

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in the Uniform Athlete Agents Act of 2002 (Act), effective April 13, 2002 (D.C. Law 14-107; D.C. Official Code §§ 47-2887 *et seq.* (2002 Supp.)) and Mayor's Order 2003-61, dated May 16, 2003, hereby gives notice of intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, a new 17 DCMR Chapter 17 (Athlete Agents) and an amendment to 17 DCMR Chapter 35. This rulemaking is necessary to implement the Act, which established a new occupational and professional registration to regulate the practice of agents seeking to represent student athletes in negotiations with professional sports franchises.

Title 17 DCMR is amended by adding a new Chapter 17 to read as follows:

**CHAPTER 17      ATHLETE AGENTS**

Secs.

- 1700 General Provisions
- 1701 Registration as Athlete Agent Required; Void Contracts
- 1702 Renewal of Registration and Licensure
- 1703 Suspension, Revocation, or Refusal to Renew Registration
- 1704 Temporary Registration
- 1705 Registration and Renewal Fees
- 1706 Required Form of Contract
- 1707 Notice to Educational Institution
- 1708 Student-Athlete's Right to Cancel
- 1709 Required Records
- 1710 Prohibited Conduct
- 1711 Enforcement; Criminal Penalties; Prosecution by the Corporation Counsel
- 1712 Civil Remedies
- 1713 Administrative Penalties
- 1714 Agent for Service of Process
- 1715 Referral for Prosecution of Persons Committing Certain Offenses
- 1716 Complaints: Investigations
- 1717 Notice of Intended Action and Opportunity for a Hearing
- 1718 Failure to Request a Hearing or Failure to Appear
- 1719 Hearing Notice Procedures
- 1720 Service
- 1721 Representation
- 1722 Subpoenas
- 1723 Motions and Other Pleadings
- 1724 Settlement Conferences
- 1725 Conduct of Hearings

- 1726 Evidence at the Hearing
- 1727 Burden of Proof
- 1728 Conduct of Parties and Counsel at the Hearing
- 1729 The Hearing Examiner
- 1730 Record of a Hearing
- 1731 Reconsideration
- 1732 Judicial Review; Record on Appeal
- 1733 Administrative Appeals to the Director of a decision of a Hearing Examiner
- 1734 Computation of Time
- 1735 Definitions

#### **1700 GENERAL PROVISIONS**

- 1700.1 This chapter shall apply to athlete agents as defined in this chapter and D.C. Official Code §§ 47-2887 *et seq.* (2002 Supp.).
- 1700.2 Authority: The Uniform Athlete Agents Act of 2002, effective April 13, 2002 (D.C. Law 14-107; D.C. Official Code §§ 47-2887 *et seq.* (2002 Supp.)) and Mayor's Order 2003-61, dated May 16, 2003.

#### **1701 REGISTRATION AS ATHLETE AGENT REQUIRED; VOID CONTRACTS**

- 1701.1 Except as otherwise provided in § 1701.4, individuals are not permitted to act as an athlete agent in the District of Columbia without holding a certificate of registration.
- 1701.2 To qualify for registration an athlete agent applicant shall:
  - (a) Be at least eighteen (18) years of age;
  - (b) Shall not have been convicted of an offense which bears directly on the fitness of the person to be licensed;
  - (c) Shall satisfy the qualifications described within the Act and these regulations; and
  - (d) Shall register by the appropriate methods, described in §§ 1702.3 and 1702.4 of this chapter.
- 1701.3 The applicant shall pay the appropriate fee as set forth in § 1705 of this chapter and submit a signed District of Columbia Athlete Agent application that shall be provided by the Director.
- 1701.4 An initial or renewal athlete agent application to the District of Columbia not based upon an application filed in another jurisdiction shall contain the following information plus any additional relevant information that the Director requests on the application or in correspondence mailed after receipt of the application:

- (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 following:
  - (1) The applicant's formal training as an athlete agent;
  - (2) The applicant's practical experience as an athlete agent; and
  - (3) The applicant's 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 acted as an athlete agent during the five (5) years next preceding the date of submission of the application;
- (g) The names and addresses of the following persons who are:
  - (1) With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and
  - (2) With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;
- (h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in the District of Columbia, would be a crime involving moral turpitude or a felony, and identify the crime;
- (i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;
- (j) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection 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 person named pursuant to paragraph (g) of this subsection 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 person named pursuant to paragraph (g) of this subsection as an athlete agent in any State.

1701.5 If applying for licensure by reciprocity the applicant shall complete the basic application, pay the applicable fee that is set forth in § 1705 of this chapter, and submit a signed, notarized copy of a completed application, and a notarized copy of a certificate, registration, or license that has been submitted to or obtained from another State instead of submitting an application in the form prescribed pursuant to subsection (a) of this section. The Mayor shall accept the application and the certificate from the other State as an application for registration in the District of Columbia if the application to the other State meets the following qualifications:

- (a) Was submitted in the other State within the six (6) months preceding the submission of the application in the District of Columbia and the applicant certifies that 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 the District of Columbia; and
- (c) Was signed by the applicant under penalty of perjury.

1701.6 An individual may act as an athlete agent in the District of Columbia without holding a certificate of registration for all purposes except signing an agency contract as follows:

- (a) Before an athlete agent is issued a certificate of registration a student-athlete or another person acting on behalf of a 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 for registration as an athlete agent in the District of Columbia.

1701.7 An agency contract resulting from conduct that violates §1702.4 of this chapter is void and an athlete agent shall return any consideration received under the contract.

1701.8 The Director shall issue a certificate to an individual that complies with the registration requirements of this chapter. The certificate issued by the Director shall be

conspicuously posted in the athlete agent's place of business and made available for inspection by the Director upon request.

