

NBPA Regulations Governing Player Agents

As Amended June, 1991

FOREWARD

This booklet is designed to provide you with pertinent information concerning the effective player agent regulation system developed by the National Basketball Players Association. The impetus for this system was the increasing recognition among NBA players of the need: (1) to insure that agents representing players (including rookies) in individual contract negotiations with NBA teams provide services of a high quality at fee levels that are fair and equitable; and (2) to establish a program for assisting players and rookies in selecting individual agents. In response, the Association engaged in a comprehensive study of this subject area, which included an evaluation of the National Football Players Association's experience to date under its agent regulation program and valuable input from agents representing basketball players. The culmination of this effort is the promulgation of the following documents; the NBPA Regulations Governing Player Agents, Application for Certification as an NBPA Player Agent, National Basketball Players Association Certification for Player Agents, and Standard Player Agent Contract.

Persons who wish to represent NBA players in individual contract negotiations must comply with the Regulations and become certified as an NBPA Player Agent before they are eligible to participate in such negotiations. Individuals wishing to become certified should first review the entire contents of this booklet and then promptly file a complete Application with the NBPA office at 310 Lenox Avenue, New York, NY 10027.

We would like to take this opportunity to thank you in advance for your wholehearted cooperation in this important undertaking. We are confident that you share the Association's commitment to achieving the salutary objectives of this program.

The Committee
National Basketball Players Association

NBPA Regulations Governing Player Agents

Introduction

The Officers and Player Representatives of the National Basketball Players Association ("NBPA") hereby adopt the following Regulations Governing Player Agents who provide representation services to players (including rookies) by conducting individual contract negotiations and/or assisting in or advising with respect to such negotiations with the employer/clubs of the National Basketball Association ("NBA"). These Regulations are adopted pursuant to the authority and duty conferred upon the NBPA as the exclusive bargaining representative of NBA players pursuant to Section 9 (a) of the National Labor Relations Act, which provides in pertinent part:

> Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such units for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

In Article XXIII ("Recognition" clause) of April, 1983 Collective Bargaining Agreement between the NBA and the Players Association, as amended effective February 1986, the parties to that Agreement have agreed as follows:

> The NBA recognizes the Players Association as the exclusive collective bargaining representatives of persons who are employed by NBA members as professional basketball players (and/or who become so employed at any time during the term of this Agreement); and the Players Association warrants that is duly empowered to enter into this Agreement for and on behalf of such persons. The NBA and the Players Association agree that, notwithstanding the foregoing, the Players Association has delegated its authority to individual employees and prospective employees (including persons not previously employed as professional basketball players by NBA members), but only when they are acting on their own behalf or through agents certified by the Players Association, to bargain with clubs and to reach agreement upon the provisions of Player Contracts. The provisions of any such Player Contracts will be operative only as and to the extent that they are permitted by this Collective Bargaining Agreement.

Commencing March 7, 1986, the Players Association shall submit to the NBA and to each of its clubs a list of certified agents; that list shall be updated by the Players Association on a continuing basis. The NBA, in carrying out its reviewing authority with respect to individual Player Contracts, agrees to implement the following procedure:

> Effective March 7, 1986, the NBA shall issue a directive to each of its clubs stating that: (a) the club shall not enter into any negotiations for player contracts unless (i) the player is represented by an agent whose name appears on the list of certified agents furnished such club by the Players Association, or (ii) the player is acting on his own behalf; and (b) each club, when submitting individual player contracts for approval by the NBA, shall provide the name of the player agent who negotiated the contract or state that the player acted on his own behalf in the negotiations.

If, notwithstanding the foregoing, negotiations involving any team and a non-certified player agent take place and a contract is executed, that contract shall be deemed to be void.

