent, or guardian is not required to pay any consideration under the contract or return any consideration received from the athlete agent to influence the athlete to enter into the contract.
- (Act 2016-415, §1.)*

Section 8-26B-13
Required records.

- (a) An athlete agent shall create and retain for five years records of the following:
- (1) the name and address of each individual represented by the agent;
 - (2) each agency contract entered into by the agent; and
 - (3) the direct costs incurred by the agent in the recruitment or solicitation of each student athlete to enter into an agency contract.
- (b) Records described in subsection (a) are open to inspection by the Secretary of State during normal business hours.
- (Act 2016-415, §1.)*

Section 8-26B-14
Prohibited conduct.

- (a) An athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:
- (1) give materially false or misleading information or make a materially false promise or representation;
 - (2) furnish anything of value to the athlete before the athlete enters into the contract; or
 - (3) furnish anything of value to an individual other than the athlete or another registered athlete agent.
- (b) An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:
- (1) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency contract unless registered under this chapter;
 - (2) fail to create or retain or to permit inspection of the records required by Section 8-26B-13;
 - (3) fail to register when required by Section 8-26B-4;
 - (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 or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.
- (Act 2016-415, §1.)*

Section 8-26B-15

Criminal penalties.

(a) The commission of any conduct prohibited in subsection (a) of Section 8-26B-14 by an individual required by this chapter to register as an athlete agent who has intentionally not registered under this chapter is a Class B felony.

(b) Except for subdivision (1) of subsection (b) of Section 8-26B-14, the commission of any conduct prohibited in Section 8-26B-14 by an athlete agent who has registered under this chapter is a Class C felony.

(c) The commission of any conduct prohibited in subdivision (1) of subsection (b) of Section 8-26B-14 by an athlete agent who has registered under this chapter is a Class A misdemeanor.

(Act 2016-415, §1.)

Section 8-26B-16

Civil remedy.

(a) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this chapter. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution:

(1) is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) suffers financial damage.

(b) A plaintiff that prevails in an action under this section may recover actual damages, costs, and reasonable attorney's fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

(Act 2016-415, §1.)

Section 8-26B-17

Civil penalty.

The Secretary of State may assess a civil penalty against an athlete agent not to exceed fifty thousand dollars (\$50,000) for a violation of this chapter.

(Act 2016-415, §1.)

Section 8-26B-18

Uniformity of 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 among states that enact it.

(Act 2016-415, §1.)

Section 8-26B-19

Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b). *(Act 2016-415, §1.)*

Section 8-26B-30

Alabama Athlete Agents Commission.

(a) The Alabama Athlete Agents Commission is continued in existence. The commission shall consist of the Secretary of State and 18 members to be appointed as follows:

(1) One member appointed by the Governor.

(2) One member appointed by the Lieutenant Governor.

(3) One member appointed by the Speaker of the House of Representatives.

(4) The athletic director or an individual appointed by the athletic director at each of the following institutions of higher education:

a. Auburn University.

b. University of Alabama, Tuscaloosa.

c. University of South Alabama.

d. Alabama State University.

e. Alabama A & M University.

f. Tuskegee University.

g. Troy University.

h. Jacksonville State University.

i. University of North Alabama.

j. University of West Alabama.

k. Miles College.

l. University of Montevallo.

m. University of Alabama, Huntsville.

n. University of Alabama, Birmingham.

(5) One member appointed by the Alabama High School Athletic Association.

(b) In appointing members to the board, the appointing power shall select those persons whose appointments, to the extent possible, ensure that the membership of the board is inclusive and reflects the racial, gender, urban/rural, and economic diversity of the state. All appointed members of the commission shall be citizens of the United States and residents of Alabama. The term of each appointed commission member shall be three years and members are eligible for reappointment. If a vacancy occurs, the appointing power for the vacant position shall appoint a successor who shall take office immediately and serve the remainder of the unexpired term. Members of the Alabama Athlete Agents Commission serving on October 1, 2016, shall continue to serve on the Alabama Athlete Agents Commission until their term expires.

(c) Within 15 days after their appointment, the members of the commission shall take an oath before any person lawfully authorized to administer oaths in this state to faithfully and impartially perform their duties as members of the commission, and the same shall be filed with the Secretary of State.

(d) The Governor may remove from the commission any appointed member for neglect of duty or other just cause.

(e) The commission shall elect annually a chair, a vice chair, and a secretary-treasurer from its members.

(f) A majority of the commission shall constitute a quorum for the transaction of business.

