

The FTC dusts off the 2004-era Sports Agent Responsibility and Trust Act for the benefit of student-athletes

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On January 12, the Federal Trade Commission (FTC) sent letters to 20 unnamed Division I universities requesting information (<https://bit.ly/4qgemvq>) regarding student-athlete contracts with sports agents.

The inquiry focuses on compliance with the Sports Agent Responsibility and Trust Act (SPARTA). SPARTA, enacted in 2004, has never been previously enforced. The FTC's interest is likely driven by recent changes in the NCAA rules allowing student-athletes to be paid by institutions and through endorsement deals.

Though SPARTA's outdated provisions may limit its applicability and enforceability in today's college athletics environment, the FTC warns that violations (<https://bit.ly/4qf0ZLK>) could result in civil penalties of up to \$53,088 per infraction.

The FTC is requesting details about agents' compliance with SPARTA and copies of agent contracts from the universities, not from the agents

In these letters, the FTC is seeking details to understand the extent to which agents representing student-athletes (called "athlete agents" under SPARTA) comply with SPARTA.

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The letter requested that the universities provide specific information for each of the school's student-athletes with an agency contract going back to July 1, 2021, the date of the start of the name, image and likeness (NIL) compensation era. The information requested includes the date when the contract was entered and when the athlete agent notified the school verbally and in writing of the existence of the contract.

The FTC also asked schools to indicate for each agency contract whether they received a complaint or report about

the relationship between the athlete agent and the student-athlete.

The FTC also requested copies of every agency contract entered by any student-athlete at the school.

Notably, SPARTA does not actually require agents or student-athletes to provide copies of the agency contracts to the institution, nor does it require schools to maintain records of active agency contracts. In light of this, fully responding to the FTC's requests may not be possible and, in any event, will likely be burdensome.

The universities must provide the requested information by March 23 and have a representative certify under penalty of perjury that the response is complete and accurate.

SPARTA is designed to protect athletes and preserve sports integrity

Congress enacted SPARTA (<https://bit.ly/3MiO6CB>) to protect student-athletes and preserve the integrity of amateur sports. The law regulates agency contracts — agreements authorizing someone to negotiate professional sports or endorsement deals on a student-athlete's behalf.

Professional contracts cover agreements to render professional athletics services, while endorsement contracts involve use of an athlete's NIL to promote products, services or events. SPARTA broadly defines "athlete agent" as any individual that enters, or recruits or solicits a student-athlete to enter, an agency contract, excluding only a student-athlete's spouse, immediate family or guardian.

In today's college sports landscape, SPARTA may apply whenever a high school or college athlete signs with an agent to negotiate revenue-sharing or NIL agreements.

SPARTA's three core requirements are disclosure, notification and conduct

At its core, SPARTA requires agents to include specific disclosures in agency contracts, creates notification rights

and a cause of action for schools, and prohibits certain agent conduct.

First, agents must include in any agency contract, in boldface and near the student-athlete's (or parent or guardian's) signature, this exact disclosure language:

- Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered an agency contract.

Second, as provided in the disclosure, both the agent and the student-athlete must inform the athletic director at the athlete's school within 72 hours of entering an agency contract or before the athlete's next competition. The agent must also notify the school in writing.

Third, SPARTA prohibits agents from recruiting student-athletes to enter agency contracts by making false promises or providing anything of value. Any direct or indirect recruiting of student-athletes that involves false or misleading information or false promises or representations falls under this prohibition.

For example, an athlete agent cannot promise that the athlete will make a specific amount of NIL money if they sign with the agent. Agents also cannot provide items of value to anyone associated with the student-athlete (e.g., their parent), including providing loans or acting as a guarantor in any capacity.

The FTC treats SPARTA violations as violations of the FTC Act

The FTC letter emphasized that SPARTA violations carry civil penalties of up to \$53,088 per violation, with adjustments for inflation coming in 2026. Because SPARTA violations are treated as unfair or deceptive practices under Section 5 of the FTC Act, the FTC can enforce these provisions directly. State attorneys general may also bring civil actions on behalf of residents affected by violations. Additionally, schools harmed by SPARTA violations can sue for actual damages tied to lost athletic eligibility, including losses from reasonable self-imposed disciplinary measures.

SPARTA's provisions date back to the days of true amateur college athletics

SPARTA was enacted more than 20 years ago, when the landscape of college sports was vastly different. Its provisions assume that student-athletes are uncompensated amateurs and that agreeing to an agency contract may affect the student-athlete's NCAA eligibility. Additionally, it does not

contemplate the possibility that high school athletes could agree to NIL deals or contracts with colleges.