SECTION 1: Scope of Regulation

A. No person (other than a player representing himself) shall be permitted to conduct individual contract negotiations on behalf of a player (including a rookie)* and/or assist in or advise with respect to such negotiations with NBA clubs after the effective date of these Regulations unless he** is (1) currently certified as a player agent pursuant to these Regulations, and (2) signs the standard form fee agreement with the player (See Section 4).

B. The activities or conduct of player agents that are governed by these Regulations include:

The providing of advice, counsel, information or assistance to players (including rookies)*** with respect to negotiating their individual contracts with clubs and/or thereafter in enforcing those contracts; the conduct of compensation negotiations with the clubs on behalf of individual players; and any other activity or conduct which directly bears upon the player agent's integrity, competence or ability to properly represent individual NBA players and the NBPA in individual contract negotiations.

C. All provisions of these Regulations, including this one, may be amended by the Officers and Player Representatives of the NBPA periodically as they deem appropriate.

SECTION 2: Requirements for Certification

Effective March 7, 1986, any person who wishes to perform the functions of a player agent described in Section 1.A. above must be certified by the NBPA, pursuant to the following procedure:

A. Applying for Certification

The Person must file a verified Application for Certification. The application is to be submitted by prepaid certified mail to the NBPA Committee on Agent Regulation – "the Committee" – designated to receive and act upon such applications. The Committee shall consist of the NBPA's Officers, assisted by outside legal counsel. The Committee will not entertain any application filed in the name of any corporation, company, partnership or other business entity; only individual persons are eligible for certification. There is no limit on the number of individuals in any one corporation or other business entity who are eligible for certification.

To be eligible for certification, the applicant must have received a degree from an accredited four year college/university. The Committee shall have the authority to determine whether relevant negotiating experience can substitute for any year(s) of education.

Within thirty(30) days of filing of an Application for Certification, the Committee shall determine whether certification shall be granted to the applicant; provided, however, that this period may be extended for an additional ninety (90) days upon written notification to the applicant before the expiration of the initial thirty (30) day period. Upon receipt of an agent's Application for Certification, the Committee may, in the context of reviewing the application, request further written materials from the applicant and/or conduct whatever further investigation it deems appropriate, including an informal conference with the applicant.

*Throughout these Regulations the term "rookie" shall mean any player who has not played in the NBA in any season prior to entering into his first contract with an NBA club.

**Throughout these Regulations references to "he" or "his" shall apply equally to she/her.

***For purposes of these Regulations all references to "players" also shall apply to "rookies", unless expressly stated otherwise.

B. Interim Certification

During the period that an Application for Certification is pending, the Committee may authorize any agent who has filed an application to provide representational services to one or more players engaged in individual contract negotiations with clubs if the Committee deems such authorization to be in the player's best interest. However, such interim action shall be specifically limited to the terms contained in the Committee's authorization and, in any event, shall not constitute a waiver of the Committee's right thereafter to deny certification under these Regulations.

C. Grounds for Denial of Certification

Given the important function that player agents perform for the individual players they represent, it is the NBPA's intention in promulgating these Regulations to insure that only those persons who can reasonably be expected to faithfully carry out those responsibilities will be entitled to certification. Consistent with this objective, the Committee is authorized to deny certification to any applicant:

Upon the Committee determining that the applicant has made false or misleading statements of a material nature in the application;

Upon the Committee determining that the applicant has ever misappropriated funds, or engaged in other specific acts such as embezzlement, theft or fraud, which would render him unfit to serve in a fiduciary capacity on behalf of players;

Upon the Committee determining that the applicant has engaged in any other conduct that significantly impacts adversely on his credibility, integrity or competence to serve in a fiduciary capacity on behalf of players;

Upon the Committee determining that the applicant is unwilling to swear or affirm that he will comply with these Regulations and any amendments thereto and that he will abide by the fee structure contained in the standard form player-agent contract incorporated into these Regulations.

