

## CHAPTER 204

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**EDUCATION - PUBLIC SCHOOLS**

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## SENATE BILL 96-207

BY SENATORS Wells, Mutzebaugh, Norton, R. Powers, Schaffer, and Tebedo;  
also REPRESENTATIVES Dean, May, Keller, Paschall, Schwarz, and Swenson.

**AN ACT****CONCERNING STUDENT PARTICIPATION IN SCHOOL ACTIVITIES.**

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

**SECTION 1.** 22-32-116.5, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**22-32-116.5. Extracurricular and interscholastic activities.** (1) (a) Notwithstanding any other provision of this article or any policy or rule of any recognized association of schools ~~which~~ THAT organizes and controls sanctioned extracurricular or interscholastic activities, a student enrolled in the student's public school district of residence shall be allowed to participate on an equal basis in any extracurricular or interscholastic activity sponsored in any other public school within said school district or at any public school in a school district which has boundaries contiguous to the boundaries of the student's public school district of residence if the school in which the student is enrolled does not sponsor that particular extracurricular or interscholastic activity and if the student otherwise meets the school's eligibility requirements for participation. ~~Any student participating in an extracurricular or interscholastic activity pursuant to the provisions of this subsection (1) may be required to pay a fee as a prerequisite to such participation. Any required fee paid by a student who elects to participate in extracurricular or interscholastic activities pursuant to this section shall not exceed the fee the school charges its enrolled students.~~ EACH SCHOOL DISTRICT AND EACH PUBLIC SCHOOL, SUBJECT TO THE REQUIREMENTS OF THIS SECTION, SHALL ALLOW ANY STUDENT ENROLLED IN A SCHOOL OR PARTICIPATING IN A NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM TO PARTICIPATE ON AN EQUAL BASIS IN ANY ACTIVITY OFFERED BY THE SCHOOL DISTRICT OR THE PUBLIC SCHOOL THAT IS NOT OFFERED AT THE STUDENT'S SCHOOL OF ATTENDANCE OR THROUGH THE STUDENT'S NONPUBLIC HOME-BASED EDUCATIONAL

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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.*

PROGRAM. EACH NONPUBLIC SCHOOL MAY ALLOW A STUDENT TO PARTICIPATE IN A PARTICULAR ACTIVITY OFFERED BY THE NONPUBLIC SCHOOL, AT THE NONPUBLIC SCHOOL'S DISCRETION.

(b) THERE IS A PRESUMPTION THAT A STUDENT MAY PARTICIPATE IN AN ACTIVITY THROUGH ANY AMATEUR ASSOCIATION OR LEAGUE THAT IS NOT A MEMBER OF AN ASSOCIATION OF SCHOOLS THAT ORGANIZES AND CONTROLS SANCTIONED EXTRACURRICULAR OR INTERSCHOLASTIC ACTIVITIES AND THAT SUCH PARTICIPATION SHALL NOT PREVENT THE STUDENT FROM PARTICIPATING OR AFFECT THE STUDENT'S ELIGIBILITY TO PARTICIPATE IN THE SAME ACTIVITY AT ANY SCHOOL, SUBJECT TO THE LIMITATIONS SPECIFIED IN THIS SECTION. PRIOR TO PARTICIPATING IN ANY ACTIVITY THROUGH SUCH AN AMATEUR ASSOCIATION OR LEAGUE, THE STUDENT SHALL OBTAIN THE EXPRESS WRITTEN PERMISSION OF THE PRINCIPAL OF THE SCHOOL AT WHICH THE STUDENT PARTICIPATES IN THE ACTIVITY, WHICH PERMISSION SHALL BE GRANTED UNDER GUIDELINES ADOPTED BY THE SCHOOL DISTRICT.

~~(2) (a) Notwithstanding any other provision of this article or any policy or rule of any recognized association of schools which organizes and controls sanctioned extracurricular or interscholastic activities, a student who resides within the attendance boundaries of a public school district but who is not enrolled in a public school shall be allowed to participate on an equal basis in any extracurricular or interscholastic activity sponsored by a public school within said public school district if the school in which the student is enrolled does not sponsor that particular extracurricular or interscholastic activity and if the student otherwise meets the school's eligibility requirements for participation.~~ A STUDENT MAY PARTICIPATE IN ACTIVITIES ONLY AT THE STUDENT'S SCHOOL OF ATTENDANCE OR THROUGH THE STUDENT'S NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM, WHICHEVER IS APPLICABLE, UNLESS THE SCHOOL OF ATTENDANCE OR NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM DOES NOT OFFER AN ACTIVITY IN WHICH THE STUDENT WISHES TO PARTICIPATE.