1701.9 The Director may refuse to issue or renew a certificate of registration if the Director determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the Director may consider whether the applicant:

- (a) Has been convicted of a crime involving moral turpitude;
- (b) Made a materially false, misleading, deceptive, or fraudulent misrepresentation in the application as an athlete agent;
- (c) Engaged in conduct that would disqualify the athlete agent from serving in a fiduciary capacity;
- (d) Engaged in conduct prohibited by D.C. Official Code § 47-2887.13 (2002 Supp.);
- (e) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any State;
- (f) Engaged in conduct resulting in a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event being imposed on a student-athlete or educational institution; or
- (g) Engaged in conduct that significantly adversely reflects an applicant's credibility, honesty, or integrity.

1701.10 In making any determination under § 1701.8 the Director 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.

## **1702 RENEWAL OF REGISTRATION AND LICENSURE**

1702.1 An athlete agent may apply to renew a registration by submitting an application for renewal. The applicant must sign the application under the penalty of perjury and must contain all matters required in the original registration.

1702.2 An applicant for renewal who is also registered, certified, or licensed in another jurisdiction and has submitted a renewal application in another State may, instead of submitting an application for renewal provided for by § 1701.1 of this chapter, submit a

basic District of Columbia renewal application, a notarized copy of the other State's renewal application and a valid certificate of licensure from the other State if:

- (a) The renewal application was submitted in the other State within the six (6) months preceding the filing of the renewal application in the District of Columbia;
- (b) The information contained in the renewal application is substantially similar to that required by the District of Columbia application; and
- (c) The renewal application for the other jurisdiction was signed by the applicant under the penalty of perjury.

1702.3 A certificate of registration or a renewal is valid for two (2) years or as otherwise provided in § 1702.4.

1702.4 The Director may change the renewal system to a system whereby a license expires on the last day of the month on the birth date of the applicant or the holder of the registration, or to another system, for the administrative convenience of the Director. The initial registration will be valid for the balance of the current renewal cycle. The Director will mail a renewal notice to the registrant three (3) months before the expiration date of the holder's current registration.

1702.5 If the Director changes the renewal system under § 1702.4, in order to permit an orderly transition, the term of a license that is in effect on the date of the Director's determination may be extended up to three (3) years.

### **1703 SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION**

1703.1 The Director may deny, suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under § 1701.8 of this chapter.

1703.2 The Director may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing, except where the suspension or revocation is of a temporary registration.

### **1704 TEMPORARY REGISTRATION**

1704.1 The Director may issue a temporary certificate of registration to an applicant while an application for registration or renewal of registration is pending review.

### **1705 REGISTRATION AND RENEWAL FEES**

1705.1 The appropriate fee as established by the Director must accompany an application for registration or renewal.

1705.2 Athlete Agent Registration Fee Schedule (2003)

- (a) Initial Registration - four hundred dollars (\$400);
- (b) Renewal of Registration -- four hundred dollars (\$400);
- (c) Application based upon initial application of another State -- four hundred dollars (\$400);
- (d) Application based upon renewal application of another State -- four hundred dollars (\$400); and
- (e) Application fee to be included with the registration fees listed in (a) through (d) above -- one hundred dollars (\$100).

1705.3 The Director may amend these fees via the fee schedule located in Chapter 35 of this title.

#### **1706 REQUIRED FORM OF CONTRACT**

1706.1 An agency contract must be in writing and signed or otherwise authenticated by the parties.

1706.2 An agency contract must state or contain the following:

- (a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete 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 of registration 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.

1706.3 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 the following:

**“WARNING TO STUDENT-ATHLETE IF YOU SIGN THIS CONTRACT:**

- YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;
- IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND
- YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.”

1706.4 An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

1706.5 The athlete agent shall give an original copy of the signed or otherwise authenticated agency contract to the student-athlete when it is executed.

1706.6 The use of electronic signatures in agency contracts is permitted only if the electronic signature complies with D.C. Official Code § 47-2887.18 (2002 Supp.).

#### **1707 NOTICE TO EDUCATIONAL INSTITUTION**

1707.1 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 notify, in writing, 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 about the existence of the agency contract.

1707.2 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 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.

#### **1708 STUDENT-ATHLETE'S RIGHT TO CANCEL**

1708.1 A student-athlete may cancel an agency contract by giving written notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.

1708.2 A student-athlete may not waive the right to cancel an agency contract.

1708.3 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 athlete-agent to induce the student-athlete to sign the contract.

**1709 REQUIRED RECORDS**

- 1709.1 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 to enter into an agency contract.
- 1709.2 Records retained pursuant to § 1709.1 must be made available for inspection, upon request, by the Director during the normal business hours of the Department of Consumer and Regulatory Affairs.

**1710 PROHIBITED CONDUCT**

- 1710.1 An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:
- (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.
- 1710.2 An athlete agent may not intentionally:
- (a) Initiate contact with a student-athlete unless registered under this chapter;
  - (b) Refuse or fail to retain or permit inspection of the records required to be retained under § 1710;
  - (c) Fail to register when required under § 1701 of this chapter;
  - (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 before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or

authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

1710.3 An athlete agent that violates the provisions of this section shall be subject to discipline under §§ 1712 and 1713 of this chapter, in addition to those penalties and procedures detailed in Chapter 33 of Title 17 DCMR.

**1711 ENFORCEMENT; CRIMINAL PENALTIES; PROSECUTION BY THE CORPORATION COUNSEL**

1711.1 An athlete agent that violates § 1710 of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by maximum fine of ten thousand dollars (\$10,000) or imprisonment for six (6) months, or both. The Corporation Counsel shall prosecute violations of § 1711 in the name of the District of Columbia.