D. Appeal from Denial of Certification

In the event an application for certification is denied pursuant to this section, the applicant shall be notified in writing (by prepaid certified mail) of the reasons for the denial. The applicant may appeal such action to the Arbitrator appointed pursuant to Section 5 of the Regulations; provided that such appeal must be initiated by filing by prepaid certified mail a written notice of appeal upon the Committee and the Arbitrator within thirty (30) days of receipt of the notice denying his application for certification. The appeal shall be processed and resolved in accordance with the arbitration procedures set forth in Section 5, paragraphs D through F of these Regulations. The appeal to arbitration shall constitute the exclusive method of challenging any denial of certification.

E. Suspension or Revocation of Certification

At any time subsequent to granting a certification to a player agent the Committee can, based upon information brought to its attention or acting on its own initiative, propose suspending or revoking such certification on any ground that would have provided a basis for denying certification in the first place (see Section 2, C) and/or for conduct prohibited in Section 3, B(a)-(q) of these Regulations.* Any such proposed suspension or revocation must be sent by prepaid certified mail to the player agent's office or residence. The agent may appeal any such proposed suspension or revocation by complying with the procedure for invoking arbitration as set forth in Section 6 at paragraphs B through G. The appeal to arbitration shall constitute the exclusive method of challenging any proposed suspension or revocation of certification.

*In the extraordinary circumstance where the Committee's investigation discloses that the agent's conduct is of such a serious nature as to justify immediately invalidating his certification, the Committee is authorized to take such action. In such event, the agent may appeal that action in the same manner as he could appeal from a proposed suspension of termination set forth in Section 6.

F. Form of Certification

Upon approving an Application for Certification as a player agent, the Committee shall provide the applicant with a written certification.

The agent will thereupon be authorized to serve as a player agent in conducting individual player negotiations with NBA clubs and/or assisting in or advising with respect to such negotiations.

In granting certification the Committee shall not be deemed to have endorsed any particular agent; and, in no event, shall the grant of certification be deemed to impose liability upon the NBPA or its Committee on Agent Regulation for any acts or omissions of the player agent in providing representation to any player.

SECTION 3: Standard of Conduct for Player Agents in Providing Services Governed by These Regulations

As described above, the objective of the NBPA in issuing these Regulations is to enable players to make informed selection of agents and to insure that the player agents shall provide to the individual players whom they represent in contract negotiations with NBA clubs effective representation at fair and reasonable rates that are uniformly applicable.

A. General Requirements

Consistent with this objective, a player agent shall be required to:

(1) Disclose on his application and thereafter upon request of the Committee all information relevant to his or her qualifications to serve as a player agent, including, but not limited to, background, special training, experience in negotiations, past representation of professional athletes, and relevant business associations or memberships in professional organizations;

(2) Pay the annual agent fees no later than the first of July every year for the upcoming season. Any new agent certified after the first of January will be required to pay one-half the dues for that particular season. All agents must attend an NBPA seminar each year except when the Committee determines not to require the attendance of its experienced agents at any seminar.

(3) Comply with the maximum fee schedule and all other provisions of these Regulations and any amendments thereto;

(4) Advise a player and report to the NBPA any known violations by an NBA club of a player's individual contract;

(5) Provide the NBPA a copy of any player compensation agreement you negotiated on his behalf with any NBA team within 48 hours after the contract is executed.

(6) Provide on or before March 1, 1990, and on or before March 1 of each succeeding year, to each player who he represents, with a copy to the Association, an itemized statement covering the period January 1 through December 31 of the immediately prior year which separately sets forth both the fee charged to the player for, and any expenses incurred in connection with the performance of, the following services: (a) individual player salary negotiations, and/or grievance arbitration, (b) the management of the player's assets, (c) the provision to the player of financial, investment, legal, tax and/or other advice, and (d) any other miscellaneous services;

(7) Permit a person or firm authorized by a former or current player-client to conduct an audit, upon request, of all relevant books and records relating to any services provided to that player.

