

CHAPTER 272

**EDUCATION - UNIVERSITIES AND COLLEGES**

SENATE BILL 96-215

BY SENATORS Wells, Bishop, Johnson, Meiklejohn, Norton, R. Powers, Schroeder, and Tebedo;  
also REPRESENTATIVES McElhany and Tupa.

**AN ACT**

**CONCERNING RELATIONSHIPS BETWEEN ATHLETE AGENTS AND STUDENT ATHLETES AT INSTITUTIONS OF HIGHER EDUCATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Title 23, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 16**  
**Limitations on Athlete Agents**

**23-16-101. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS THAT DISHONEST OR UNSCRUPULOUS PRACTICES BY ATHLETE AGENTS WHO SOLICIT REPRESENTATION OF STUDENT ATHLETES CAN CAUSE SIGNIFICANT HARM TO STUDENT ATHLETES AND TO THE INSTITUTIONS OF HIGHER EDUCATION FOR WHICH THEY PLAY. IT IS THE GENERAL ASSEMBLY'S INTENT TO PROTECT THE INTERESTS OF STUDENT ATHLETES AND INSTITUTIONS OF HIGHER EDUCATION BY LIMITING THE CONTACTS BETWEEN ATHLETE AGENTS AND STUDENT ATHLETES AND BY SETTING REQUIREMENTS FOR CONTRACTS ENTERED INTO BETWEEN ATHLETE AGENTS AND STUDENT ATHLETES.

**23-16-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENT CONTRACT" MEANS ANY CONTRACT OR AGREEMENT IN WHICH A STUDENT ATHLETE AUTHORIZES OR EMPOWERS, OR AGREES TO AUTHORIZE OR EMPOWER AT SOME LATER DATE, AN ATHLETE AGENT TO NEGOTIATE OR SOLICIT ANY PROFESSIONAL SPORT SERVICES CONTRACT OR MARKETING ENDORSEMENT CONTRACT ON BEHALF OF THE STUDENT ATHLETE REGARDLESS OF WHETHER THE ATHLETE AGENT

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

IS ENTITLED TO COMPENSATION UNDER THE CONTRACT OR AGREEMENT.

(2) "ATHLETE AGENT" MEANS A PERSON WHO, DIRECTLY OR INDIRECTLY, RECRUITS OR SOLICITS A STUDENT ATHLETE TO ENTER INTO AN AGENT CONTRACT, OR WHO, FOR ANY TYPE OF FINANCIAL GAIN, PROCURES, OFFERS, PROMISES, OR ATTEMPTS TO OBTAIN EMPLOYMENT OR PROMOTIONAL FEES OR BENEFITS FOR A STUDENT ATHLETE WITH A PROFESSIONAL SPORTS TEAM OR AS A PROFESSIONAL ATHLETE OR WITH ANY PROMOTER WHO MARKETS OR ATTEMPTS TO MARKET THE STUDENT ATHLETE'S ATHLETIC ABILITY OR ATHLETIC REPUTATION.

(3) "COMMISSION" MEANS THE COLORADO COMMISSION ON HIGHER EDUCATION CREATED IN SECTION 23-1-102.

(4) "GOVERNING BOARD" MEANS THE GOVERNING BODY OF A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION.

(5) "INSTITUTION" MEANS ANY STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION OPERATING IN THIS STATE AND ANY NONPUBLIC INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-3.7-102 (3), OPERATING IN THIS STATE.

(6) "STUDENT ATHLETE" MEANS ANY INDIVIDUAL WHO IS ENROLLED AS A STUDENT AT AN INSTITUTION AND HAS EITHER SUBMITTED A WRITTEN LETTER OF INTENT TO OR IS ELIGIBLE TO AND DOES PARTICIPATE IN ANY INTERCOLLEGIATE SPORTING EVENT, CONTEST, EXHIBITION, OR PROGRAM.

**23-16-103. Contact with student athletes prohibited.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, AN ATHLETE AGENT SHALL NOT:

(a) ENTER INTO ANY AGREEMENT, WRITTEN OR ORAL, BY WHICH THE ATHLETE AGENT OFFERS ANYTHING OF VALUE TO AN EMPLOYEE OF AN INSTITUTION IN RETURN FOR THE REFERRAL OF ANY STUDENT ATHLETES TO THE ATHLETE AGENT BY THE EMPLOYEE;

(b) OFFER ANYTHING OF MONETARY VALUE TO THE STUDENT ATHLETE OR A MEMBER OF THE STUDENT ATHLETE'S IMMEDIATE FAMILY TO INDUCE THE STUDENT ATHLETE, EITHER AT THE TIME OF OFFERING OR AT SOME FUTURE TIME, TO ENTER INTO AN AGENT CONTRACT OR ANY OTHER AGREEMENT, WRITTEN OR ORAL, BY WHICH THE ATHLETE AGENT WILL REPRESENT THE STUDENT ATHLETE;