**1712 CIVIL REMEDIES**

1712.1 Educational Institutions have a private right of action against an athlete agent or a former student-athlete for damages caused by a violation of this chapter. In any action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

1712.2 Damages of an Educational Institution under § 1713.1 of this chapter include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this part 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 likely to be imposed by such an organization.

1712.3 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.

1712.4 Liability of the athlete agent or the former student-athlete under this section is several and not joint.

1712.5 This section does not restrict rights, remedies, or defenses of any person under law or equity.

**1713 ADMINISTRATIVE PENALTIES**

1713.1 The Director may issue a reprimand and/or assess a civil penalty against an athlete agent not to exceed twenty five thousand dollars (\$25,000) per occurrence for violations of this chapter.

**1714 AGENT FOR SERVICE OF PROCESS**

1714.1 By acting as an athlete agent in the District of Columbia, a nonresident individual consents to the jurisdiction of the courts of the District of Columbia and appoints the Director as the individual's agent for service of process in any civil action in the District of Columbia related to the individual's acting as an athlete agent in the District of Columbia.

**1715 REFERRAL FOR PROSECUTION OF PERSONS COMMITTING CERTAIN OFFENSES**

1715.1 A District employee shall inform the Director if the employee has good cause to believe that a person has committed one of the following offenses in connection with an application for a registration under this chapter:

- (a) Willfully making a false statement of a material fact under oath at a hearing or other proceeding which the person does not believe is true and in fact is not true in violation of D.C. Official Code § 22-2402 (perjury);
- (b) Willfully procuring another to commit perjury in violation of D.C. Official Code § 22-2403 (subornation of perjury);
- (c) Willfully making a false statement of a material fact on an application or other official document that was sworn to before a notary public in violation of D.C. Official Code § 22-2404 (False swearing); or
- (d) Willfully making a false statement in writing of a material fact which statement could reasonably be expected to be relied upon as true in violation of D.C. Official Code § 22-2405 (False statements).

1715.2 If the Director determines that there is good cause to believe that a person committed one of the offenses listed in § 1715.1, the Director may refer the matter to the appropriate official for prosecution.

1715.3 All application forms for a registration under this title shall contain a notice stating in substance the following: "The making of a false statement on this application or on documents required by this application is punishable by criminal penalties."

**1716 COMPLAINTS: INVESTIGATIONS**

1716.1 The Director, upon the receipt of a complaint submitted in accordance with § 1716.2, shall investigate a registrant if the facts alleged in the complaint, if proven, would constitute sufficient grounds for disciplinary action.

1716.2 A person who desires to file a complaint against a registrant shall do the following:

- (a) Submit the complaint in writing;
  - (b) State the facts or circumstances that form the basis of the complaint;
  - (c) Sign the complaint and state the complainant's name and address; and
  - (d) Mail or deliver the complaint to the Director.
- 1716.3 Nothing in § 1716.2 precludes the Director from investigating a registrant based on information obtained from an individual who does not file a complaint in accordance with that subsection.
- 1716.4 The Director may request a registrant under investigation to respond in writing to any allegations. If the Director requests a response, the Director shall inform the registrant of the following:
- (a) That the registrant is not required to respond to the request;
  - (b) That a copy of any response may be sent to the complainant, if any;
  - (c) That the failure to respond will not be held against the registrant in any subsequent action based on the investigation; and
  - (d) That any response may be used against the registrant in a subsequent action.
- 1716.5 If the Director receives a written response from a registrant requested pursuant to § 1716.4, he or she may send a copy of the response to the complainant and request a written reply within a time period determined by the Director.
- 1716.6 After considering the facts of a particular case, the complaint, if any, and any response thereof, the Director shall take one of the following actions:
- (a) Refer the complaint to the Office of Investigations and Enforcement for investigation;
  - (b) Issue a notice of intended action in accordance with § 1717 of this chapter;
  - (c) Request that the registrant attend a settlement conference in accordance with § 1724 of this chapter; or
  - (d) Dismiss the complaint.
- 1716.7 If the Director dismisses a complaint, it shall give the complainant notice in writing, sent by first class mail, of the dismissal of the complaint within ten (10) days of the action.

**1717 NOTICE OF INTENDED ACTION AND OPPORTUNITY FOR A HEARING**

1717.1 The Director shall give the holder of the registration, or applicant for a registration (except a temporary registration), or a person possessing a privilege to act as an Athlete Agent in the District, notice of and an opportunity for a hearing before a Hearing Examiner if the effect of the action would be one of the following:

- (a) To revoke a registration;
- (b) To suspend a registration;
- (c) To reprimand the holder of a registration;
- (d) To impose a civil fine;
- (e) To require a course of remediation;
- (f) To require a period of probation; or
- (g) To refuse to renew a registration for any cause other than failure to pay the required renewal fee.

1717.2 If the Director proposes to take an action of the type set forth in § 1717.1 it shall give written notice to the respondent containing the following:

- (a) A statement that the Director has sufficient evidence, setting forth the nature of the evidence, which, if not explained, justifies taking the proposed action;
- (b) One of the following statements:
  - (1) That the Director may take the proposed action, unless the respondent requests a hearing before a Hearing Examiner, as defined in § 1729 of this chapter, by a letter addressed to the Director, sent by certified mail or delivered in person, within twenty (20) days after service of the notice, and that the Director may take the proposed action if the respondent fails to appear at the scheduled hearing; or
  - (2) That the Director has scheduled a hearing on the proposed action, setting forth the date, time, and place of the hearing, and that the Director may take the proposed action if the respondent fails to appear at the hearing; and
- (c) A description of the rights of the respondent at a hearing as specified in § 1725 of this chapter.