(8) Notify the NBPA promptly of any significant changes in your status relevant to your continuing to be certified as a player agent. Specifically, on or before July 1, 1989, you are required to notify the NBPA, in writing of:
   (a) Any change involving your employment status that has taken place since the filing of your application for certification;
   (b) Any change in the player(s) you represent that has taken place since the filing of your application for certification;
   (c) Any disciplinary proceeding that has been initiated against you, or any formal charge or complaint filed against you in your professional capacity since the filing of your application for certification.

(9) Notify the NBPA, in writing, within thirty (30) days of any subsequent changes that occur in connection with any of the information referred to in subparagraph (8) above.

(10) Provide on or before March 1, 1990 and thereafter, the Association (with a copy to each player that he currently represents) the information set forth in items 10-28 of the revised Application for Certification as listed below.

(11) Provide the Association with all materials that the Association deems relevant with respect to any investigation conducted pursuant to these Regulations and in all other respects cooperate fully with the Association.

B. Prohibited Conduct Subject to Discipline

To further effectuate the objectives of these Regulations players agents are prohibited from:

(a) Representing any player in individual contract negotiations with any club unless the agent (i) has a current certification, and (ii) has signed a standard player agent fee agreement with each such player;

(b) Providing or offering a monetary inducement (other than a fee less than the maximum fee contained in the standard fee agreement established by these Regulations) to any player (including a rookie) or college athlete to induce or encourage that person to utilize his services;

(c) Providing or offering money or any other thing of value to a member of a player's family or any other person for the purpose of inducing or encouraging the player to utilize his services or for the purpose of inducing or encouraging that person to recommend that a player (including a rookie) or college athlete utilize the services of the agent;

(d) Providing materially false or misleading information to any player (including a rookie) or college athlete in the context of seeking to be selected as a player agent for that individual or in the course of representing that player as his agent;

(e) Holding or seeking to hold, either directly or indirectly, a financial interest in any professional basketball team or in any other business venture that would create an actual conflict of interest or the appearance of a conflict of interest between the individual player and his agent;

(f) Representing the General Manager or coach of any NBA team (or any other management representative who participates in the team's deliberations or decision concerning what compensation is to be offered individual players) in matters pertaining to his employment or any other matters in which he has any financial stake by or association with any NBA team;

(g) Engaging in any other activity which creates an actual or potential conflict of interest with the effective representation of NBA players; provided that the representation of two or more players on any one club shall not itself be deemed to be prohibited by this provision;

(h) Soliciting or accepting money or anything of value from any NBA club in circumstances where to do so would create a conflict or an apparent conflict with the interests of any player he represents;

(i) Negotiating and/or agreeing to any provision in a player contract which deprives that player of any benefit contained in any collectively bargained agreement between the NBA and the NBPA;
(j) Negotiating and/or agreeing to any provision in a player contract which directly or indirectly violates any stated policies, rules, or requirements established by the NBPA;
(k) Concealing material facts from any player whom the agent is representing which relate to the subject of the individual's contract negotiation;
(l) Failing to advise the player and to report to the NBPA any known violations by an NBA club of a player's individual contract;
(m) Engaging in unlawful conduct and/or conduct involving dishonesty, fraud, deceit, misrepresentation, or other conduct which reflects adversely on his or her fitness as a player agent or jeopardizes the effective representation of NBA players;
(n) Breaching the provisions of the maximum fee schedule agreement that the agent is required to enter into pursuant to these Regulations; provided, however, that grounds for discipline shall not exist when, in the circumstances of a particular case, there was a reasonable basis for doubting whether the agent's conduct was in breach of the contract;
(o) Indirectly circumventing the fee limits of the standard form maximum fee agreement by knowingly and intentionally increasing the fees that he had charged or otherwise would have charged the player for other services, including but not limited to, financial consultation, advice concerning money management, and/or negotiating endorsement agreements on behalf of players;
(p) Violating the provisions of the Standard Player Agreement whereby the agent agrees to resolve all disputes involving the meaning, interpretation, application or enforcement of that agreement exclusively through arbitration and not to initiate any lawsuit for breach of contract against the player; and,
(q) Violating any of the requirements of Section 3(A)(1-11) or Section 4(A).