(2) NO PERSON, WHETHER OR NOT FOR COMPENSATION, SHALL ASSIST, AID, OR ABET AN ATHLETE AGENT IN COMMITTING ANY OF THE ACTIONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

**23-16-104. Agent contracts - contents - notice - termination.** (1) ANY AGENT CONTRACT ENTERED INTO BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE SHALL AT A MINIMUM INCLUDE:

(a) THE AMOUNT OF THE FEES AND EXPENSES AND THE PERCENTAGES TO BE PAID BY THE STUDENT ATHLETE TO THE ATHLETE AGENT;

(b) A DESCRIPTION OF THE PROFESSIONAL SERVICES THAT THE ATHLETE AGENT

WILL RENDER TO THE STUDENT ATHLETE IN RETURN FOR EACH FEE, EXPENSE, OR PERCENTAGE;

(c) ANY GUARANTEES PROVIDED BY THE AGENT TO THE ATHLETE;

(d) THE FOLLOWING STATEMENT IN AT LEAST TEN-POINT TYPE THAT IS BOLDFACE, CAPITALIZED, UNDERLINED, OR OTHERWISE CONSPICUOUSLY SET OUT FROM SURROUNDING WRITTEN MATERIAL:

**WARNING TO STUDENT ATHLETE:**

**WHEN YOU SIGN THIS CONTRACT, IT IS LIKELY YOU WILL IMMEDIATELY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OF YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT OR PRIOR TO PARTICIPATING IN YOUR NEXT INTERCOLLEGIATE ATHLETIC EVENT, WHICHEVER COMES FIRST.**

**DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT OR IF IT CONTAINS BLANK SPACES. DO NOT SIGN THIS CONTRACT IF IT DOES NOT SPECIFY ALL OF THE GUARANTEES MADE TO YOU BY THE ATHLETE AGENT. IF YOU DECIDE THAT YOU DO NOT WISH TO PURCHASE THE SERVICES OF THE ATHLETE AGENT, YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL THE CONTRACT NOT LATER THAN 15 DAYS AFTER THE DATE ON WHICH YOU SIGN THIS CONTRACT.**

(2) WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO AN AGENT CONTRACT, THE STUDENT ATHLETE SHALL NOTIFY THE ATHLETIC DIRECTOR OF THE INSTITUTION AT WHICH THE STUDENT ATHLETE IS ENROLLED AND PROVIDE A COPY OF THE SIGNED AGENT CONTRACT. IF A STUDENT ATHLETE ENTERS INTO AN AGENT CONTRACT PRIOR TO ENROLLING AT AN INSTITUTION, THE STUDENT ATHLETE, WITHIN SEVENTY-TWO HOURS AFTER ENROLLMENT, SHALL NOTIFY THE ATHLETIC DIRECTOR OF THE INSTITUTION AT WHICH THE STUDENT ENROLLS AND PROVIDE A COPY OF THE SIGNED AGENT CONTRACT.

(3) THE STUDENT ATHLETE MAY RESCIND ANY AGENT CONTRACT WITHIN FIFTEEN CONSECUTIVE BUSINESS DAYS AFTER ENTERING INTO THE AGENT CONTRACT BY PROVIDING WRITTEN NOTICE TO THE ATHLETE AGENT. THE STUDENT ATHLETE SHALL ALSO PROVIDE NOTICE OF TERMINATION OF THE AGENT CONTRACT TO THE ATHLETIC DIRECTOR OF THE INSTITUTION AT WHICH THE STUDENT ATHLETE IS ENROLLED. FAILURE TO PROVIDE NOTICE TO THE ATHLETIC DIRECTOR SHALL NOT AFFECT TERMINATION OF THE AGENT CONTRACT. THE STUDENT ATHLETE MAY NOT UNDER ANY CIRCUMSTANCES WAIVE THE STUDENT ATHLETE'S RIGHT TO RESCIND THE AGENT CONTRACT.

(4) THE STUDENT ATHLETE MAY RESCIND ANY AGENT CONTRACT THAT DOES NOT INCLUDE THE WARNING SPECIFIED IN SUBSECTION (1) OF THIS SECTION AT ANY TIME

AFTER ENTERING INTO THE AGENT CONTRACT BY PROVIDING WRITTEN NOTICE TO THE ATHLETE AGENT.