- 1717.3 Subject to § 1717.1, the Director shall give an applicant for a registration (other than a temporary registration) notice of and an opportunity for a hearing before a Hearing Examiner if the effect of the action would be to deny a registration.
- 1717.4 An applicant shall not be entitled to notice of or an opportunity for a hearing before a Hearing Examiner if the denial of the registration is based solely on the applicant's failure to meet qualifications over which the Director has no discretion, including the following:
- (a) Failure to meet a minimum age requirement; and
  - (b) Failure to meet an educational or experience requirement where the acceptability of the educational program or quality of the experience is not an issue.
- 1717.5 If the Director proposes to take an action of the type specified in § 1717.3, it shall give written notice to the respondent containing the following:
- (a) A statement that the respondent has failed to satisfy the Director as to the respondent's qualifications to be approved for registration;
  - (b) A statement that specifies in what respect the respondent has failed to satisfy the Director;
  - (c) One of the following statements:
    - (1) That the Director may take the proposed action, unless the respondent requests a hearing before a Hearing Examiner by a letter addressed to the Director, sent by certified mail or delivered in person, within twenty (20) days after service of the notice, and that the Director may take the proposed action if the respondent fails to appear at a scheduled hearing; or
    - (2) That the Director has scheduled a hearing on the proposed action, setting forth the date, time, and place of the hearing, and that the Director may take the proposed action if the respondent fails to appear at the hearing; and
  - (d) A description of the rights of the respondent at a hearing as specified in § 1725 of this chapter.
- 1717.6 A notice given pursuant to § 1717.2 shall be in the form of charges and specifications. A notice given pursuant to § 1717.5 shall be in the form of a notice of intent to deny in letter format.
- 1718 FAILURE TO REQUEST A HEARING OR FAILURE TO APPEAR**
- 1718.1 If a respondent who was sent a notice of a proposed action pursuant to § 1717 of this chapter does not mail or deliver a request for a hearing within the time and in the

manner required under that section, the Director may, without a hearing, take the action contemplated in the notice.

- 1718.2 If a respondent scheduled for a hearing does not appear for the hearing, and no continuance has been granted, the Hearing Examiner may receive evidence and hear testimony and may render a decision based on evidence presented at the hearing.
- 1718.3 The Hearing Examiner may, before rendering a decision, upon written request of the respondent and payment of the required fee, send a copy of the transcript or summary of the hearing to the respondent and request proposed findings of fact and conclusions of law from the respondent.
- 1718.4 The Hearing Examiner shall inform the parties of an action taken under this section.
- 1718.5 A decision of a Hearing Examiner shall be supported by substantial, reliable, and probative evidence pursuant to D.C. Official Code § 2-509(c).

#### **1719 HEARING NOTICE PROCEDURES**

- 1719.1 If a respondent requests a hearing, the Director shall, within twenty (20) days following receipt of the request, notify the respondent of the date, time, and place of the hearing.
- 1719.2 The Director shall hold the hearing not less than twenty (20) days following the date of service of the notice unless the Director and all of the parties agree to the holding of the hearing at an earlier date.

#### **1720 SERVICE**

- 1720.1 A notice, pleading, order, or decision required by this chapter to be served on a respondent shall be served on the respondent or representative designated by the respondent or by law to receive service of papers. If a respondent has appeared through counsel, service shall be made upon the counsel of record.
- 1720.2 Service on a respondent shall be directed to the last known address of the respondent on file with the Director and shall be completed by one of the following:
- (a) By certified mail, return receipt requested;
  - (b) By personal delivery;
  - (c) By delivery to the address of respondent, or respondent's counsel or agent, on file with the Department, by leaving it at that address with a person of suitable discretion at least sixteen (16) years of age who is employed or resides at that address; or
  - (d) In conformity with an order of the Director.

- 1720.3 Service on the Director or the Corporation Counsel shall be directed to the appropriate office and shall be completed by one of the following methods:
- (a) By certified mail, return receipt requested; or
  - (b) By personal delivery.
- 1720.4 Proof of service, stating the name and address of the person on whom service is made and the manner and date of service, shall be shown by one of the following methods:
- (a) If service was effected by certified mail, the return receipt indicating that the document was accepted, refused, or returned unclaimed;
  - (b) If service was effected by personal delivery, the certificate of the server indicating that the document was accepted or refused; or
  - (c) If service was effected pursuant to an order of the Director, in the manner provided in that order.
- 1720.5 The date and time of service shall be established as follows:
- (a) If service is effected by certified mail, it shall be considered to have been served on the date and time shown on the return receipt that the document was accepted, refused, or returned unclaimed;
  - (b) If service was effected by personal delivery, it shall be considered to have been served on the date and time on the certificate of service indicating that the document was accepted or refused; or
  - (c) If service was effected pursuant to an order of the Director, it shall be considered to have been served on a date and at a time as provided in that order.

## **1721 REPRESENTATION**

- 1721.1 A respondent may be represented by an attorney who is an active member of the District of Columbia Bar.
- 1721.2 In a particular case, the Director or the Hearing Examiner may permit an attorney who is an active member of the Bar of another jurisdiction of the United States to represent a respondent.
- 1721.3 If it appears to the Director or a Hearing Examiner that the issues or facts in a matter before it are so complex that the interests of justice, saving time, or facilitating the preparation of an adequate record would be served by the representation of a party by an attorney, the Director or Hearing Examiner may urge, but not require, that the party

obtain the services of an attorney and may allow that party a reasonable period of time within which to do so.