A player agent who engages in any prohibited conduct defined above shall be subject to discipline in accordance with the procedures of Section 6 of these Regulations.

C. Miscellaneous

In addition to refraining from the foregoing prohibited conduct, the NBPA further expects that every agent will carry out the representational services covered by these Regulations with the highest degree of professional competence and integrity. In this connection, the NBPA likewise expects that to achieve and maintain high quality performances every player agent, at a minimum, will take the necessary steps to become knowledgeable about the NBPA's structure, the economics of the industry, applicable collective bargaining agreements, basic negotiating techniques, and all areas of the law relevant to his professional duties. If, after these Regulations become effective, the Committee determines that there is a need to impose additional requirements with respect to the quality of agent performance, the Committee reserves the right to amend these Regulations accordingly.

SECTION 4: Agreements Between Player Agents And Players; Maximum Fees

A. Standard Form

To qualify to perform the services of a player agent under these Regulations, a person must satisfy two prerequisites: (1) He/She must be certified; and (2) he/she must have signed a NBPA standard form written agreement with the player. Retyped contracts will not be accepted.

A copy of the executed agreement shall be sent by prepaid certified mail by the player agent to the NBPA Committee within five (5) days of execution.

Once the agent satisfies the two prerequisites stated above, he shall be authorized to function as a player agent under these Regulations.

Any agreement between a player agent and a player entered into after the effective date of these Regulations which is not in writing or which does not meet the requirements of these Regulations shall be of no force and effect, and no player agent shall have the right to assert any claim against the player for compensation on the basis of such purported contract.

Any agreement entered into after the effective date of these Regulations shall include a provision whereby either party may terminate that agreement upon fifteen (15) days written notice to the other party. A copy of the written termination must be sent to the NBPA.

B. Players Agent's Compensation

The maximum fees which the player agent may charge or collect shall be as follows:
(1) If the player agent negotiates an agreement whereby the player receives only the minimum compensation under the NBA-NBPA Collective Bargaining Agreement applicable for the playing season or seasons covered by the individual contract, the agent shall receive a 2% fee for each such season;
(2) If the player agent negotiates a contract whereby the compensation the individual player agent receives is in excess of the minimum compensation applicable under the NBA-NBPA Collective Bargaining Agreement for one or more playing seasons, the agent shall receive a fee of four percent (4%) of the compensation negotiated for the player for each playing season, unless the player and his agent have agreed to a lesser percentage.

In computing the maximum allowable fee, the term "compensation" shall include base salary, signing bonus and any performance bonus actually received by the player, no other benefits negotiated on behalf of the individual player shall be taken into consideration – including, but not limited to, the value of the personal loan, an insurance policy, an automobile, or a residence, etc.** Any portion of a fee based on player compensation that is unascertainable at the time the player contract is negotiated (e.g., a performance bonus) shall not be collected by the agent until the player has received such compensation.

It is the intent of these Regulations that the player agent shall not be entitled to receive any fee for his services until the player receives the compensation upon which the fee is based. Consistent with this objective, a player agent is prohibited from including any provision in a fee agreement with a player whereby the player becomes obligated to make any fee payment to the agent in advance of the player's receipt of the compensation upon which the fee is based. However, in promulgating these Regulations the NBPA recognizes that in certain circumstances a player may decide that it is in his best interest to pay his agent's fee in advance of the receipt of any compensation – whether it be his salary for the current playing season or deferred compensation.*** Accordingly, it is the intent of these Regulations that an option be accorded to the **player** to make advance fee payments to his agent if the player chooses to do so. In any such situation the agent is authorized to accept the advance payment.

**The amount of the agent's fee shall not be affected by the fact that the player received a guaranteed contract from an NBA club.