(b) ~~As used in this subsection (2), "student" means any child enrolled in:~~

~~(I) An independent or parochial school which provides basic academic education in accordance with the provisions of section 22-33-104 (2) (b); or~~

~~(II) A non-public home-based educational program in accordance with the provisions of section 22-33-104.5 (2).~~ IF A STUDENT'S SCHOOL OF ATTENDANCE OR NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM DOES NOT OFFER AN ACTIVITY IN WHICH THE STUDENT WISHES TO PARTICIPATE, THE STUDENT MAY PARTICIPATE IN THE ACTIVITY AT ANOTHER PUBLIC SCHOOL IN THE STUDENT'S SCHOOL DISTRICT OF ATTENDANCE OR IN THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE. IF THE ACTIVITY IS NOT OFFERED AT ANY PUBLIC SCHOOL IN THE SCHOOL DISTRICT OF ATTENDANCE OR THE SCHOOL DISTRICT OF RESIDENCE, THE STUDENT MAY PARTICIPATE IN THE ACTIVITY AT A PUBLIC SCHOOL IN A SCHOOL DISTRICT THAT IS CONTIGUOUS TO THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE.

(c) ~~Any student participating in an extracurricular or interscholastic activity pursuant to the provisions of this subsection (2) may be required to pay a fee as a prerequisite to such participation. Any required fee paid by a student who elects to participate in extracurricular or interscholastic activities pursuant to this subsection~~

~~(2) shall not exceed the fee the school charges its enrolled students.~~ IF AN ACTIVITY IS NOT OFFERED AT THE STUDENT'S SCHOOL OF ATTENDANCE AND THE STUDENT CHOOSES TO PARTICIPATE IN THE ACTIVITY AT A PUBLIC SCHOOL, THE SCHOOL DISTRICT IN WHICH THE STUDENT CHOOSES TO PARTICIPATE, AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), SHALL CHOOSE THE PUBLIC SCHOOL AT WHICH THE STUDENT SHALL PARTICIPATE. IN CHOOSING A PUBLIC SCHOOL, THE SCHOOL DISTRICT SHALL CHOOSE THE PUBLIC SCHOOL THAT OFFERS THE GREATEST NUMBER OF ACTIVITIES IN WHICH THE STUDENT WISHES TO PARTICIPATE.

(d) A STUDENT MAY PARTICIPATE IN ACTIVITIES AT MORE THAN ONE SCHOOL OF PARTICIPATION DURING THE SAME SCHOOL YEAR ONLY IF THE ORIGINAL SCHOOL OF PARTICIPATION DOES NOT OFFER AN ACTIVITY IN WHICH THE STUDENT WISHES TO PARTICIPATE.

(3) (a) IF A STUDENT'S SCHOOL OF ATTENDANCE DOES NOT OFFER A PARTICULAR ACTIVITY, THE STUDENT MAY CHOOSE TO PARTICIPATE IN THE ACTIVITY AT A NONPUBLIC SCHOOL. THE NONPUBLIC SCHOOL HAS DISCRETION WHETHER TO ALLOW THE STUDENT TO PARTICIPATE IN AN ACTIVITY AT THE NONPUBLIC SCHOOL.

(b) A STUDENT MAY PARTICIPATE AT A NONPUBLIC SCHOOL LOCATED IN THE STUDENT'S SCHOOL DISTRICT OF ATTENDANCE OR SCHOOL DISTRICT OF RESIDENCE. IF THE ACTIVITY IS NOT OFFERED AT A SCHOOL IN THE STUDENT'S SCHOOL DISTRICT OF ATTENDANCE OR SCHOOL DISTRICT OF RESIDENCE, THE STUDENT MAY APPLY TO PARTICIPATE IN THE ACTIVITY AT A NONPUBLIC SCHOOL IN A SCHOOL DISTRICT CONTIGUOUS TO THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE.

(c) IN CHOOSING WHETHER TO PARTICIPATE IN ACTIVITIES AT A PUBLIC OR NONPUBLIC SCHOOL, THE STUDENT SHALL CHOOSE THE SCHOOL OF PARTICIPATION THAT OFFERS THE GREATEST NUMBER OF ACTIVITIES IN WHICH THE STUDENT WISHES TO PARTICIPATE. THE LIMITATION ON THE NUMBER OF SCHOOLS OF PARTICIPATION SPECIFIED IN PARAGRAPH (d) OF SUBSECTION (2) OF THIS SECTION APPLIES REGARDLESS OF WHETHER THE STUDENT PARTICIPATES IN ACTIVITIES AT A PUBLIC OR NONPUBLIC SCHOOL.