1721.4 An attorney shall not participate in a representative capacity in any hearing conducted by a Hearing Examiner until the attorney submits to the Hearing Examiner a signed statement containing the attorney's name, street address, telephone number, and bar number.

1721.5 An attorney authorized to appear pursuant to this section may sign any paper required or permitted to be filed by this chapter.

## **1722 SUBPOENAS**

1722.1 The Mayor, Corporation Counsel, or Director may issue subpoenas to compel witnesses to appear and testify and for any material that is relevant to the administration of this chapter.

1722.2 Subpoenas shall be issued in the name of the Mayor of the District of Columbia or the Director and all witnesses compelled to appear shall be entitled to a reasonable fee established by the Director.

1722.3 The fee may not be paid to witnesses in advance of their appearance.

1722.4 In the case of contumacy by or refusal to obey a subpoena issued under this chapter by the Mayor, Corporation Counsel, or the Director to any person, the Mayor, Corporation Counsel, or Director may refer the matter to the Superior Court of the District of Columbia and request an order by that court to require the witness to appear and give testimony or produce materials.

## **1723 MOTIONS AND OTHER PLEADINGS**

1723.1 Except by leave of the Hearing Examiner during a hearing, an application for an order or other relief shall be made by written motion. A motion shall state with particularity the grounds on which it is based and shall clearly set forth the order or relief sought. If a motion is to be supported by memoranda, affidavits, or other papers, they shall be attached and served with the motion.

1723.2 A copy of each motion, opposition, reply, or other pleading filed shall be served on each party separately represented, and a certificate of service shall appear at the end of the pleading showing the date and method of service.

1723.3 Any party may file a response or opposition to a motion within ten (10) days after service of the motion but the Hearing Examiner may shorten or extend this time. The response or opposition shall not include a motion for other affirmative relief against the moving party.

- 1723.4 A reply to a response or opposition may be filed within three (3) days after service of the response or opposition, but a reply shall not re-argue propositions, presented in the motion nor present matters which are not strictly in reply to the response or opposition. No further pleadings may be filed except by leave of the Hearing Examiner.
- 1723.5 A motion or other pleading shall meet the following additional requirements:
- (a) It shall be submitted on business size eight and one-half inches by eleven inch paper;
  - (b) It shall contain the name and number of the case, if any;
  - (c) It shall be double-spaced, except footnotes and quotations, which may be single-spaced;
  - (d) It shall be signed by the party on whose behalf it is filed or by that party's counsel; and
  - (e) It shall be accompanied by an additional copy unless the Hearing Examiner permits the parties to file a lesser number of copies.

#### 1724 SETTLEMENT CONFERENCES

- 1724.1 The Director may, in his or her discretion, request a respondent against whom an action is proposed to attend a settlement conference.
- 1724.2 The parties may agree to hold a settlement conference.
- 1724.3 If a respondent agrees to attend a settlement conference, The Director shall notify the parties of the date, time, and place of the settlement conference.
- 1724.4 The Director may designate a member of a board, its counsel, or an employee of the Department to participate in a settlement conference on behalf of the Department.
- 1724.5 The parties at a settlement conference may enter into a negotiated settlement or consent decree that is binding on all parties if the Director approves the settlement or consent decree.
- 1724.6 If the Director accepts part, but not all, of the proposed negotiated settlement or consent decree, it may request the respondent to attend another settlement conference.
- 1724.7 A respondent who agrees to a negotiated settlement or consent decree that is approved by the Director shall waive all of the respondent's rights of appeal or reconsideration under the Administrative Procedure Act and these rules.

**1725 CONDUCT OF HEARINGS**

1725.1 Hearings shall be open to the public.

1725.2 In connection with any hearing held pursuant to this chapter, the Hearing Examiner shall have the following powers:

- (a) To request the Director appoint a representative to present the Department's case at the hearing;
- (b) To administer oaths or affirmations to witnesses called to testify;
- (c) To subpoena witnesses, relevant books, papers, and documents;
- (d) To take testimony;
- (e) To examine witnesses;
- (f) To rule on motions and objections;
- (g) To direct the continuance of any case pursuant to this section;
- (h) To establish a timetable for the submission of proposed findings of facts, conclusions of law, and decision by parties;
- (i) To make proposed findings of fact and conclusions of law and to recommend a decision to the Director;
- (j) To impose sanctions for infractions under this chapter, including monetary fines, penalties, and hearing and inspection costs;
- (k) To suspend permits or licenses for the purpose of the enforcement of monetary fines, penalties, or hearing and inspection costs;
- (l) Permitting the payment of monetary fines, penalties, and hearing and inspection costs in excess of one hundred dollars (\$100) in monthly installments over a period not to exceed six (6) months and allowing a fee of one percent (1%) per month of the outstanding amount owed by a respondent for the installment service;
- (m) Suspending all or part of any fine or penalty imposed on grounds of past compliance or past good faith attempts to comply with applicable laws and regulations, or upon condition that the respondent correct the infraction by a date certain; and

- (n) Sealing the premises where the conduct that is the basis of the citation occurred to enforce orders requiring the payment of monetary fines, penalties, or hearing and inspection costs.

1725.3 A respondent entitled to a hearing has the following rights:

- (a) To be represented by an attorney in accordance with § 1721 of this chapter;
- (b) To present all relevant evidence by witnesses and books, papers, and other means;
- (c) To examine all opposing witnesses on any matter relevant to the issues; and
- (d) To have subpoenas issued to compel the attendance of witnesses and the production of relevant books, papers, and other evidence, upon making a written request to the Director.