***With respect to deferred conpensation, the agent shall only be entitled to a fee based on the present value of that compensation.

C. Effective Date and Existing Agreements

Effective March 7, 1986, any player agent who **thereafter** wishes to provide representational services to any player in connection with that player's contract negotiations with any NBA team commencing with the 1986-87 playing seasons must comply with the maximum fee schedule requirements set forth above.

If prior to March 7, 1986, the agent has entered into an agreement with any player providing a fee schedule for the agent's performance of services relating to contract negotiations and as a result of the agent's services the player and an NBA team have executed a contract on or before March 6, 1986 which covers playing season 1986-87 or thereafter, that fee schedule shall remain in full force and effect for the duration of that agreement; provided, however, that the player shall have the right to terminate the agent's future services upon written notice in accordance with the standard player agent agreement.

If a player agent and a player entered into an agreement prior to March 7, 1986, whereby the player agreed to utilize the services of that agent relating to contract negotiations for one or more playing seasons at a specified fee but no written contract between the player and an NBA team has been executed as of March 7, 1986, (the effective date of these Regulations) the player shall have the right to terminate the agent's future services upon written notice in accordance with the standard player agent agreement; provided however, if the player exercises his option to terminate and thereafter enters into a compensation agreement with an NBA club, the player shall be obligated to compensate his former agent for the reasonable value of his services computed on the bases of the fee schedule set forth in the Regulations. To the extent the latter fee schedule provides the former agent a lesser fee than he might have received under his agreement with the player, that agreement shall be deemed to be superseded by and modified in accordance with these Regulations.

Any dispute covering the proper application of these Regulations to any existing agreement between a player and his agent shall be subject to the arbitration procedure set forth in Section 5 herein, which shall constitute the exclusive method for the resolution thereof.

Any provision for fees in any agreement between an agent and a player in effect as of March 6, 1986, or entered into anytime thereafter which relates to any service other than negotiating player contracts or assisting in or advising with respect to such negotiations (e.g., financial consulting or money management services), shall be considered serverable from the fee provisions of this section.

SECTION 5: Arbitration Procedures

INTRODUCTION

In establishing this new system for regulating agents it is the intention of the NBPA that the arbitration process shall be the exclusive method for resolving any and all disputes that may arise from denying certification to an agent or from the interpretation, application or enforcement of these Regulations and the resulting fee agreements between player agents and individual players. This will insure that those disputes – which involve essentially internal matters concerning the relationship between individual players, the NBPA in its capacity as their exclusive bargaining representative, and player agents performing certain delegated representative functions relating particularly to individual player compensation negotiations – will be handled and resolved expeditiously by the decisionmaker established herein, without need to resort to costly and time-consuming formal adjudication.

The provisions of this section shall apply with respect to two types of disputes that may arise under these Regulations;

(1) The Committee on Agent Regulation denies an Application for Certification and the applicant wishes to appeal from that action; and,

(2) a dispute arises with respect to the meaning, interpretation, or enforcement of a fee agreement (described in Section 4) entered into between a player and his agent.

With respect to any dispute that may arise pursuant to paragraph (1) above, the procedure for filing an appeal and invoking arbitration is set forth in these Regulations at Section 2(D). Once arbitration has been invoked, the procedure set forth in subparagraphs D-F, below, shall apply.

With respect to any dispute that may rise pursuant to paragraph (2) above, the following procedures shall apply:

A. Filing

The arbitration of a dispute under subparagraph (2) above shall be initated by the filing of a written grievance either by the player or his agent.

Any such grievance must be filed within thirty (30) days from the date of the occurrence of the event upon which the grievance is based or within thirty (30) days from the date on which the facts of the matter become known or reasonably should have become known to the grievant or withibn thirty (30) days from the effective date of these Regulations, whichever is later. A player need not be under contract to an NBA club at the time a grievance relating to him hereunder arises or at the time such grievance is initiated or processed.