**23-16-105. Exceptions - written materials - student-initiated contacts.**

(1) THE PROVISIONS OF THIS ARTICLE SHALL NOT PROHIBIT AN ATHLETE AGENT FROM:

(a) SENDING WRITTEN MATERIALS TO A STUDENT ATHLETE SO LONG AS THE ATHLETE AGENT PREVIOUSLY SENT OR SIMULTANEOUSLY SENDS AN IDENTICAL COPY OF SAID WRITTEN MATERIALS TO THE ATHLETIC DIRECTOR OF THE INSTITUTION AT WHICH THE STUDENT ATHLETE IS ENROLLED;

(b) OTHERWISE CONTACTING A STUDENT ATHLETE, SO LONG AS THE CONTACT IS ONLY FOR PROVIDING INFORMATION TO THE STUDENT ATHLETE AND THE ATHLETE AGENT DOES NOT PROVIDE ANYTHING OF MONETARY VALUE TO THE STUDENT ATHLETE.

**23-16-106. Athlete agent interviews - scheduling - rules.** EACH INSTITUTION THAT PARTICIPATES IN INTERCOLLEGIATE ATHLETICS MAY SPONSOR ON-CAMPUS ATHLETE AGENT INTERVIEWS AT WHICH AN ATHLETE AGENT MAY INTERVIEW STUDENT ATHLETES DISCUSS THE ATHLETE AGENT'S REPRESENTATION OF THE STUDENT ATHLETES IN THE MARKETING OF THE STUDENT ATHLETES' ATHLETIC ABILITY OR REPUTATION. THE GOVERNING BOARD OF THE INSTITUTION OR THE INSTITUTION MAY ADOPT RULES WITH REGARD TO THE SCHEDULING OF INTERVIEW PERIODS, THE DURATION OF EACH INTERVIEW PERIOD, AND LOCATIONS ON CAMPUS WHERE INTERVIEWS MAY BE CONDUCTED.

**23-16-107. Compliance coordinator - duties.** (1) EACH INSTITUTION OR GOVERNING BOARD SHALL DESIGNATE AN INDIVIDUAL TO SERVE AS COMPLIANCE COORDINATOR FOR THE INSTITUTION OR FOR EACH INSTITUTION UNDER THE GOVERNING BOARD'S MANAGEMENT. THE COMPLIANCE COORDINATOR SHALL ENSURE THE COMPLIANCE OF THE INSTITUTION AND ITS ATHLETES AND STUDENTS WITH THE PROVISIONS OF THIS ARTICLE AND THE RULES ADOPTED BY THE GOVERNING BOARD OR INSTITUTION.

(2) IF AN INSTITUTION CHOOSES TO SPONSOR ON-CAMPUS ATHLETE AGENT INTERVIEWS AS PROVIDED IN SECTION 23-16-106, THE COMPLIANCE COORDINATOR SHALL ORGANIZE THE ATHLETE INTERVIEW SCHEDULE. THE COMPLIANCE COORDINATOR SHALL PROVIDE APPROPRIATE PUBLIC NOTICE OF THE INTERVIEW PERIOD AT LEAST THIRTY DAYS BEFORE THE DATE THE INTERVIEW PERIOD IS SCHEDULED TO BEGIN. ON RECEIPT OF A WRITTEN REQUEST, THE COMPLIANCE COORDINATOR SHALL PROVIDE AN ATHLETE AGENT WITH A COPY OF THE RULES ADOPTED BY THE GOVERNING BOARD OR INSTITUTION PURSUANT TO SECTION 23-16-106.

**23-16-108. Violations - penalties - civil suit.** (1) (a) ANY AGENT CONTRACT THAT DOES NOT MEET THE REQUIREMENTS OF SECTION 23-16-104 OR FOR WHICH THE ATHLETE AGENT OR STUDENT ATHLETE FAILS TO PROVIDE NOTICE AS REQUIRED IN SECTION 23-16-104 IS VOIDABLE AND UNENFORCEABLE AT THE STUDENT ATHLETE'S ELECTION.

(b) A POSTDATED AGENT CONTRACT IS VOIDABLE AND UNENFORCEABLE AT THE

## STUDENT ATHLETE'S ELECTION.

(c) AN AGENT CONTRACT THAT PURPORTS TO TAKE OR TAKES EFFECT AT A FUTURE TIME AFTER THE STUDENT ATHLETE IS NO LONGER ELIGIBLE TO PARTICIPATE IN INTERCOLLEGIATE ATHLETICS IS VOIDABLE AND UNENFORCEABLE AT THE STUDENT ATHLETE'S ELECTION.