1725.4 A Hearing Examiner may, grant or deny a motion for a continuance, and shall deny a motion for a continuance unless the motion:

- (a) In the opinion of the Hearing Examiner, set forth good cause for a continuance; and
- (b) Is filed at least two (2) business days before the date on which the hearing is to be held, except for extraordinary and unforeseen reasons such as the sudden illness of a party or a party's counsel.

1725.5 Conflicting engagements of counsel, absence of counsel, or the employment of new counsel may be considered to constitute good cause for a continuance of a hearing only if set forth in a motion filed promptly after notice of the hearing has been given.

1725.6 After a hearing, and within time limits established by the Hearing Examiner, the parties may submit proposed findings of fact, conclusions of law, and order, and may submit memoranda of law on issues of law arising during the hearing.

## **1726 EVIDENCE AT THE HEARING**

1726.1 All testimony at a hearing before a Hearing Examiner shall be under oath or affirmation.

1726.2 If any part of the record in any other proceeding previously held before a Hearing Examiner, or part of the record in any criminal or civil action, including hearings before any administrative agency, is offered in evidence, a certified true copy of that part shall be presented to the Director in the form of an exhibit, unless either of the following requirements is satisfied:

- (a) The record is specified in such manner as to be readily identified, and the person offering the record agrees to supply copies later or when required by the Director; or
  - (b) There is a stipulation that the record may be incorporated by reference and the Director orders that incorporation.
- 1726.3 A Hearing Examiner shall exclude irrelevant, immaterial, and unduly repetitious evidence.
- 1726.4 A Hearing Examiner may take official notice, at the request of a party or on its own motion, of the following:
- (a) The law and rules of the District of Columbia, the United States, or any state or other jurisdiction of the United States;
  - (b) Material facts in the official files of a board, the Department, or other District of Columbia or federal agency; or
  - (c) A fact that is not subject to reasonable dispute in that it is generally known within the District of Columbia or is capable of accurate and ready determination by resort to resources the accuracy of which cannot reasonably be requested.
- 1726.5 If a Hearing Examiner takes official notice of a material fact not appearing in the evidence in the record, it shall give a party the opportunity to show the contrary at the hearing or on motion made within five (5) days after the hearing.
- 1726.6 The parties may, by stipulation in writing filed with a Hearing Examiner, agree on the facts or any portion thereof involved in a hearing. The parties may stipulate to the testimony that would be given by a witness if the witness were present.
- 1726.7 The Hearing Examiner may require additional evidence concerning any matter covered by a stipulation.
- 1726.8 The Director shall take all necessary steps to insure that all department employees who are called by a party as a witness are present at the hearing; provided, that the party has submitted their names and titles in writing to the Hearing Examiner at least three (3) business days in advance of the hearing.
- 1727 BURDEN OF PROOF**
- 1727.1 In a hearing resulting from a proposed action under § 1717.1 of this chapter, the District shall have the burden of proving, by a preponderance of the evidence, that the action should be taken.

1727.2 In a hearing resulting from a proposed action under § 1717.3 of this chapter, the applicant shall have the burden of proving, by a preponderance of the evidence, that the applicant is qualified to be licensed or certified.

**1728 CONDUCT OF PARTIES AND COUNSEL AT THE HEARING**

1728.1 The parties at a hearing shall maintain decorum and good order at all time. A Hearing Examiner may exclude or have removed from the hearing room any person violating an order of the Hearing Examiner.

1728.2 The Hearing Examiner, Director, or board may bar counsel from further participation in a hearing for disruptive conduct.

1728.3 If counsel has been barred from participating in a hearing, a Hearing Examiner may proceed with the hearing if consistent with the due process rights of the parties. Otherwise, the Hearing Examiner shall adjourn the hearing to give the party whose counsel has been barred an opportunity to secure new representation expeditiously.

1728.4 A counsel who has been barred from participating in a hearing may seek, and a Hearing Examiner may grant, reinstatement to participate in the hearing on terms as the Hearing Examiner prescribes. The Hearing Examiner shall not permit a reinstatement application to delay the proceedings.

**1729 THE HEARING EXAMINER**

1729.1 The Director shall appoint an Administrative Law Judge, attorney examiner, or Hearing Examiner to conduct a hearing pursuant to § 103(c) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.03).

1729.2 The Hearing Examiner conducting a hearing has all of the powers and duties enumerated in § 1725 of this chapter.

1729.3 The Hearing Examiner, upon being appointed by the Director, shall be responsible for all matters pertaining to the hearing, including but not limited to the following:

- (a) Establishing a hearing file;
- (b) Setting a date, time, and place for the hearing;
- (c) Conducting the hearing in a fair and impartial manner;
- (d) Making proposed findings of fact and conclusions of law; and
- (e) Forwarding the proposed findings of fact and conclusions of law to the Director for final decision.

- 1729.4 After hearing the evidence, a Hearing Examiner shall, within forty-five (45) days of the hearing, submit a recommended decision to the Director. At the same time, the Hearing Examiner shall serve the respondent with a copy of the decision and send a copy of the decision to the Corporation Counsel.
- 1729.5 A decision of a Hearing Examiner adverse to a respondent shall contain the following:
- (a) Findings of fact;
  - (b) Conclusions of law based on the findings of fact and application of the laws; and
  - (c) A recommended order.
- 1729.6 The Director may accept or reject the recommended decision of a Hearing Examiner in whole or in part.
- 1729.7 Except as provided in § 1729.8, the Director, within thirty (30) days of the recommended decision of the Hearing Examiner, shall render a decision and notify the respondent and the Corporation Counsel of the action.
- 1729.8 If the decision of a Hearing Examiner is adverse to the respondent, the Hearing Examiner, before issuing a final decision, shall serve the respondent with a copy of a proposed decision and give the respondent an opportunity to file exceptions, and written argument in support thereof, with the Director within ten (10) days of the date of service.
- 1729.9 The Hearing Examiner shall consider any exceptions and argument filed by a respondent pursuant to § 1729.8 in issuing a final decision. If the respondent does not file exceptions within the required period, the proposed decision of the Hearing Examiner shall become the final decision of the Hearing Examiner.