A player may initiate a grievance against a player agent if he (i) sends the written grievance by prepaid certified mail to the player agent's business address or by personal delivery at such address, **and** (ii) sends a copy to the NBPA. A player agent may initiate a grievance against a player if he (i) sends a written grievance by prepaid certified mail to the player or by personal delivery of the grievance to the player, **and** (ii) furnishes a copy thereof to the NBPA. The written grievance shall set forth in plain and understandable terms the facts and circumstances giving rise to the grievance, the provision(s) of the agreement between the player and his agent alleged to have been violated, and the relief sought.

B. Answer

The party against whom a grievance has been filed ("the respondent") shall answer the grievance in writing by certified mail or personal delivery within thirty (30) calendar days of receipt of the grievance. The Answer shall admit or deny the facts alleged in the grievance and shall also briefly set forth the reasons why the respondent believes the grievance should be denied. The respondent must also provide a copy of his Answer to the NBPA at the same time. Once the Answer is filed, the NBPA shall promptly provide the Arbitrator with copies of the grievance and Answer and all other relevant documents. If an Answer is not filed within this time limit, the Arbitrator, in his discretion, may issue an order where appropriate, granting the grievance and the requested relief upon satisfactory proof of the claim.

C. Arbitrator

The NBPA has selected a skilled and experienced person to serve as the outside impartial arbitrator for all cases arising hereunder.

D. Hearing

The Arbitrator shall schedule a hearing on the dispute in New York City, except that the parties may mutually agree on Chicago or Los Angeles. At such hearings, the parties – i.e., the player and his agent* – may appear in person or by counsel or other representative. The parties to the dispute and the NBPA, as well, will have the right to present, by testimony or otherwise, any evidence relevant to the grievance. Within thirty (30) days after the close of the hearing, the Arbitrator shall issue a written award. That award shall constitute full, final and complete resolution of the grievance, and will be binding upon the player and the player agent involved. Given the uniquely internal nature of any such dispute that may be presented to the Arbitrator, it is the NBPA intention that an award issued by the Arbitrator not be subject to judicial review on any grounds.

E. Costs

Each party will bear the costs of its own witnesses and counsel. Costs of arbitration, including the fees and expenses of the Arbitrator, will be borne equally between the parties to the grievance; provided, however, that the Arbitrator may assess some or all of the party's costs to an opposing party if he deems a party's conduct to be frivolous. If the Arbitrator grants a money award, it shall be paid within ten (10) days.

F. Time Limits

The time limits of this section may be extended by written agreement of the parties.

SECTION 6: Oversight and Compliance Procedure

A. Disciplinary Committee

In addition to performing the function of a reviewing and acting upon all Applications for Certification, the Committee on Agent Regulation also shall serve as the Disciplinary Committee. In the latter capacity, it shall have the authority and responsibility of initiating and then presenting disciplinary cases against player agents who engage in prohibited conduct as defined in Section 3, B(a)-(q), above. In carrying out this function the Committee also will have the assistance of its outside legal counsel.

B. Complaint; Filing

Disciplinary proceedings against any certified player agent shall be initiated by the filing of a written complaint against the agent by the Disciplinary Committee when it has reasonable cause to believe that the player agent has engaged in or is engaging in prohibited conduct. The Disciplinary Committee may act on the basis of its own knowledge or on the basis of information obtained from any person having knowledge of the action or conduct of the player agent in question, including, but not limited to, players, NBPA staff, or other persons associated with professional or intercollegiate basketball. The Complaint shall be sent to the player agent by prepaid certified mail addressed to the agent's business office, or may be hand-delivered to the agent personally at his business address. The Complaint shall set forth the specific action or conduct giving rise to the Complaint and cite the Regulation(s) alleged to have been violated.