(d) IF AN AGENT CONTRACT IS VOIDED PURSUANT TO PARAGRAPH (a), (b), OR (c) OF THIS SUBSECTION (1), THE ATHLETE AGENT THAT WAS PARTY TO THE AGENT CONTRACT MAY NOT RECOVER ANY MONETARY OR OTHER FORM OF CONSIDERATION PAID TO THE STUDENT ATHLETE OR TO A MEMBER OF THE STUDENT ATHLETE'S IMMEDIATE FAMILY PURSUANT TO THE AGENT CONTRACT OR AS AN INDUCEMENT TO THE STUDENT ATHLETE TO ENTER INTO THE AGENT CONTRACT.

(2) (a) THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH THE INSTITUTION IS LOCATED, ON RECEIPT OF A COMPLAINT OR ON HIS OR HER INITIATIVE, MAY INVESTIGATE ANY ALLEGED VIOLATIONS OF SECTIONS 23-16-103 TO 23-16-105. FOLLOWING AN INVESTIGATION, IF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY HAS REASONABLE CAUSE TO BELIEVE THAT ANY INDIVIDUAL HAS VIOLATED OR IS VIOLATING ANY PROVISION OF SECTIONS 23-16-103 TO 23-16-105, THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY BRING AN ACTION TO OBTAIN A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, OR PERMANENT INJUNCTION TO RESTRAIN OR PREVENT THE VIOLATION. IF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY, BY A PREPONDERANCE OF THE EVIDENCE, SHOWS THAT AN INDIVIDUAL HAS VIOLATED OR IS VIOLATING ANY PROVISION OF SECTIONS 23-16-103 TO 23-16-105, THE COURT MAY ISSUE A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, OR PERMANENT INJUNCTION TO RESTRAIN OR PREVENT THE VIOLATION.

(b) ON MOTION OF THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY, OR ON ITS OWN MOTION, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS AGAINST ANY INDIVIDUAL, OTHER THAN THE STUDENT ATHLETE, WHO VIOLATES ANY PROVISION OF SECTIONS 23-16-103 TO 23-16-105. THE CIVIL PENALTY ORDERED PURSUANT TO THIS SECTION SHALL BE PAID TO THE STATE TREASURER FOR DEPOSIT INTO THE STATE GENERAL FUND.

(c) NO ACTION MAY BE BROUGHT BY THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY UNDER THIS SECTION MORE THAN FOUR YEARS AFTER THE OCCURRENCE OF THE VIOLATION.

(3) (a) AN INSTITUTION MAY BRING AN ACTION FOR DAMAGES, AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), AGAINST ANY INDIVIDUAL, OTHER THAN THE STUDENT ATHLETE, WHO VIOLATES ANY PROVISION OF SECTIONS 23-16-103 TO 23-16-105. AN INSTITUTION MAY SEEK EQUITABLE RELIEF TO PREVENT OR MINIMIZE HARM ARISING FROM ACTS OR OMISSIONS THAT ARE OR WOULD BE A VIOLATION OF SECTIONS 23-16-103 TO 23-16-105.

(b) FOR PURPOSES OF THIS SUBSECTION (3), AN INSTITUTION IS DAMAGED IF, BECAUSE OF THE INDIVIDUAL'S ACTIVITIES IN VIOLATION OF SECTIONS 23-16-103 TO 23-16-105, THE INSTITUTION IS PENALIZED OR IS DISQUALIFIED OR SUSPENDED FROM PARTICIPATING IN INTERCOLLEGIATE ATHLETICS BY A NATIONAL ASSOCIATION FOR

THE PROMOTION AND REGULATION OF INTERCOLLEGIATE ATHLETICS OR BY AN INTERCOLLEGIATE ATHLETIC CONFERENCE AND, BECAUSE OF THE PENALTY, DISQUALIFICATION, OR SUSPENSION, THE INSTITUTION:

- (I) LOSES REVENUE FROM MEDIA COVERAGE OF A SPORTS CONTEST;
- (II) LOSES THE RIGHT TO GRANT AN ATHLETIC SCHOLARSHIP;
- (III) LOSES THE RIGHT TO RECRUIT AN ATHLETE;
- (IV) IS PROHIBITED FROM PARTICIPATING IN POSTSEASON ATHLETIC COMPETITION;
- (V) FORFEITS AN ATHLETIC CONTEST; OR
- (VI) OTHERWISE SUFFERS AN ADVERSE FINANCIAL IMPACT.

(c) AN INSTITUTION THAT PREVAILS IN A SUIT BROUGHT UNDER THIS SUBSECTION (3) MAY RECOVER:

- (I) ACTUAL DAMAGES;
- (II) PUNITIVE DAMAGES;
- (III) COURT COSTS; AND
- (IV) REASONABLE ATTORNEY FEES.

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 1996, and shall apply to acts committed and contracts entered into on or after said date.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1996