**1730 RECORD OF A HEARING**

- 1730.1 In a hearing conducted pursuant to this chapter, a Hearing Examiner shall make a complete record of all evidence presented during a hearing.
- 1730.2 A Hearing Examiner shall make a transcript of a hearing on a proposed action specified in § 1717.1 of this chapter, unless the parties agree not to have a transcript made.
- 1730.3 A Hearing Examiner may make a transcript of a hearing on a proposed action specified in § 1717.3 of this chapter, and shall make a transcript upon written request of a party made at least five (5) days before the hearing.

- 1730.4 If a Hearing Examiner does not make a transcript of the hearing, it shall make an electronic recording of the hearing.
- 1730.5 A Hearing Examiner shall provide a copy of an approved transcript or recording of a hearing to any person requesting it, upon payment of the required fee.
- 1730.6 A party may move to correct a transcript by filing a motion with a Hearing Examiner within ten (10) days of receipt of the transcript. If no opposition to the motion is filed, the transcript may, upon approval by the Hearing Examiner, be changed to reflect the corrections.
- 1730.7 In the event of disputes with respect to the record, the Hearing Examiner shall settle the record and rule on all contested motions to correct the record.

### **1731 RECONSIDERATION**

- 1731.1 A respondent may file with a Hearing Examiner a petition for reconsideration or reopening a hearing within fifteen (15) days after the date of the service of the decision on that party. The petitioner shall serve a copy of the petition on each party.
- 1731.2 Neither the filing nor the granting of a petition shall operate as a stay of a decision unless specifically ordered by the Hearing Examiner. A Hearing Examiner may grant a stay only upon good cause involving consideration of the likelihood of decisional error, irreparable harm to the petitioning party, the harm to other parties, and the public interest.
- 1731.3 A petition shall state briefly and specifically the following:
- (a) In the case of a motion for a reconsideration, the matters of record or points of law alleged to have been erroneously decided or overlooked;
  - (b) In the case of a motion to reopen a hearing, the reasons that respondent failed to appear at a hearing;
  - (c) The grounds relied upon; and
  - (d) The relief sought.
- 1731.4 If a petition is based in whole or in part on new matter, the matter shall be set forth in an affidavit, containing a statement that the petitioner could not with due diligence have known or have discovered the new matter prior to the hearing before the Director.
- 1731.5 A Hearing Examiner may, in its discretion, permit or require oral argument upon a petition before the Hearing Examiner.

1731.6 A Hearing Examiner shall grant or deny a petition within forty-five (45) days after the filing of the petition. The failure by the Hearing Examiner to act within that period shall constitute a denial of the petition.

**1732 JUDICIAL REVIEW; RECORD ON APPEAL**

1732.1 A party aggrieved by a final decision of the Director may seek review of the decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act (D.C. Official Code § 2-501 *et seq.*).

1732.2 Upon receipt by the Director of a notice of appeal, the Director shall promptly acknowledge receipt.

1732.3 The Director shall compile, index, and transmit the originals or copies of all documents pertinent to the appeal, including the following:

- (a) A copy of the decision from which an appeal is taken;
- (b) A copy of any recommended or proposed decision and any exceptions thereto;
- (c) All documents relied on by the Director, including any relevant documents timely submitted to the Director by the respondent or by other parties to the hearing; and
- (d) A transcript or summary (in accordance with § 1730.3 of this chapter) of all testimony given or statements made during any hearings, conferences, or investigations concerning the matter in dispute conducted by the Director before the filing of the notice of appeal.

1732.4 The Director shall provide to all parties to the appeal a copy of the Director's index of the record on appeal.

1732.5 The record may be shortened or summarized if, with permission of the court, all parties to the review proceedings so agree.

1732.6 The documents transmitted pursuant to this section, and any supplements thereto, shall be available for inspection by the parties at a location designated by the Director.

**1733 ADMINISTRATIVE APPEALS TO THE DIRECTOR OF A DECISION OF AN ADMINISTRATIVE LAW JUDGE**

1733.1 This section shall apply to appeals to the Director from decisions of Hearing Examiners by persons found to have committed an infraction involving a violation of an Act listed in § 3300.1 of this Title, rules promulgated pursuant thereto, or any other act regulating the person's occupation or profession, which decisions were made pursuant to the

Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 to 2-1803.03).

- 1733.2 A notice of appeal from a decision issued by a Hearing Examiner shall be sent to the address stated in the decision and shall be delivered or postmarked within fifteen (15) days from the date of service of the final decision.
- 1733.3 A notice of appeal of a decision shall include the following information:
- (a) That an appeal has been taken;
  - (b) A copy or identification of the final decision from which the appeal has been taken;
  - (c) A concise statement indicating why the respondent believes the final decision is in error;
  - (d) The full name, street address, and the telephone number of the respondent and the respondent's counsel, if any; and
  - (e) The signature of the respondent or the respondent's counsel.
- 1733.4 Upon receipt of a notice of appeal, the Director shall promptly acknowledge receipt and compile and index documents pertinent to the appeal, including the following:
- (a) A copy of the decision from which the appeal is taken;
  - (b) All documents relied on by a Hearing Examiner, including any relevant documents timely submitted to the Hearing Examiner by a respondent or by other parties to the proceedings; and
  - (c) A transcript or summary of all testimony given or statements made during any proceedings, conferences, or investigations concerning the matter in dispute, conducted by the Hearing Examiner before the filing of the notice of appeal.
- 1733.5 The Director shall transmit the notice of appeal and the documents described in §§ 1733.4(a) and (b) to the Director within ten (10) days of the Director's receipt of the notice of appeal. The Director shall transmit the transcript or summary described in § 1733.4(c) as soon as practicable after the transcript or summary is completed.
- 1733.6 The Director shall send the parties a copy of the Director's index of the record on appeal.
- 1733.7 The documents transmitted pursuant to this section, and any supplements thereto, shall be available for inspection by the parties at a location designated by the Director.