A Complaint must be filed by the Disciplinary Committee within six (6) months from the date of the occurrence which gave rise to the Complaint, or within six (6) months from the date on which the information sufficient to create reasonable cause became known or reasonably should have become known to the Disciplinary Committee, whichever is later.

*In an appeal from a denial of certification the parties will be the player agent and the Committee on Agent Regulation.

C. Answer

The player agent against whom the Complaint has been filed shall have twenty (20) days in which to file a written Answer to the Complaint. Such Answer shall be sent by prepaid certified mail to the Disciplinary Committee at the offices of the NBPA. The Answer must admit or deny the facts alleged in the Complaint, and shall also assert any facts or arguments which the player agent wishes to state in his defense.

D. Proposed Disciplinary Action

Within thirty (30) days after receipt of the Answer, the Disciplinary Committee shall inform the player agent in writing (by prepaid certified mail) of the nature of the discipline, if any, which the Committee proposes* to impose, which discipline may include one or more of the following:

(1) Issuance by the Committee of an informal order of reprimand to be retained in the player agent's file at the Committee's offices;

(2) Issuance of a formal letter of reprimand which may be made public;

(3) Suspending a player agent's certified status for a specified period of time during which he is prohibited from representing the NBPA in conducting individual contract negotiations for any NBA player or assisting in or advising with respect to such negotiations; and

(4) Revocation of the player agent's Certification hereunder.

E. Appeal

The player agent against whom a Complaint has been filed under this Section may appeal the Disciplinary Committee's proposed disciplinary action to the outside arbitrator by filing a written Notice of Appeal with the arbitrator within twenty (20) days following his receipt of notification of the proposed disciplinary action.

Within thirty (30) days of receipt of the Notice of Appeal, the arbitrator shall set a time and place for a hearing on the appeal, which hearing shall take place in New York City, unless the parties mutually agree upon Chicago or Los Angeles.

The failure of a player agent to file a timely appeal shall be deemed to constitute an acceptance of the proposed discipline which shall then be promptly administered.

F. Conduct of Hearing

At the hearing of any appeal, the Committee shall have the burden of proving the allegations of its Complaint. The Committee and the player agent shall be afforded a full opportunity to present, through testimony or otherwise, its evidence pertaining to the action or conduct of the player agent alleged to be prohibited by the Regulations. The hearing shall be conducted in accordance with the Voluntary Labor Arbitration Rules of the American Arbitration Association. Each of the parties may appear with counsel or a representative of its choosing. The hearing will be transcribed.

At the close of the hearing or within thirty (30) days thereafter, the Arbitrator shall issue a decision on the appeal, which decision shall either affirm, vacate or modify the proposed action of the Disciplinary Committee. The arbitrator shall decide two issues: first, whether the agent has engaged in or is engaging in prohibited conduct as alleged by the Committee; and second, if so, whether the discipline proposed by the Committee is reasonable in the circumstances of the case under review. If he decides both questions affirmatively, he shall issue an order affirming the proposed discipline; if he decides that the player agent has not engaged in any prohibited conduct, the Arbitrator shall issue an order vacating the proposed discipline and dismissing the case; and, if he decides the first question affirmatively but concludes that the proposed penalty is unreasonable, the Arbitrator shall issue an order modifying the penalty (provided, however, that no modification can result in the imposition of more severe discipline than that proposed by the Committee).

*If the Committee already has invalidated the agent's certification (see asterisk [*] at page 3), the same appeal procedure as contained herin shall apply.

G. Time Limits; Cost

Each of the time limits set forth in this Section may be extended by mutual written agreement of the parties involved. The fees and expenses of the Arbitrator will be paid by the NBPA. Each party will bear the costs of its own witnesses and counsel, etc.

SECTION 7: Effective Date: Amendment

These Regulations shall become effective on March 1, 1990.

These Regulations may be amended periodically by the action of the Officers of the NBPA and the Player Representatives.


NATIONAL BASKETBALL
NBA
PLAYERS
PLAYERS ASSOCIATION