What's triggered the FTC's involvement? Perhaps recent reports of 'bad actor' athlete agents

The FTC's press release (<https://bit.ly/45MGlvn>) claims the inquiry's goal is to understand whether athlete agents are complying with the law and whether student-athletes are sufficiently protected. This inquiry may be a response to reports of athlete agents taking advantage of vulnerable student-athletes.

In today's college sports landscape, SPARTA may apply whenever a high school or college athlete signs with an agent to negotiate revenue-sharing or NIL agreements.

Here are a few examples:

- One agent claimed on a podcast (<https://bit.ly/49ZdG8l>) that "pretty much every NIL agency charges 20 percent," as compared with the 3-5 percent generally charged by professional sports agents, because NIL deals are typically for lower amounts.
- In 2023, a former University of Florida football player sued his agency in federal court (<https://bit.ly/4c8jsGs>), seeking to void his NIL deal for failing to comply with Florida state law. Under the terms of the deal, the athlete, a second-round NFL draft pick, would have to pay the agency 15 percent of his pretax NFL earnings for the next 25 years in exchange for a one-time payment of \$436,485. The lawsuit is still ongoing.
- Another college football player claimed that his agent was impersonating him (<https://bit.ly/4bvorRp>) to message schools about potentially transferring to their programs. The athlete had not authorized the agent to communicate with these schools and was not seeking to transfer at that time. When the head coach at Florida State learned about the agent's messages, the student-athlete was forced to transfer from Florida State.

In 2023, ESPN published an article (<https://bit.ly/4tfwCHR>) highlighting one-sided provisions in contracts between student-athletes and schools. While these contracts do not directly implicate agent contracts covered by SPARTA, they do implicate the role of the agent in negotiations of these contracts. A student-athlete's agent is clearly best positioned to prevent athletes from agreeing to one-sided, or even unconscionable, contract provisions.

These publicly available anecdotes demonstrate a few ways that bad athlete agents can take advantage of student-

athletes. Clearly, there are some athlete agents that have taken or will take advantage of student-athletes. The question remains whether the FTC's inquiry will effectively target or identify the athlete agents engaging in undesirable conduct.

Questions remain about whether the FTC inquiry will effectively root out bad agents

This inquiry will enable the FTC to determine whether athlete agents are complying with SPARTA, but SPARTA compliance does not necessarily indicate whether agents are behaving in ways that are harmful to student-athletes or whether student-athletes are protected. The FTC may be assuming that athlete agents who do not comply with SPARTA are less likely to be legitimate, honest agents and are more likely to be bad actors.

Schools harmed by SPARTA violations can sue for actual damages tied to lost athletic eligibility, including losses from reasonable self-imposed disciplinary measures.

But even if this inquiry shows that many athlete agents have not complied with SPARTA by failing to include the required disclosure language or notify the school within 72 hours of entering an agency contract, it does not prove that these noncompliant agents are bad actors.

Further, it is also true that agents can be bad actors and also comply with SPARTA. Therefore, any SPARTA enforcement actions may not effectively target bad actors, creating uncertainty regarding the FTC's intentions for the information it has requested.

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Potentially, the purpose of the FTC's inquiry may be to collect agency contracts to gain insight into the provisions to which student-athletes are agreeing. The FTC could evaluate whether student-athletes are agreeing to unfair, or even unconscionable, contracts with athlete agents (e.g., 25-year 15 percent pretax income-sharing provisions).

But even assuming the FTC identifies common problematic provisions in agency contracts, SPARTA does not give the FTC power to address these problems because none of SPARTA's provisions relate to actual contract provisions with agents or schools.

It is unclear whether enforcing SPARTA will achieve the FTC's stated goal of protecting student-athletes. The information the FTC will gather could be used merely for informational purposes, or it could be leveraged by Congress (or a member of Congress) to introduce potential regulations for college athletics.

Conclusion

The FTC's inquiry into SPARTA compliance has the stated goal of ensuring the protection of student-athletes, but SPARTA's provisions are outdated and do not directly address currently observed issues with relationships between student-athletes and agents.

The FTC may be using SPARTA to gather more information about agency contracts, potentially teeing up further action down the line by itself, another federal agency or Congress.

In the interim, universities with college athletics programs that did not receive a letter from the FTC should review their processes for gathering and keeping records of agent contracts entered by their student-athletes, and athlete agents should review their agency contracts and compliance procedures and update them as necessary.