- 1733.8 The record may be shortened or summarized if all parties to the review proceedings so agree.
- 1733.9 The Director, on motion of a party, or on the Director's own motion, may require or permit a party to supplement the documents transmitted pursuant to this section.
- 1733.10 The Director may permit the parties to appear and present oral argument in accordance with such limitations as to time of argument or other restrictions as a he or she may prescribe.
- 1733.11 The Director acting pursuant to this section may affirm, modify, vacate, set aside, or reverse any order or decision of a Hearing Examiner.
- 1733.12 The Director may hold unlawful and set aside any order or decision of law of a Hearing Examiner that it finds to be:
- (a) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
  - (b) In excess of statutory authority or authority under this chapter;
  - (c) Without observance of procedures provided by statute or this chapter; or
  - (d) Unsupported by a preponderance of the evidence in the record of the hearing.
- 1733.13 A party may petition the Director or Hearing Examiner to reconsider its decision in accordance with § 1731 of this chapter.

#### **1734 COMPUTATION OF TIME**

- 1734.1 In computing any period of time specified in this chapter, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is not a business day, in which event the time period shall continue until the next business day.

#### **1735 DEFINITIONS**

For the purposes of this chapter, the following terms have the meanings ascribed:

Administrative Law Judge (ALJ) - a Hearing Examiner authorized to hear cases pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.*), or designated by the Director to hear a case.

Agency contract - 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.

Applicant - an applicant for a registration under the Uniform Athlete Agents Act of 2002, D.C. Law 14-107, and these rules.

Athlete agent - 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 includes an individual who represents to the public that the individual is an athlete agent. 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.

Athletic director - 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.

Business day - a day other than a Saturday, Sunday, legal holiday, or day on which the department is officially closed.

Contact - 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.

Day - a calendar day

Department - the Department of Consumer and Regulatory Affairs.

Director - the Director of the Department of Consumer and Regulatory Affairs and/or authorized agent.

Endorsement contract - 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.

Hearing Examiner - any person appointed by the Director pursuant to the authority granted under D.C. Official Code § 2-1801.01 *et seq.*, to conduct administrative hearings under this chapter.

Intercollegiate sport - 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.

Legal holiday - one of the following holidays:

- (a) New Year's Day;
- (b) Martin Luther King, Jr.'s, Birthday;
- (c) Washington's Birthday;
- (d) Memorial Day;
- (e) Independence Day;
- (f) Labor Day;
- (g) Columbus Day;
- (h) Veterans Day;
- (i) Thanksgiving Day;
- (j) Christmas Day; or

(k) Any other day designated as a legal holiday by the President, the Congress, or the Mayor or the Council of the District of Columbia, on the actual day the legal holiday is celebrated by the government of the District of Columbia.

Office of Investigations and Enforcement - the investigative division within the Department of Consumer and Regulatory Affairs.

Party - a respondent, the Corporation Counsel, the Director, or any other person recognized as a party in a particular proceeding.

Person - 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.

Professional-sports-services contract - 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.

Record - information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Registrant - a person registered under this chapter.

Registration - registration as an athlete agent pursuant to this chapter.

Respondent - a person against whom an adverse action is contemplated, proposed, or taken.

State - 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.

Student-athlete - 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.

Void - of no legal force or effect.

Voidable - capable of being adjudged as having no legal force or effect.  
Chapter 35 of Title 17 DCMR is amended to read as follows:

After the heading "Architects" and before the heading "Barber" insert the following heading and text:

Athlete Agents:

Initial Registration	\$400
Renewal of Registration	\$400
Application based upon initial application of another State	\$400
Application based upon a renewal application of another State	\$400
Application fee to be included with the registration fees	\$100

Any person desiring to comment on these proposed rules should submit comments in writing no later than thirty (30) days from the date of the publication of this notice in the D.C. Register. Comments should be filed with Clifford Cooks, Acting Administrator, Occupational and Professional Licensing Administration, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., 7<sup>th</sup> Floor, Washington, D.C. 20001. Please place "ATHLETE AGENT" conspicuously on any correspondence sent in response to the notice. Additional copies of these proposed rules may be obtained at that address. A copying fee of one dollar (\$1.00) will be charged for each copy of the proposed rules requested.

## DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 03-60-TS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the intent to amend the Vehicle and Traffic Regulations (18 DCMR). Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4004, ONE-WAY STREETS, Subsection 4004.1, (d) Southeast Section, is amended by adding the following to the list of locations where traffic is restricted to one direction of travel:

“H Street, S.E., between 16th and 17th Streets, for eastbound traffic only”.

Title 18 DCMR, Section 4008, STOP SIGNS, Subsection 4008.1, (d) Southeast Section, is amended by deleting the following from the list of locations where the Director has authorized the placement of STOP signs:

“On westbound H Street, S.E., so as to stop at 16th Street”.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty days (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor, Washington, D.C. 20009 (Attention: Docket No. 03-60-TS). Copies of this proposal are available, at cost, by writing to the above address.