(g) The Secretary of State shall keep records of the proceedings of the commission; and, in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of those records certified as correct by the Secretary of State shall be admissible in evidence as tending to prove the content of the records.

(h) The Secretary of State shall have printed and published for distribution an annual register which shall contain the names, arranged alphabetically, of all persons registered under this chapter. The

Secretary of State shall also provide a quarterly report to the commission of all agents registered during the quarter, any suspension or revocation of registered agents during the quarter, and other disciplinary action taken against an agent.

(i) The Secretary of State may employ personnel and arrange for assistance, service, and supplies as the Secretary of State may require for the performance of the duties of the commission.

(j) The commission may promulgate and, from time to time, amend rules and standards of conduct for athlete agents appropriate for the protection of the residents of the state. At least 35 days prior to the completion of notice of any rule or amendment, the Secretary of State shall mail copies of the proposed rule or amendment to all persons registered under this chapter, with a notice advising them of the completion of notice of the rule or amendment and requesting that they submit advisory comments thereon at least 15 days prior to the completion of notice. Failure to receive by mail a rule, amendment, or notice by all persons registered under this chapter shall not affect the validity of the rule or amendment.

(k) Except for the Secretary of State, each member of the commission, who is not otherwise reimbursed by public funds for services provided to this commission, shall be paid fifty dollars (\$50) for each day the member is actively engaged in the discharge of official duties as a member of the commission, and shall also be entitled to, and shall receive, reimbursement for actual necessary expenses incurred in the discharge of official duties on behalf of the commission.

(l) The Alabama Athlete Agents Commission shall be subject to the Alabama Sunset Law, Chapter 20, Title 41, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2019, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Act 2016-415, §1.)

Section 8-26B-31

Disposition of funds; Alabama Athlete Agents Fund.

(a) All moneys collected for registrations and all fines collected for violations of this chapter shall be paid to the Secretary of State, who shall deposit them in a special fund in the State Treasury for the use of the commission.

(b) There is hereby created in the State Treasury a fund to be known and designated as the Alabama Athlete Agents Fund. All funds, fees, charges, costs, and collections accruing to or collected under the provisions of this chapter shall be deposited into the State Treasury to the credit of the Alabama Athlete Agents Fund.

(c) Funds now or hereafter deposited in the State Treasury to the credit of the Alabama Athlete Agents Fund may not be expended for any purpose whatsoever unless the same shall have been allotted and budgeted in accordance with Article 4 of Chapter 4 of Title 41, and only in the amounts and for the purposes provided by the Legislature in the general appropriation bill or other appropriation bills.

(Act 2016-415, §1.)

Professional Services by Vendor

SUMMARY SCHEDULE OF PROFESSIONAL SERVICE DISBURSEMENTS				
As of September 30th				
	2014	2015	2016	2017
Department of Finance Services				
Data Processing	\$ 4,871.20	\$ 7,556.49	\$ 9,028.65	\$ 21,316.74
FMRS	338.78	338.21	412.58	1,704.10
Interfund Contract Program (STAAR's)	-	-	-	*18,000.00
Comptroller Services	388.62	515.00	557.25	470.28
Total Professional Services	\$ 5,598.60	\$ 8,409.70	\$ 9,998.48	\$41,491.12

*Paid for two years

Commission Members

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JOHN H. MERRILL
SECRETARY OF STATE

January 2, 2018

Mr. Gerald W. Dedon
Examiner of Public Accounts
P.O. Box 302251
Montgomery, Alabama 36103

Dear Mr. Dedon:

Thank you for your letter, dated December 19, 2017, whereby the Alabama Department of Examiners of Public Accounts (State Examiners) informed the Office of Secretary of State (Office) that it was commencing its Compliance Audit of the Alabama Athlete Agents Commission (Commission).

This correspondence will answer question 2 as requested by your December 19, 2017 correspondence.

Should you need further assistance and/or information, please contact my Chief of Staff, David Brewer, at (334) 242-7207.