(4) (a) TO PARTICIPATE IN AN ACTIVITY AT THE SCHOOL OF ATTENDANCE, A STUDENT SHALL MEET ALL OF THE REQUIREMENTS IMPOSED BY THE SCHOOL OF ATTENDANCE.

(b) TO PARTICIPATE IN AN ACTIVITY AT A SCHOOL OF PARTICIPATION, A STUDENT SHALL:

(I) IF THE STUDENT IS PARTICIPATING IN A NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM, COMPLY WITH ALL LAWS GOVERNING SAID PROGRAMS;

(II) COMPLY WITH ALL ELIGIBILITY REQUIREMENTS IMPOSED BY THE SCHOOL OF PARTICIPATION;

(III) COMPLY WITH THE SAME RESPONSIBILITIES AND STANDARDS OF BEHAVIOR, INCLUDING RELATED CLASSROOM AND PRACTICE REQUIREMENTS, AS ARE IMPOSED ON OTHER STUDENTS PARTICIPATING IN THE ACTIVITY AT THE SCHOOL OF PARTICIPATION.

(5) A STUDENT WHO HAS NOT MET ALL ELIGIBILITY REQUIREMENTS FOR OR WHO WOULD HAVE BECOME INELIGIBLE TO PARTICIPATE IN ACTIVITIES AT A SCHOOL CANNOT GAIN OR REGAIN ELIGIBILITY BY APPLYING TO PARTICIPATE IN ACTIVITIES AT ANOTHER SCHOOL PURSUANT TO THIS SECTION. A STUDENT SHALL PAY ANY PENALTY ASSESSED AGAINST THE STUDENT AT THE STUDENT'S SCHOOL OF ATTENDANCE OR SCHOOL OF PARTICIPATION BEFORE THE STUDENT MAY REGAIN ELIGIBILITY AT THE SCHOOL OF ATTENDANCE OR SCHOOL OF PARTICIPATION OR BECOME ELIGIBLE TO PARTICIPATE IN ANY ACTIVITY AT ANOTHER SCHOOL.

~~(3)~~ (6) (a) A SCHOOL MAY CHARGE ANY STUDENT PARTICIPATING IN AN ACTIVITY A PARTICIPATION FEE AS A PREREQUISITE TO PARTICIPATION. THE FEE AMOUNT THAT A SCHOOL OF PARTICIPATION CHARGES A NONENROLLED STUDENT SHALL NOT EXCEED THE AMOUNT THE SCHOOL OF PARTICIPATION WOULD CHARGE AN ENROLLED STUDENT TO PARTICIPATE IN THE ACTIVITY.

(b) If any fee is collected pursuant to this section for participation in an activity, the fee shall be used to fund the particular activity for which it is charged and shall not be expended for any other purpose.

(7) FOR PURPOSES OF ARTICLE 54 OF THIS TITLE, NO STUDENT WHO PARTICIPATES IN AN ACTIVITY IN A SCHOOL DISTRICT OTHER THAN THE STUDENT'S SCHOOL DISTRICT OF ATTENDANCE SHALL BE INCLUDED IN THE PUPIL ENROLLMENT OF THE SCHOOL DISTRICT WHERE THE STUDENT PARTICIPATES.

~~(4)~~ (8) The provisions of this section are intended to allow students to participate on an equal basis in extracurricular and interscholastic activities who would otherwise be denied the opportunity to do so and are not intended to sanction or encourage the recruitment of students for participation in such activities by schools or school districts.

(9) IF A STUDENT TRANSFERS ENROLLMENT TO ANOTHER SCHOOL WITHOUT AN ACCOMPANYING CHANGE OF DOMICILE BY THE STUDENT'S PARENT OR LEGAL GUARDIAN, THE STUDENT'S ELIGIBILITY TO PARTICIPATE IN ACTIVITIES AT THE NEW SCHOOL OF ATTENDANCE SHALL BE DETERMINED UNDER THE RULES OF PARTICIPATION ADOPTED BY THE SCHOOL DISTRICT IN WHICH THE NEW SCHOOL OF ATTENDANCE IS LOCATED; EXCEPT THAT ANY TRANSFER RULE SHALL NOT PROHIBIT ANY STUDENT FROM PARTICIPATING IN ANY INTERSCHOLASTIC ATHLETIC ACTIVITY AT THE SCHOOL TO WHICH THE STUDENT TRANSFERS ENROLLMENT IF THE STUDENT TRANSFERS ENROLLMENT NOT LATER THAN FIFTEEN DAYS AFTER THE BEGINNING OF THE SCHOOL YEAR AND PRIOR TO PARTICIPATING IN THE INTERSCHOLASTIC ATHLETIC ACTIVITY DURING THE SAME SCHOOL YEAR AT THE PRIOR SCHOOL OF ENROLLMENT.

