

SPORTS BRIBING
(D felony)
(Sports Participant)
Penal Law 180.40(1)
(Committed on or after Aug. 27, 1982)

The _____ count is Sports Bribing.

Under our law, a person is guilty of Sports Bribing when he or she confers, or offers or agrees to confer, any benefit upon a sports participant with intent to influence such sports participant not to give his or her best efforts in a sports contest.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "benefit," "sports participant" and "sports contest," "intent."

BENEFIT means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.¹

SPORTS PARTICIPANT means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.²

SPORTS CONTEST means any professional or amateur sport or athletic game or contest viewed by the public.³

INTENT means conscious objective or purpose. Thus, a person acts with intent to influence a sports participant not to give

¹Penal Law §10.00(17). See *People v Feerick*, 93 N.Y.2d 433, 446-447 (1999).

²Penal Law §180.35(2).

³Penal Law §180.35(1).

his or her best efforts in a sports contest when that person's conscious objective or purpose is to do so.⁴

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (*date*), (*specify*) was a sports participant;
2. That on that date, in the county of (*county*), the defendant (*defendant's name*), conferred or offered or agreed to confer, any benefit upon him/her; and
3. That the defendant did so with the intent to influence such sports participant not to give his/her best efforts in a sports contest.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Sports Bribing as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Sports Bribing as charged in the _____ count.

⁴See Penal Law §15.05(1)