Respectfully submitted,


John H. Merrill
Secretary of State

Secretary of State
John Merrill
Tuscaloosa, AL
Expires 1-14-2019 (Term of Office)

Governor's appointee
Jared White
Montgomery, AL
Expires 2-28-2019

Lt. Governor's appointee
Gerald Allen
Tuscaloosa, AL
Expires 3-24-2018

Speaker of the House appointee
Jack Williams
Birmingham, AL
Expires 1-27-2018

Auburn University appointee
Stephen Lautz
Auburn, AL
Expires 9-16-2018

University of Alabama appointee
Tiffini Grimes
Tuscaloosa, AL
Expires 4-17-2020

Alabama State University appointee
Kendra Green
Montgomery, AL
Expires 9-13-2019

Alabama A&M University appointee
Marques Dantzler
Huntsville, AL
Expires 11-13-2020

Tuskegee University appointee
Deana Person
Montgomery, AL
Expires 8-3-2014

Troy University appointee
Santiago Pinzon
Troy, AL
Expires 9-13-2019

Jacksonville State University appointee
Greg Bonds
Alexandria, AL
Expires 9-16-2018

University of North Alabama appointee
Todd Vardaman
Florence, AL
Expires 9-16-2018

University of West Alabama appointee
Mike Jones
Demopolis, AL
Expires 5-21-2018

Miles College appointee
Phillip Wallace
Fairfield, AL
Expires 4-22-2016

University of Montevallo appointee
Benjamin Gearhart
Pelham, AL
Expires 5-21-2018

University of Alabama in Birmingham appointee
Corey Bray
Birmingham, AL
Expires 9-16-2018

Alabama High School Athletic Association appointee
Anthony “Tony” Stallworth
Montgomery, AL
Expires 5-7-2015

University of South Alabama appointee
Chris Moore
Mobile, AL
Expires 6-21-2018

University of Alabama Huntsville appointee
Julie Woltjen
Madison, AL
Expires 9-16-2018

Response to Significant Issues

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JOHN H. MERRILL
SECRETARY OF STATE

March 29, 2018

Ms. Maria Catledge, CPA
Director, Operational Audit
Alabama Department of Examiners of Public Accounts

Dear Ms. Catledge:

We appreciate your email on prior Significant Issue 2014-02. As to your finding of partial resolution, we respectfully ask that you reconsider your assertion and believe we have fully cured this issue for the reasons provided herein.

The Alabama Uniform Athlete Agents Act was repealed in its entirety and replaced by the Revised Uniform Athlete Agents Act. Specifically, Alabama Code Section 8-26A-5 you cite in your finding was repealed by Act 2016-415 with an effective date of October 1, 2016. In a review of the amended section, the term "citizen" only appears once in Section 8-26B-30 as a requirement for appointed members of the Commission. Under the Revised Uniform Athlete Agents Act, there is no requirement for an athlete agent to be a citizen. However, the Alabama Taxpayer and Citizen Protection Act (Beason-Hammon Act) would still apply.

As to the Beason-Hammon Act Section 31-13-29(c)(1), the code sets out that, "[a]ny person entering into a public records transaction or attempting to enter into a public records transaction with this state or a political subdivision of this state shall be required to demonstrate his or her United States citizenship, as provided in subsection (g), or his or her lawful presence in the United States, as provided in subdivision (10) of Section 31-13-3. The amendment to our form was made specifically to conform to this requirement. In 31-13-29(g), it sets out the list of forms an applicant may demonstrate or confirm their United States citizenship.

As to aliens, 31-13-3(10) speaks to those requirements to prove lawfulness. An alien possessing self-identification in any of the forms listed is entitled to the presumption that he or she is an alien lawfully present in the United States. We specifically request these forms for an alien wishing to apply to be an athlete agent. The Alabama Athlete Agents Commission does not authorize any applicant prior to receiving this documentation. As of today's date, we have had no aliens apply to be an athlete agent.

As to the assertion we must use the Systematic Alien Verification system, 31-13-29(c)(1) is an optional part of the statute that is unneeded due to our requirement for certifying documentation with the application. An alien's lawful presence in the United States may be verified through the Systematic Alien Verification for Entitlements program operated by the Department of Homeland Security, or by other verification with the Department of Homeland Security pursuant to 8 U.S.C. § 1373(c). As you can see in the language, it is permissive language and is not mandatory.

Further, 31-13-29 (c)(2)(b) states that, an alien demonstrating lawful permanent residence in the United States by the presentation of proper documentation proving that the alien is a lawfully permanent resident in the United States shall not be required to demonstrate lawful status for subsequent public records transactions after an initial verification is made. Any alien or citizen presenting documents is entitled to a presumption of legal status and has already received an initial verification to be issued the documents.

Again, we appreciate your response and have reviewed this issue deeply after the last audit finding. We are hopeful you will review our response, find we have completely cured the deficiency, and reconsider removing in totality the assertion of non-compliance in prior Significant Issue 2014-02.

If you need further information, please contact us at (334) 242-7200.

Respectfully Submitted,



Brent Beal
Deputy Attorney General

Respectfully Submitted,



David A.Z. Brewer
Chief of Staff