~~(5)~~ (10) As used in this section, unless the context otherwise requires:

(a) "ACTIVITY" MEANS ANY extracurricular or interscholastic ~~"activities" includes~~ ~~but is~~ ACTIVITY, INCLUDING BUT NOT LIMITED TO ANY academic, artistic, athletic, recreational, ~~and~~ OR other ~~related activities~~ ACTIVITY offered by a ~~public~~ school.

(b) "NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM" HAS THE SAME MEANING AS IN SECTION 22-33-104.5 (2).

(c) "NONPUBLIC SCHOOL" MEANS ANY INDEPENDENT OR PAROCHIAL SCHOOL THAT PROVIDES A BASIC ACADEMIC EDUCATION, AS DEFINED IN SECTION 22-33-104 (2) (b).

(d) "PUBLIC SCHOOL" MEANS ANY SCHOOL THAT IS UNDER THE DIRECTION AND CONTROL OF A SCHOOL DISTRICT, INCLUDING BUT NOT LIMITED TO A CHARTER SCHOOL.

(e) "SCHOOL" INCLUDES ANY PUBLIC SCHOOL AND NONPUBLIC SCHOOL.

(f) "SCHOOL OF ATTENDANCE" MEANS THE SCHOOL IN WHICH A STUDENT IS ENROLLED AND ATTENDS CLASSES.

(g) "SCHOOL DISTRICT OF ATTENDANCE" MEANS THE SCHOOL DISTRICT IN WHICH A STUDENT IS ENROLLED AND ATTENDS CLASSES OR, IF THE STUDENT IS PARTICIPATING IN A NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM, THE SCHOOL DISTRICT IN WHICH THE STUDENT PARTICIPATES IN SAID PROGRAM.

(h) "SCHOOL DISTRICT OF RESIDENCE" MEANS THE SCHOOL DISTRICT IN WHICH A STUDENT RESIDES.

(i) "SCHOOL OF PARTICIPATION" MEANS A SCHOOL, OTHER THAN THE STUDENT'S SCHOOL OF ATTENDANCE, IN WHICH THE STUDENT PARTICIPATES IN AN ACTIVITY.

**SECTION 2.** 22-33-104.5 (6) (b) and (6) (d), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

**22-33-104.5. Home-based education - legislative declaration - definitions - guidelines.** (6) (b) For purposes of this subsection (6), a child who is participating in a non-public home-based educational program may participate on an equal basis in any extracurricular or interscholastic activity offered by a public school ~~in the child's public school district of residence~~ or offered by a private school, at the private school's discretion, ~~provided the child:~~ AS PROVIDED IN SECTION 22-32-116.5.

~~(I) Is in compliance with all laws governing non-public home-based education;~~

~~(II) (A) Meets all of the public school district's eligibility requirements for participation in the extracurricular or interscholastic activity, except for class attendance requirements of the school district or any recognized association of schools organizing and controlling the extracurricular or interscholastic activities, if the child elects to participate in an extracurricular or interscholastic activity through a public school;~~

~~(B) Meets all eligibility requirements established by a private school in the extracurricular or interscholastic activity if the child elects to participate in an extracurricular or interscholastic activity through a private school;~~

~~(III) Has not been ruled academically ineligible to participate in extracurricular or interscholastic activities while a public school student within the last two years; and~~

~~(IV) Fulfills the same responsibilities and standards of behavior and performance, including related classroom or practice requirements, as other students participating~~

~~in the extracurricular or interscholastic activity of the team, squad, or group, and meets the same standards for participation with the team, squad, or group.~~

~~(V) (Deleted by amendment, L. 94, p. 2837, §2, effective June 7, 1994.)~~

(d) As used in this subsection (6), "extracurricular or interscholastic activities" shall have the same meaning AS "ACTIVITY" as set forth in section 22-32-116.5 ~~(5)~~ (10).

**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: May 23, 1996